

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2671 OF 2016

Khwaja Peer Saiful Mulk Dargah
Masjid and Kabrastan Trust & Ors. .. Petitioners.
Vs.
Ahmedsaab Kadarbasha Mujawar & Ors. .. Respondents.

Mr. Abdul Karim Naziruddin Mulla for the Petitioners.
Mr. Manish M. Pabale AGP for the Respondent Nos.7 and 9
Mr. Khatib Vakil with Mr. Sham B. Trivedi for the Respondent No.2.

CORAM : A.S. OKA & A.K. MENON, JJ.

DATED : 28TH APRIL, 2017

P.C.

1. Heard learned counsel appearing for the petitioners, learned counsel appearing for the respondent no.2 and the learned A.G.P for the respondent nos.7 and 9.

2. Prayer clause (b) is the only substantive prayer in this petition by which there is a challenge to the registration of the first petitioner as a Wakf under the Wakf Act, 1995.

3. The learned counsel appearing for the petitioners is relying upon the order dated 10th December, 2013 in Writ Petition No.7601 of 2013. His submission is that in view of this order, an entry of the name of the first petitioner could not have been made under Section 43 of the Wakf Act, 1995.

4. All other prayers cannot be granted unless the petitioners succeed in getting relief in terms of prayer clause (b). As far as prayer (b) is concerned, the petitioner has a statutory remedy under Sub-Section 2 of Section 83 of the Wakf Act, 1995.

5. In view of availability of an efficacious remedy before the Tribunal under Sub-Section 2 of Section 83, we decline to entertain this petition under Article 226 of Constitution of India. If the petitioners avail the remedy, the Tribunal is bound to note that the present petition was filed on 29th May, 2016 and that the same remained pending till today.

6. All contentions are kept open.

(A.K. MENON, J.)

(A.S. OKA, J.)