

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

902 CRA NO. 28 OF 2016

SYED QUADER S/O SYED NOORUDDIN
VERSUS
HASANBIN SAALE S/O SAALEBIN AMAR AND OTHERS

Shri. Mobin H. Shaikh, Advocate, for applicant.
Shri. Shaikh Faruk V. Patel, Advocate, for respondent
No.1.

CORAM: T.V. NALAWADE, J.

DATE : 17th JUNE 2016.

ORDER:

1) Heard both the sides. The judgment of the Tribunal shows that the Tribunal has set aside the order made by the Chief Executive Officer on ground that no opportunity was there to the applicant before the Tribunal to show that the disputed land was Madad Mas land and it was not the service inam land. The Tribunal held that there was service of notice as required by section 54 of the Wakf Act but the present respondent, applicant before the Tribunal had not appeared before the Chief Executive Officer and in view of nature of the dispute and the record opportunity needs to be given to the present respondent No.1 Hasanbin Saale to show that it is Madad Mas land.

2) In view of section 83 of the Act power to decide such point is also with the Tribunal and the things can be expedited by holding that there is also original proceeding. The Wakf Tribunal can also give opportunity to the applicant to show that it is Madad Mas land and so the Chief Officer ought not have made such order.

3) In view of these circumstances, this Court holds that in stead of sending the matter back to the Chief Officer, the Tribunal can decide the point about the propriety of the order in the presence of both the sides. For doing that exercise, the judgment of the Tribunal is set aside and the matter is remanded back to the Tribunal for deciding the application on merits. The parties are to appear before the Wakf Tribunal on 15th July 2016. The Tribunal is to decide the matter within two months from the date of receipt of this order.

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

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