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

WRIT PETITION NO.5959 OF 2022

**FAKIRA RATAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr D. B. Pawar, Advocate for petitioner;
Mr S. K. Tambe, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
ANIL L. PANSARE, JJ.**

DATE : 14th June, 2022

PER COURT:

1. When the learned Advocate for the petitioner opened his submissions, he has informed us that the Wakf Board has illegally maintained the possession of a land, which was subject matter in Writ Petition No.4262/2013 and though this Court had directed, by an order dated 21/08/2013, to the Wakf Board to hand over the land to the petitioner, the Wakf Board is illegally retaining the possession of the land.

2. At first blush, we were curious to note, as to whether our order was violated by the Wakf Board. The learned A.G.P. pointed out paragraph No.5 of the order of this Court, dated

21/08/2013, delivered in Writ Petition No.4262/2013, filed by the present petitioner, which reads as under :-

“5. In view of decision rendered by Wakf Tribunal as well as by High Court, the Wakf Board is entitled to claim possession of property. However, entitlement of the petitioners to secure possession from the Board is not established. The Sub Divisional Officer, before whom proceedings from execution of order are pending, shall have to comply with the directions issued by this Court and take appropriate steps for handing over possession of property in dispute to the Wakf Board. The Sub Divisional Officer shall execute the order, if deemed necessary, after extending an opportunity of hearing to the parties concerned in accordance with provisions of Law. The Sub Divisional Officer shall take appropriate steps for execution of order, as expeditiously as possible, preferably within a period of 8 weeks from today.”

3. In the pleadings of the petition, it is set out that the Wakf Board is illegally retaining the possession of the land and despite the order of this Court, is not handing over the possession. This is not only a fallacious submission, but aimed at misleading us. We would have been justified in imposing heavy costs on the petitioner, but for the fact that the petitioner is a senior citizen, an agriculturist and is the Mutawalli of a Trust.

4. In view of the above, this petition is dismissed.

(ANIL L. PANSARE, J.)
sjk

(RAVINDRA V. GHUGE, J.)