

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 62 OF 2014

Mohammad Isaque Alishaha
Mohammad Alishaha and another .. Petitioners

Versus

Dargah Hazrat Syed Shah Sailani
(Rah) of Udgir and others .. Respondents

Shri Javed Abdul H. Deshmukh, Advocate for Petitioners.
Shri P. S. Dighe, Advocate h/f Shri V. R. Dhorde, Advocate for
Respondent Nos. 2 and 4.
Shri Vivek V. Bhavthankar, Advocate for the Respondent No. 3.
Shri Y. B. Pathan, Advocate for the Respondent No. 11.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 19TH OCTOBER, 2015.**

PER COURT :

. Application for addition of party in the pending wakf suit is rejected. Aggrieved thereby present revision.

2. Mr. Deshmukh, the learned counsel for petitioners submits that, the respondent No. 1 herein has filed a suit for declaration that the suit property is a wakf property and for injunction restraining the defendant Nos. 3 to 19 from interfering in the peaceful possession and management of the Dargah and also for possession. The learned counsel submits that, the present

petitioner is the hereditary Mutawalli and the plaintiff is not managing committee appointed by the wakf board. According to the learned counsel, the rights and interest of the present petitioners are directly involved in the said litigation, as such is necessary party.

3. I have heard Mr Pathan, the learned counsel, so also Mr. Dighe, the learned counsel for respective respondents.

4. The petitioners herein also do not dispute that the suit property is wakf property. The only dispute is with regard management and recovery of possession of suit property. The said dispute about management would be interese between present petitioners and the original plaintiff. Same certainly cannot be adjudicated in the present suit. It is submitted by the learned counsel that the present petitioners have also subsequently filed suit seeking recovery of possession against same defendants.

5. Considering the gamut of the dispute between the parties, certainly present petitioners cannot be added as plaintiff and if the petitioners are added as defendants, same would not serve any purpose more particularly the petitioners have filed independent suit. Right of the petitioners can be decided in the independent suit. If the petitioners are so advised, the

petitioners may make an application for deciding the suit filed by the present petitioners and the instant suit simultaneously, which application if filed would be decided by the Tribunal on its own merits. The civil revision application accordingly is disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15