

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

WRIT PETITION NO. 1870 OF 2017

**SYED MUMTAZ SYED GAFOOR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for Petitioner : Vakil Afzal Husain M.
AGP for Respondents: Mr.D.R.Kale for R.1.
Advocate for Respondents : Mr.D.V.Mulla for R.2.**

CORAM : S.C.DHARMADHIKARI &
MANGESH S. PATIL,JJ.**

DATE : 23/06/2017

PER COURT :-

1] The Writ Petition is filed by the petitioner claiming to be a Sajjadanashin and Muttawali of the Dargah Hajrat Inayat Ali Shah Quadri situated at Jafar Gate, Aurangabad.

2] The petitioner claims further that alongwith him, his brothers are the legal heirs of deceased Syed Gafur S/o Mohd. Jahoor who died on 22/04/1981. The petitioner claims that after the demise of Syed Gafur S/o Mohd. Jahoor, the mother of the petitioner was managing the affairs of the Dargah and from 2010 they are managing the affairs. After relying upon the family tree, it is clear that the petitioner has registered this Dargah as Wakf with respondent no.2-Board. The petitioner has been appointed by respondent no.2 to manage the affairs of the Wakf during the period of Urus and application u/s 41 of the Wakf Act, 1995 for addition of the Wakf's property has been filed. That application and a fresh application in

prescribed format for addition of the property which situate in Survey No.38 admeasuring 5 Acres and 28 Gunthas has also been filed. Since this application is pending and no decision has been taken thereon, this Writ Petition is filed.

3] At the hearing of this Petition, the Advocate appearing for the second respondent has invited our attention to an order passed by this Court in Civil Revision Application No.58/2012 decided on 3/12/2013. It is submitted that the Chief Executive Officer has been directed to hold an enquiry and which enquiry is pending. It is stated that the property involved in this Civil Revision Application No.58/2012 and the present Petition is the same.

4] The counsel appearing for the second respondent on further instructions states that in the pending enquiry even the petitioner can appear although the members of the family have been granted an opportunity to participate in the proceeding. We are not deciding anybody's claims or rights nor are we directing the Chief Executive Officer to take a particular decision. All that we are directing is in the pending enquiry in relation to the same properties, if the petitioner requests, he may be allowed to participate and place his version before the second respondent.

5] Once the second respondent's advocate has made the above statements on instructions, nothing survives in the Writ Petition and it is disposed of.

(MANGESH S. PATIL,J.)

(S.C.DHARMADHIKARI,J.)

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