

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
WRIT PETITION No.2473 OF 2015

Masjid Idgah and Kabrasthan Trust, Pardi Nagpur, through its President.

-Vrs.-

State of Mah. Through its Secretary, Department of Urban Development, Mantralaya,
Mumbai & 5 others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Firdos Mirza, counsel for petitioner.
Mrs. P.D. Rane, AGP for respondents.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.
DATED : 11th March, 2016

We have heard advocate Mirza for petitioner and learned A.G.P. for respondent nos. 1 to 5.

Learned A.G.P. has requested for time to obtain instructions. However, after hearing the parties it has transpired that on the basis of the data made available, the petition cannot be effectively decided.

Last of documents i.e. a report dated 7.9.2011 submitted by Talathi Survey No.34, Nagpur City shows ownership of State Government but then the use of land as Kabrastan is also mentioned in Nistar Patrak entry.

We find that on 4.9.1951, a trust by name 'Pardi Masjid Idgah and Kabrastan Trust' was registered and effort of advocate Mirza is to demonstrate that subject property has been shown in property register as property of that trust.

Learned A.G.P. has pointed out that petitioner before this Court is some other trust.

We find that petitioner trust has been shown registered as 'Waqf' and again it claims very same property.

The State Government has in reply affidavit stated that the state government has ownership of subject property and as such there is no question of anybody creating a trust. Learned A.G.P. submits that only a mention in Nistarpatrik or use of land as 'Waqf' cannot result in creation of a public trust or then 'Waqf'.

We are not inclined to observe anything in this respect in the present petition.

Petitioners have made representations to State Government from time to time and six such representations are annexed herewith.

As user of the said land as a Kabrastan is not in dispute, we find it convenient to permit the petitioner to make appropriate representations to respondent no. 4 Sub Divisional Officer, Nagpur. If such a representation is made within six weeks from today with necessary documents, the respondent no. 4 shall inquire into the matter, if necessary after publishing proper advertisement and inviting objections. Cost of such inquiry and publication will be incurred by the petitioner. However, the inquiry shall be completed within a period of three months.

Subject to these, keeping all rival contentions open, we dispose of this writ petition. No costs.

JUDGE

JUDGE