

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 7518 OF 2017

ANJUMN ISHAT E TALIM THROUGH ITS SECRETARY
BADRUDDIN TAMIZUDDIN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. D. K. Kulkarni
AGP for Respondents-State: Mr. S. N. Kendre

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CORAM : V. K. JADHAV, J.
DATED : 17th APRIL, 2018

PER COURT:-

1. I find no fault in the impugned order passed by the trial court.

2. Petitioner/plaintiff has filed application Exh.72 for staying the further proceedings of the suit bearing Regular Civil Suit No. 702 of 2012 instituted for declaration that the area of CTS No.7411 situated at Court Road, Jalna is 90,000 sq. fts. i.e. 8364.3 Sq. meters and not 5457 Sq. meters as recorded by the City Survey Officer, Jalna and further that the area of CTS No. 7411, admeasuring area 2907 Sq. meters is wrongly shown to be CTS No.7559 and for further declaration that CTS No.7411 of

Jalna, admeasuring 300 X 300 i.e. 8364.3 Sq. meters is the Wakf property and it is in possession of the petitioner / plaintiff and for perpetual injunction. Pending suit, the petitioner has filed the aforesaid application Exh.72 contending therein that the petitioner has filed an application to City Survey Officer, Jalna on 06.12.2016 for correction of the area of the suit property as per the Government Gazette dated 21.06.1973 and the City Survey Officer has right to correct the record of the property and accordingly prayed to stay further proceedings of the suit till the decision is taken by the City Survey Officer, Jalna.

3. In the light of the prayers made in the pending suit, application Exh.72 is unwanted and uncalled for. The trial court has observed that the petitioner has already adduced his evidence regarding the area of the suit property as per the Government Gazette dated 21.06.1973. The learned judge of the trial court has also granted liberty to the petitioner/plaintiff to get measured the suit property during the pendency of the suit. Further if at all the civil court passes any decree directing the City Survey Officer, Jalna to correct the area, the said authority is bound to give effect to the decree passed by the civil

court. There is no need for the petitioner/ plaintiff to be there at the mercy of the City Survey Officer, Jalna once exhausted the remedy of approaching the Civil Court by filing the suit for substantial relief, nor the petitioner/plaintiff can request to the Court to wait till the said officer issues the appropriate orders.

4. In view of above, I find no substance in this writ petition. Writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

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vsm/-