

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.5241 OF 2008 IN
LETTERS PATENT APPEAL ST.NO.8811 OF 2008 IN
WRIT PETITION NO.3159 OF 2007

Tajuddin s/o Sharifuddin & others

Applicants

Versus

Sayyad Mahboob s/o Sayed Mahboob
and others

Respondents

None appears for the applicants.

Mr.Kiran Nagarkar, advocate for Respondents No.1 to 14.

Mr.J.R.Shaikh, advocate for Respondent No.15.

Mrs.V.A.Shinde, A.G.P. For Respondent No.16.

CORAM : R.M.BORDE &

SUNIL P. DESHMUKH, JJ.

DATE : 12th February, 2015

PER COURT:

None appears for applicants.

This is an application seeking condonation of delay of 27 days occurred in presenting the Letters Patent Appeal.

Heard. For the reasons stated in the application, application deserves to be allowed and same is accordingly allowed. Delay of 27 days occurred in presenting the Letters Patent Appeal stands condoned.

Civil Application is disposed of.

SUNIL P. DESHMUKH
JUDGE

R.M.BORDE
JUDGE

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CORAM : R.M.BORDE &

SUNIL P. DESHMUKH, JJ.

DATE : 12th February, 2015

PER COURT:

1 None appears for appellants.

2 Instant appeal is presented by the appellants taking exception to the order passed by the learned Single Judge in Writ Petition No.3159 OF 2007 decided on 26.02.2008.

3 The appellants claim to be in possession of the land belonging to Jama Masjid at village Bamni, Tq. Jintur, District Parbhani. The appellants claim that they have been inducted on the basis of lease agreement allegedly executed by the *Inamdar* Syed Noor. The Additional Collector, *Atiyat*, on noticing that there is breach of conditions in respect of grant, in exercise of powers

conferred under Section 5 of the Hyderabad *Atiyat* Inquiries Act, 1952, directed that the lands belonging to Jama Masjid be taken into Government supervision and shall be allotted on '*ek saal laoni*' basis. The order passed by the Additional Collector was subject matter of challenge before the Divisional Commissioner at the instance of appellants. The Revision Petition presented by the appellants before the Divisional Commissioner came to be dismissed by an order dated 16.04.2007. The order passed by the Divisional Commissioner was subjected to challenge in Writ Petition No.3159 of 2007, which has been dismissed by the learned Single Judge. Hence, instant appeal.

4 It is not a matter of dispute that the property belongs to Jama Masjid and as such, is governed by the provisions of *Hyderabad Atiyat* Inquiries Act, 1952. It is also noticed that succession has not been granted by the competent authority under the *Hyderabad Atiyat* Inquiries Act, 1952 in favour of *Inamdar* Syed Noor. As such, the lease deed, allegedly executed by said *Inamdar* in favour of appellants, is questioned.

5 Apart from this, Section 6 of the *Hyderabad Atiyat* Inquiries Act, 1952, prohibits transfer of the property belonging to the religious institution and in the event of breach of the conditions, the Collector is authorised to take appropriate decision. Since it was noticed that the *Inamdar*, in spite of his questionable entitlement, has alienated service *inam* land belonging to Jama Masjid, the Additional Collector has directed to take necessary steps in accordance with provisions of *Hyderabad Atiyat* Inquiries Act, 1952.

6 We do not find any infirmity or illegality in the action taken by the competent authority, which action has been approved by the Divisional Commissioner, Aurangabad Division, Aurangabad, while dismissing the Revision Application on 16.04.2007. The learned Single Judge, while dismissing the writ petition, has taken into consideration relevant aspects and declined to cause interference. In view of above, there is no substance in the Letters Patent Appeal.

7 Hence, Letters Patent Appeal stands dismissed. There shall be no order as to costs. Pending Civil Application, if any, does not survive and stand disposed of.

SUNIL P. DESHMUKH
JUDGE

R.M.BORDE
JUDGE

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