

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

Civil Revision Application No. 295 of 2013

Brijwadi Managing Committee
Kabrastan, Breejwadi, Aurangabad. .. **Applicant.**

Versus

Ratanlal Babulal Ingle
And Others. .. **Respondents.**

Shri. Md. Mustafa Ahemad Momin Advocate, for
applicant.

Shri. P.R. Katneshwarkar, Advocate, for respondent Nos.1
to 5.

CORAM: T.V. NALAWADE, J.

DATE : 16th NOVEMBER 2015

ORDER:

1) The proceeding is filed to challenge the judgment and decree of Wakf Suit No.96/2008 which was pending before the Wakf Tribunal, Aurangabad. The suit filed for relief of perpetual injunction and for declaration is dismissed by the Tribunal. Both the sides are heard.

2) The suit was filed in respect of two agricultural lands. The petitioner is managing committee of a Kabrastan and according to the petitioner these lands are being used as Kabrastan, grave yard and also for Dargah. It is contended that defendants have no concern whatsoever with these lands but the defendants are trying to disturb possession of the plaintiff over the wakf property.

3) The suit was contested. The Tribunal has held that there was evidence to show that some portion of these lands is a wakf property. The suit is dismissed by observing that the defendants are admittedly in possession of some portion of the suit property and so other efficacious relief ought to have been claimed. It is observed that it was necessary to mark the portions which are in possession of the defendants and then pray for the relief of possession of those portions. It is observed that as such relief is not claimed, relief of injunction cannot be given. In view of provision Section 41(h) of the Specific Relief Act, this Court holds that no error is committed by the Wakf Tribunal in dismissing the suit on this ground. It

is open to the managing committee to take appropriate steps as observed by the Tribunal. But the suit in the present form cannot be decreed.

4) In the result, the revision stands dismissed.

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

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