

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 5988 of 2009**

1. Chhoti Masjid, Chhattisgarh College Road, Byron Bazar, Raipur, a public trust duly registered under the C.G. Public Trust Act at Sr. No.12 on 30.09.1995, at Raipur through its Mutwalli Mohammed Mahfuzur Rasheed, son of Mohammed Fajrul Rasheed, aged about 55 years, resident of Chhoti Masjid, Byron Bazar, Raipur.

---- Petitioner

Versus

1. C.G. State Wakf Board, Devendra Nagar, Raipur, Through : Its Chief Executive Officer, Chhattisgarh State Waqf Board, Raipur.
2. Jama Masjid, Byron Bazar, Raipur Through Its Mutwalli Shri Rafique Shah, Gawlipara, Byron Bazar, Raipur (Cg)

---- Respondents

For Petitioner.	-	Shri B.P. Sharma, Advocate.
For Respondent No1.	-	None.
For Respondent No.2.	-	Shri C.K. Sahu, Advocate.

Hon'ble Shri Justice Pritinker Diwaker**Order On Board****11/08/2015**

1. On 27.12.2008 a suit was filed by the petitioner/applicant before the Waqf Tribunal under Section 83 (2) of the Waqf Act for declaration and permanent injunction praying that the property in question be declared as the property of the applicant; that respondent No.2 be restrained from entering into the disputed property and it be further restrained from making any alteration therein without interfering with the Madarsa.
2. During pendency of the suit, on 30.09.2009 an application was filed by the applicant under Order 6 Rule 17 of the C.P.C. seeking certain amendments in the suit. After considering the reply of respondent No.2, vide impugned order dated 06.10.2009, the Tribunal has rejected the application filed by the petitioner holding that the amendments as sought for were already within the knowledge of the

petitioner and therefore such amendment is not permissible under the law. It is this order which has been challenged by the petitioner in this writ petition.

3. Learned counsel for the petitioner submits that he may be permitted to withdraw this petition with liberty to adduce oral evidence in relation to the name of Masjid and to establish the fact that Masjid in question is Chhoti Masjid.
4. Learned counsel appearing for respondent No.2 has no objection if the aforesaid oral evidence is adduced by the petitioner. He however submits that if any such evidence is adduced by the petitioner, the defendant would also be at liberty to adduce evidence in rebuttal showing the fact that it is Jama Masjid.
5. Be that as it may, as the petitioner wants to withdraw this petition, he is permitted to do so with the aforesaid liberty. It would be always open for the petitioner to adduce oral evidence as required under the law. Needless to say that the defendant would also be at liberty to adduce evidence in rebuttal.
6. As stay order had been there in favour of the petitioner since 22.10.2009, the Tribunal shall decide the matter as expeditiously as possible preferably within a period of six months from the date of receipt of copy of this order. Registry to send back the original records to the concerned Tribunal in quite promptitude.
7. As already stated, the petition is dismissed as withdrawn with liberty sought for by the petitioner.

Sd/-

(Pritinker Diwaker)
JUDGE