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

CIVIL REVISION APPLICATION NO.159 OF 2014

1. Pralhad Satyabhan Dhurandhare,
Age: 40 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
2. Raju Bhagwan Dhurandhre,
Age: 30 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
3. Shantabai Udhavrao Lonake,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
4. Smt. Bhimabai w/o Bhagwan
Dhurandhare, Age: Major,
Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
5. Smt. Chhaya Baburao Ragade,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
6. Smt. Sunita Bharat Gaikwad,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
7. Achut Waman Dhurandhare,
Age: 40 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
8. Kalyan Waman Dhurandhare,

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Age: 42 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed

9. Pralhad Waman Dhurandhare,
Age: 38 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
10. Bhausahab Waman Dhurandhare,
Age: 25 years, Occu: Labour,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
11. Smt. Chadrakalabai w/o Waman
Dhurandhare, Age: Major,
Occu: Labour, R/o. Madal Mohi,
Tq. Georai, Dist. Beed
12. Smt. Kantabai Tukaram Kapase,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
13. Smt. Mirabai Ram Khupase,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
14. Smt. Gitabai Ashok Khupase,
Age: Major, Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed
15. Smt. Malan Ramesh Sarvade
(Sarawade), Age: Major,
Occu: Household,
R/o. Madal Mohi, Tq. Georai,
Dist. Beed

..APPLICANTS

VERSUS

1. Syed Razauallah Syed Asadullah,

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Age: 62 years, Occu: Agri.,
R/o. Village Madal Mohi,
Tq. Georai, Dist. Beed

2. Maharashtra State Board of Wakf,
Through it's Chief Executive Officer,
Panchakki, Aurangabad

3. The State of Maharashtra,
Through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai

..RESPONDENTS

Mr N. L. Jadhav, Advocate for applicants;
Mr S. S. Kazi, Advocate for respondent No.1;
Mr H.I. Pathan, Advocate h/f Mr S. S. Patel,
Advocate for respondent No.2;
Mrs Vaishali Patil-Jadhav, A.G.P. for respondent
No.3

CORAM : N.W. SAMBRE, J.

DATE : 14th JULY, 2017

ORAL ORDER :

In Wakf Suit No. 44 of 2012 the applicants are defendants, which was filed by the respondents in relation to land Gat No. 53 (Survey No. 14) (Old Survey No.273) admeasuring 12 Hectares situated at Kumbharwadi, Taluka Georai, District Beed, wakf property belonging to Masjid Karanja Ashoorkhana and grave yard located at Chor Galli, Beed. Prayer for perpetual injunction restraining

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present applicants-defendants from entering and obstructing the possession of the plaintiffs-respondents over the suit property is made. The basis for suit was that the suit property has been granted to the ancestor of the plaintiffs vide Muntkhab No.370, 27th aban, 1296 Fasli. The suit property claimed to have been recorded as wakf notified by Government Gazette at Serial No. 34 published on 24th April, 1974.

2. Present respondents-original plaintiffs before the tribunal claimed that as Mutawali, they have every right to manage the property and as such, suit was brought in action. The suit came to be decreed vide judgment and order dated 4th July, 2014. As such, this civil revision application.

3. While trying to make out a case for demonstrating the failure of exercising the jurisdiction by the tribunal, learned Counsel for the applicants-original defendants would urge that on 21st September, 2013, additional issues were

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framed in relation to the suit property. Those issues were based on the fact that the tribunal under the provisions of Section 14 of the Maharashtra Agricultural Lands (Ceiling on Holdings) declared 6 Acres 7 Gunthas land as surplus, which was further confirmed by the order dated 3rd July, 1976 passed by the Maharashtra Revenue Tribunal. The said surplus land claimed to have been allotted to ancestors of the applicants-defendants some time on 20th June, 1976. As such, the evidence to that effect was raised and additional issues were framed.

4. Mr. Jadhav, learned Counsel for the applicants claims that neither issues are answered or dealt with nor any findings on the rights of the applicants-original defendants are recorded.

5. Mr. Kazi, learned Counsel for the respondents opposed the claim on the ground that apart from above, the issue which the tribunal has answered in favour of the respondents on the merits

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of the matter are sufficient enough to dismiss this civil revision application. He would rely upon Gazette and other material.

6. Considered rival submissions. Upon perusal of the original Record and Proceedings, it depicts that on 21st September, 2013 additional issues were framed which are as under;

(1) Whether the defendants prove that suit land is declared as surplus land and the Government has allotted lands to the applicants-defendants?

(2) Whether the suit is within limitation?

7. The fact remains that the said additional issues are lost sight of by tribunal while deciding the suit on own merits. The additional issues though framed are not reflected in the judgment of the tribunal and as such, tribunal had no occasion to answer or deal with those issues.

8. A clear case of failure to exercise

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jurisdiction is made out from the aforesaid observations. As such, in my opinion, present civil revision application needs to be allowed in terms of prayer clause (C).

9. The matter stood restored to the file of Wakf Tribunal, Aurangabad, with direction that the tribunal shall decide additional issues framed on 21st September, 2013 while deciding the main suit preferred by the respondents.

10. With above observations, Civil Revision Application stands allowed.

11. Since parties are litigating for last four years, it will be appropriate, to expedite hearing before Wakf Tribunal.

(N.W. SAMBRE, J.)

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