

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

907 CRA NO. 53 OF 2016

RAFIQ S/O. SHARIF BHURE AND ORS.

VERSUS

JAMA MASJID TRUST, KALWA, THROUGH ITS ALLEGED TRUSTEES
LIYAQAT ABDUL HAMID CHEULK

...

Advocate for Petitioners : Deshmukh Javed Abdul H.

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CORAM : T.V. NALAWADE, J.

DATED : 28th April, 2016.

ORDER :

1. The present proceeding is filed to challenge the order made by Waqf Tribunal on Exh. 30 in Waqf Application No. 122/2013. This application was filed by present respondent for relief of clubbing Waqf Application No. 122/2013 with Waqf Suit No. 102/2013. Heard the learned counsel for present petitioner.

2. It appears that Waqf Application No. 122/2013 was filed to challenge the registration of the disputed property as waqf property. On the other hand, Waqf Suit No.102/2013 is filed by Waqf Institution for relief of declaration that present petitioners are encroachers and their activities over the suit property are illegal. Consequential reliefs are also claimed in the said suit.

3. The learned counsel for petitioners submitted that in application filed by the present petitioners in ordinary course evidence is not given and on the basis of record, which is considered by Waqf Board, the matter is decided. He submitted that in view of this circumstance, it is not desirable that Waqf Suit is clubbed with Waqf Application No. 122/2013. This submission is not at all acceptable. Waqf Tribunal has both original and appellate jurisdiction. The points involved in the suit have connection with the rights of the present petitioners. It appears that the property is already registered as waqf property. The Waqf Institution, religious institution wants to prove that the present petitioners are encroachers. Present petitioners want to show that they are not encroachers and they were tenants and they have got right under Bombay Tenancy and Agricultural Lands Act. In view of the nature of dispute, this Court holds that no error can be found in the order made by the Waqf Tribunal. The nature of the property needs to be decided by Tribunal in both the matters. Considering the apprehension of the petitioners that the other side may protract the matters, which does not appear to be probable, the Tribunal needs to expedite the matters.

4. In the result, the revision is dismissed. The Waqf

Tribunal is to expeditiously to dispose of both the matters and in any case, within six months from the date of receipt of this order.

[T.V. NALAWADE, J.]

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