

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

Writ Petition No. 3861 of 2009

Baba Bangal Dargah and Masjid Trust
Through its Trustees. **.. Petitioners.**

Versus

Shaikh Amin Gafurbhai
Since deceased through
legal representatives & Others. **.. Respondents.**

Shri. A.S. Bajaj, Advocate, for petitioners.

Shri. R.S. Deshmukh, Advocate, for respondent No.1.

Smt. Sabahat T. Kazi, Advocate for respondent No.2.

Shri. M.B.W. Khan, Advocate, for respondent No.3.

With

Writ Petition No. 8490 of 2011

Baba Bangal Dargah and Masjid Trust
Through its Trustees. **.. Petitioners.**

Versus

Sayyad Latif Imam
Since deceased through
legal representatives & Others. **.. Respondents.**

Shri. A.S. Bajaj, Advocate, for petitioners.

Smt. Sabahat Kazi, Advocate for respondent Nos.1 to 5, 7 and 8.

Shri. Nirmal Dayma, Advocate, for respondent No.6.

CORAM: T.V. NALAWADE, J.

DATE : 21st SEPTEMBER 2015

ORDER:

1) The petitions are filed by the Trust of religious institution by name "Baba Bangal Dargah and Masjid Trust". They had filed applications in Regular Civil Suit No.536 of 2003 and Regular Civil Suit No.404 of 2003 filed by the present respondents under the provisions of the Rent Control Act for possession. The petitioners wanted to intervene in the proceedings and they want to show that they are the trustees of the religious institution and the property belongs to the Trust and present respondents, plaintiffs, have no locus standi to file such suits. After hearing both the sides, both the Courts below have dismissed the applications.

2) Both the sides are heard. It is not disputed that the petitioners are the trustees of the aforesaid religious

institution. The contentions made in the proceedings and the submissions made show that some of the present petitioners are occupying different portions of the property as tenants. It is the case of the plaintiffs that they had given these portions in possession of the defendants on rent basis and they are entitled to recover the possession under provisions of the Rent Control Act.

3) The Civil Court has held that for deciding such matter the Court is required to consider relationship of landlord and tenant and the conditions of the lease and so the point of ownership is not expected to be decided. There cannot be any different proposition than the observations made by the Court below. Further, it appears that the trustees have conflicting interest and there is probability that they are avoiding the getting of eviction decree.

4) In view of the provisions of sections 90 and 92 of the Wakf Act 1995, the Wakf Board can be made party. The Civil Court is expected to take such steps in view of the provision of section 90 of the Wakf Act. The Wakf Board can remain there to take care of the interests of the

wakf. Thus present petitioners cannot be called as necessary parties for such suit and no case is made out for interference in the orders made by the trial Court. Both the writ petitions are dismissed.

Sd/-
(T.V. NALAWADE, J.)

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