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

CIVIL REVISION APPLICATION NO. 195 OF 2014

Ahmednagar Municipal Corporation,
Ahmednagar, Through its
Commissioner, Ahmednagar.

..APPLICANT

VERSUS

1. Dargah Khaja Niyamatshah &
Naumiya Masjid, Through
Karim Khan Hussain Khan,
Age: 81 years, Occ: Nil,
2. Arifkhan Karim Khan,
Age: 44 years, Occ: Business,
3. Nasirkhan Mohammad Khan,
Age: 49 years, Occ: Business,
4. Rustum Khan Hussain Khan,
Age: 80 years, Occ: Nil,
5. Shaikh Salim Shaikh Sardar,
Age: 46 years, Occ: Business,
R/o. Ramchandra Khunt,
Zendigate, Ahmednagar.
6. The Tahsildar,
Ahmednagar, Tq. & Dist. Ahmednagar.
7. The District Collector,
Ahmednagar.
8. The District Superintendent
of Police, Ahmednagar.
9. Maharashtra State Board of Wakfs,
Through its Chief Executive
Officer, At Panchakki,
Aurangabad, Dist. Aurangabad. ..RESPONDENTS

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Mr V.S. Bedre, Advocate for applicant;
Mr M.M. Mulla, Advocate h/f Mr Y.B. Pathan,
Advocate for respondent No.1;
Mrs. Vaishali N.Patil-Jadhav, A.G.P. for respondent
Nos. 6 to 8

CORAM : N.W. SAMBRE, J.

DATE : 14th JULY, 2017

ORAL ORDER :

Heard Mr. Bedre, learned Counsel for the applicant-Municipal Corporation, Mr. Mulla holding for Mr. Pathan, learned Counsel for respondent No.1 and learned Mrs. Patil, learned A.G.P. for respondent Nos.6 to 8.

2. Respondent Nos. 1 to 5 filed Wakf Suit No. 28 of 2013 praying that Dargah Khaja Niyamat Shah Naumiya Masjid is wakf institution. In the said suit, an application Exhibit-5 came to be moved for grant of injunction, which is allowed by the order impugned dated 15th March, 2014 passed by the Wakf Tribunal, whereby present applicant and other defendants were restrained temporarily from

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entering, obstructing into peaceful management of the wakf institution. Mandatory injunction is issued to remove seal of door of Masjid only for the sake of offering prayer till disposal of the main suit.

3. Mr. Bedre, learned Counsel for the applicant-Municipal Corporation would urge that wakf came to be registered in 2004, which was not noticed by present applicant. According to him, the applicant intent to take out appropriate proceedings for cancellation of registration of wakf, however, the applicant Corporation be permitted to continue with the seal of the suit premises as same is located in the public office i.e. of the Corporation, which is causing inconvenience to the public at large. He would then urge that it is policy of the Government not to use public place or office of Corporation for the purpose of religious activities. According to him, wakf is registered in 2004 and this Court should appreciate that there are no other

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independent material so as to confer the right on the plaintiffs to claim injunction.

4. Learned Counsel for the respondents support the order and learned A.G.P. submits that this Court should pass appropriate order considering that there should not be law and order problem.

5. Having appreciated the material available and findings of the Wakf Tribunal while passing order below Exhibit-5, there appears to be certain stresses of evidence so as to demonstrate that there exists wakf. Though material available appears to be quite weak, however the order of clamping injunction is holding the field for last more than three years. The applicant has come out with a case that in the above referred reasons they intend to move for cancellation of the registration of wakf in question.

6. In the aforesaid background, it will be

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inappropriate, in my opinion, to disturb existing position, which is based on the order below Exhibit-5 with only rider that in case, any law and order problem arose or any disturbance is noticed, Municipal Corporation, with the permission of Collector, Ahmednagar and Superintendent of Police, Ahmednagar, will be at liberty to seal premises after hearing the original plaintiff.

7. With above observations and liberty, Civil Revision Application stands disposed of by expediting the hearing of suit.

(N.W. SAMBRE, J.)

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