

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

WRIT PETITION NO. 8457 OF 2018

Ratnakar s/o Eknathrao Surale

... Petitioner

Versus

Syed Bahauddin Nehri

S/o Syed Mazharuddin Nehri

... Respondent

Mr. R.G. Joshi, Advocate for the Petitioner.

Coram : N.M. Jamdar, J.

Date : 20 December 2018.

Oral Order:

1. By this petition, the petitioner has challenged the substitution of the respondent in the place of the original plaintiff.

2. The suit is filed against the petitioner by the original plaintiff stated to be in the capacity of the *Mutawali* of the *Dargah* and the mosque. According to the respondent, since the original plaintiff has expired and since the respondent is the *Mutawali* of the *Dargah* and the mosque now, he has sought leave to prosecute the suit

further. This substitution has been granted by the impugned order.

3. The learned counsel for the petitioner sought to advance various contentions on merits. However, the impugned order will have to be read only as an order substituting the plaintiff. Since the suit has not yet reached the stage of argument, all contentions of the petitioner on merits including the nature of the property are open to be urged. It is also open to the petitioner to make an application to the learned Civil Judge to cross examine the respondent.

4. In view of this position and since the arguments of the petitioner on merits are open, it is not necessary to interfere in the writ petition which is accordingly disposed of.

N.M. Jamdar, J.