

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 222 OF 2018

ANGAD SHAH TAKIYA AND ASHUR KHANA TRUST PUNE
THROUGH ITS SARGURU TRUSTEE MUTAWALL
VERSUS

MAHARASHTRA STATE BOARD OF WAKFS
THROUGH ITS CHIEF EXECUTIVE OFFICER
PANCHAKKI AURANGABAD

Advocate for Petitioner : Mr. Roopa Daxini.
Advocate for Respondent : Mr. Y.B. Pathan.

CORAM : M.S. Karnik, J.
Dated : 16.08.2019

Per Court :

1. Learned counsel for the petitioner submitted that the petitioner is entitled to a declaration that the plaintiff is a Mutawalli by mode of succession i.e. Sadguru to Sadguru. Learned counsel for the petitioner submitted that though the Wakf deed was placed on record prescribing the mode of succession, the said deed has not been considered in the proper perspective by the Wakf Tribunal. It is pertinent to note that the tribunal has observed that no rights of the Wakf institution are infringed and as no cause of action accrues to the Wakf institution and therefore, the suit in the name of the Wakf claiming relief for P.W. 1 i.e. Sharifuddin S/o. Shamsuddin alias Roshan Dilshah cannot be considered to be maintainable.

2. It is, further, pointed out by the learned counsel for the petitioner that the

P.W. 1 i.e. Sharifuddin S/o. Shamshuddin alias Roshan Dilshah has already filed the application before the Board claiming the right of Mutawalliship/Sadguru and his application is pending. The tribunal, therefore, observed that during the pendency of the application the petitioner should not have invoked the jurisdiction of the tribunal.

3. In my opinion, once the tribunal came to a conclusion that the suit before the tribunal is not maintainable in the name of the Wakf and further, that the suit is also not maintainable on the ground that an application has already been filed by the petitioner before the Board claiming right of Mutawalliship, the tribunal need not have adjudicated the merits of the claim made by the petitioner in the said suit.

4. Needless to mention, the application made by the P.W. 1 i.e. Sharifuddin S/o. Shamshuddin alias Roshan Dilshah before the Board claiming the rights of Mutawalliship of the institution will be decided on its own merits. Any observations made by the tribunal while dismissing the said suit on merits will not come in the way of the Board while deciding the application made by the P.W. 1 i.e. Sharifuddin S/o. Shamshuddin alias Roshan Dilshah on its own merits. The Board not to be influenced by any observation made by the Tribunal in the order impugned in this petition.

5. In this view of the matter, keeping all contentions of the petitioner open, the Board is requested to hear the application made by the P.W. 1 i.e. Sharifuddin S/o. Shamshuddin alias Roshan Dilshah for deciding his claim regarding right of Mutawalliship expeditiously and preferably within the period of nine months from today. While considering the application filed by the P.W. 1, the Board shall consider the said application on its own merits and without being influenced by any observations made by the tribunal in the impugned order.

6. The Civil Revision Application stands disposed of in the above terms.

(M.S. Karnik, J.)

S.P.C.