

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

CIVIL REVISION APPLICATION NO. 214 OF 2018

Mujahed Khan s/o Pasha Khan Pathan
& others

... Applicants

Versus

Dargah Hazrat Syed Shah Sailani (Reh)
of Udgir & others

... Respondents

Mr. M.H. Shaikh, Advocate holding for Mr. J.I. Shaikh, Advocate for
the Applicants.

Coram : N.M. Jamdar, J.

Date : 12 December 2018

Per Court :

1. By this application, the revision applicants have taken exception to the withdrawal of the suit filed by respondents-plaintiffs before the Maharashtra State Wakf Tribunal.

2. It is the contention of the applicants that respondents-plaintiffs had no authority to withdraw the suit when the applicants intended to file an application for amendment to the written

statement and also counter claim. The learned Civil Judge has noted that initially, the written statement was filed on 14 February 2012 and at the stage of evidence of plaintiff, the application for amendment in the written statement is filed. Before considering the application for amendment, the plaintiffs had withdrawn the suit.

3. As regards the power of the plaintiffs to withdraw the suit, there appears to be some dispute raised by the intervenors regarding management of the Wakf. Those intervenors are not before the Court. As far as applicants are concerned, they are seeking to protect their alleged possession. That being the position, the applicants are not remediless. The applicants can always file a suit seeking injunction, if they are in possession as contended. Since this remedy is open to the applicants, it is not necessary to interfere in this revision application. Keeping open all the contentions of the parties on merit as regards the suit that the applicants propose to file, the revision application is disposed of.

N.M. Jamdar, J.