

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

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10 CIVIL REVISION APPLICATION NO. 219 OF 2015

SHRAVAN CHAVDAS PATIL DIED THROUGH LRS TRAMBAK CHAVDAS
PATIL AND OTHERS

VERSUS

MEHRUN MASJID DRAGAH AND TRUST AND ANOTHER

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Advocate for Petitioners :Mr. Talhar Ajay G.

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CORAM : S. V. GANGAPURWALA, J.

DATE : 13th October, 2015

PER COURT :

1. The present petitioner is original plaintiff. He has filed Wakf Suit challenging the order passed by the Chief Executive Officer of the Wakf Board under section 54 of the Wakf Act. The issues have been framed at Exhibit 20. Pursuant to the issues framed, the parties led their evidence and the matter is posted for final arguments. At that stage, the plaintiff/present petitioner filed an application for framing additional issues. The said application is rejected. Aggrieved thereby, the present revision.

2. Mr. Talhar, the learned counsel submits that the proposed issues are necessary to be framed. They are material issues based on the pleadings of the parties. Issues can be framed at any stage of the suit. Only

because the matter is posted for final argument, the same would not be an impediment for framing additional issues. Learned counsel relies on the judgment of the Apex Court in the case of **Ramesh Gobindram (dead) through LRs. Vs. SugraHumayun Mirza Wakf**, reported in 2010 (8) SCC 726 to state that the tribunal has no jurisdiction to entertain the suit regarding eviction of persons from the property and entertaining the eviction suit.

3. Leaned counsel submits that issues as originally framed do not cover the whole area of dispute between the parties. Legality of the order of the Chief Executive Officer, Wakf Board qua the deceased person was also required to be considered. The case of protected tenant *vis-a-vis* statutory owner is necessary. They would assist the court in deciding the matter in better manner.

4. I have gone through the order passed and the issues already framed.

5. The tribunal, while passing the order, has observed that the plaintiffs have every right to advance their arguments in respect of their position as protected tenants and the certificate issued under section 18(B) of the Bombay Tenancy and Agricultural Lands Act. Issue

No.1 framed at Exhibit 20 covers the said aspect. Issue No.3 framed at Exhibit 20 is with regard to the propriety, correctness and legality of the judgment and order of the Chief Executive Officer and the said issue covers contention of the plaintiffs regarding lack of jurisdiction of the Chief Executive Officer of the Wakf Board to pass the order.

6. The Tribunal is aware of the dispute between the parties. Even the parties have led their evidence on the basis of issues framed and they are also aware of the case put forth by either of the parties. The tribunal has observed that the parties can put forth their stand and the issues already framed would cover the entire gamut of dispute between the parties.

7. In the light of above, the civil revision application is rejected. No costs.

(S. V. GANGAPURWALA, J.)

JPC