

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

**CIVIL APPLICATION NO.2846 OF 2022
IN WP/4266/2016**

**NAGNATH DHONDBARAO DESHMUKH DIED THROUGH LRS. GOVIND
NAGNATH DESHMUKH AND ANOTHER
VERSUS
MAHARASHTRA STATE BOARD OF WAKF, AURANGABAD THROUGH
ITS CEO AND OTHERS**

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Advocate for Applicants : Mr. S. K. Chavan h/f Mr. V. D. Salunke
Advocate for Respondent Nos. 41,58, 59 : Mr. R. J. Nirmal
Advocate for Respondent Nos. 50 to 53 : Mr. M. v. Ghatge
Advocate for Respondent No.43 : Mr. P. N. Kalani
Advocate for Respondent Nos. 89,90, 91 : Mr. S. S. Rathi
Advocate for Respondent No.44 : Mr. S. B. Ghatol Patil

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25th AUGUST, 2022

PER COURT :

1. Heard.
2. The applicants seek modification of the order dated 16/12/2021, passed by this Court in Writ Petition No.4266/2016. While granting permission to the applicants to withdraw the writ petition, liberty was granted to challenge the impugned order by approaching Wakf Tribunal, under Section 83 of the Wakfs Act, 1995. The applicants now claim that they can also approach Civil Court challenging the order impugned in the writ petition. Therefore, in order dated 16/12/2021, liberty also be granted to the applicants to approach Civil Court, in addition to the liberty to

approach Wakf Tribunal. The said prayer is opposed by the learned advocates for respondents on the ground that Civil Court has no jurisdiction to entertain the grievance of applicants.

3. Be that as it may. If Civil Court has no jurisdiction, the same can be brought to the notice of Civil Court, in case the applicants approach Civil Court.

4. In view of the above, in addition to the liberty to approach Wakf Tribunal under Section 83 of the Wakfs Act, 1995, mentioned in order dated 16/12/2021, the applicants are granted liberty to approach Civil Court, if they so desire. Question of maintainability of the said proceedings is kept open.

5. Order is modified to that effect. Corrected copy of the order be uploaded.

6. Time spent by applicants in prosecuting the writ petition was directed to be considered by the Wakf Tribunal. The same shall also be considered by Civil Court, if the applicants approach the Civil Court.

7. Civil application is accordingly disposed of.

(NITIN B. SURYAWANSHI, J.)