

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

7. CIVIL REVISION APPLICATION No. 127 of 2018

Aleemoddin Jamaloddin and others ... Applicants
Versus
Shaikh Md. Rahimoddin Shamshoddin and another ... Respondents

Mr. S.S. Kazi, Advocate for applicants.

Mr.S.A. Quadri, Advocate for respondent No.1

Coram : N.M. Jamdar, J.

Date : 17 December 2018.

ORAL ORDER :

1. By this revision application, the applicants have challenged the order passed by the Wakf Tribunal, Aurangabad, dated 11 July 2018 granting injunction against the applicants and in favour of the respondent No.1. The Wakf Suit No. 75 of 2013 involves four properties. The present revision concerns only survey No. 393/AA, which the applicants have claimed.

2. The learned Counsel for the applicants sought to question the order of grant of injunction on the ground that the applicants are in long standing possession pursuant to the leases executed in their

favour, first of the year 1996; the *panchnama* carried out on 24 December 2013, entries in 7/12 extracts and the fact that the petitioners-applicants have mutated their names in the Revenue Record. It is the contention of the learned Counsel for the applicants that all this evidence produced by the applicants has not been considered by the Tribunal and in a suit simplicitor for injunction the applicants are sought to be evicted.

3. The suit property is notified in the Government Gazette in the year 1974 as a *Wakf* property. The Government record shows that it is in the ownership of *Shahenshawali* Masjid, Beed. As regards the leases executed in favour of the applicants, nothing is shown as to how they are legal. The applicants have relied upon the documents executed by some persons, who are not shown to be authorised representatives of the Masjid.

4. Confronted with this position, the learned Counsel for the applicants has contended that the applicants are in long standing possession. If they are in long standing possession and cultivating the land since last 20 to 30 years as contended, there would be some evidence regarding their possession and cultivation, such as, bills of electricity, water, sale of produce, etc. Nothing is produced on record.

The *panchnama* drawn in revenue proceedings on 24 December 2013 as pointed out by the learned Counsel for the respondent, is after the institution of the suit in August 2013. It is also pointed out by the learned Counsel for the respondent that the entries in 7/12 extracts, which are shown to be of the year 2009 and 2010 are without notice to the Masjid or its representative. As regards the right of the respondent/plaintiff to institute the suit, the Tribunal has recorded a prima facie finding regarding the same. Therefore, once the property is a *wakf* property and that the applicants/defendants have failed to show any evidence regarding their ownership or possession, no interference is warranted under the power of superintendence of this Court. The Revision Application is accordingly rejected.

5. Since the impugned order is an interlocutory order, the observations made in the impugned order and this order, are prima facie. The pending *wakf* suit be decided on its own merits.

N.M. Jamdar, J.