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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 11437 OF 2015

Mr. Mehboob Gulam Shaikh & ors. .. Petitioners
Vs.
The State of Maharashtra and Ors. .. Respondents

Mr. Hassnain K. Sayyed for petitioners.
Mr. Vikas Mali, AGP for State.

CORAM: NARESH H. PATIL &
S. B. SHUKRE, JJ.

NOVEMBER 30, 2015.

P.C.

1. The petitioners claim to be the beneficiaries of the Dargah known as “Wadkil Shah Awlia urf Bagwan Shah and Bhaijan Shah Dargah”, registered under the Waqf Act, 1995. It is submitted that said Dargah is registered under Registration No.M.S.B.W./PUN/406/2014. The petitioners' contention is that the National Highway Authority had issued Gazette Notification for constructing national highway on 26/3/2014. The learned counsel appearing for the petitioners submits that in view of the provisions of Sections 43 and 91 of the Waqf Act, 1995, the National Highway Authority shall take note of the registration of the Waqf and make necessary changes in the alignment plan so that the Dargah/Mazaar is protected.

2. Learned AGP submits that objections were called under Section 3-C of the National Highways Act, 1956. There was no objection

raised in respect of the location of the present Dargah. Therefore, the petitioners are not entitled to claim any relief. Learned AGP has referred to an order passed by the Division Bench of this court in Writ Petition No. 4853 of 2015 on 25/8/2015. The learned AGP has shown us a road alignment map wherein it is shown that part of the Dargah would be affected due to the construction of the subject national highway.

3. We have perused the relevant provisions of the Waqf Act, 1995 and the National Highways Act, 1956. It is noticed that the Gazette Notification for construction of national highway was issued on 26/3/2014 whereas the Chief Executive Officer, Maharashtra State Waqf Board ordered registration of the Dargah with effect from 2/9/2014.

4. On the basis of the available material placed before us today, we observe that on representation made by the petitioners, the appropriate authority of the Waqf Board may look into the matter. We do not express any opinion.

5. With the aforesaid observation, petition is disposed of.

(S. B. SHUKRE, J.)

(NARESH H. PATIL, J.)