

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 84 OF 2008

Shaikh Sarfarazoddin S/o Shaikh Ismail .. Petitioner

Vs.

Mohammad Manzoor Ahmed and others .. Respondents

None present for the petitioner / respondents

CORAM : M.T. JOSHI, J.

DATE : 27/03/2015

ORAL ORDER :

1. None appears for the parties.
2. The record would show that since 06/10/2009, nobody is appearing for the petitioner and, therefore, since then, time and again the present proceeding is adjourned upto this date. Perused the record. It would show that aggrieved by the direction of the respondent no.2 the Chief Executive Officer of Maharashtra State Board of Wakfs to the present petitioner to remove the encroachment over the Wakf property, he filed Wakf Suit no. 123 of 2007 before the Wakf Tribunal. Respondent nos.2 and 3 raised objection in the said suit that no notice under section 89 of the Wakf Act, 1995 is

issued and, therefore the suit is not tenable. This objection upon hearing both sides found favour with the Tribunal and the plaint came to be rejected. Hence, the present revision

3. Section 89 of the Wakf Act, 1995 runs as under :-

"No suit shall be instituted against the Board in respect of any act purporting to be done by it in pursuance of this Act or of any rules made thereunder until the expiration of two months next after notice in writing has been delivered to, or left at, the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left."

. The learned Member of the Tribunal held that as the notice under section 89 of the Act is not issued, the suit is not tenable.

4. In view of the above provision, I do not find any irregularity in the impugned order. The revision application is therefore dismissed without any order as to costs. Consequently, pending Civil Application No. 5922/2009 also stands disposed of. Interim stay granted earlier stands vacated.

[M.T. JOSHI]
JUDGE

arp/