

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

CIVIL REVISION APPLICATION NO. 21 OF 2022

Bhanudas Namdeo Raut and Others

..APPLICANTS

VERSUS

Kabrasthan Muslim Sanstha, Karanje
Through its Chairman
Bashir Ali Mulani and Others

..RESPONDENTS

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Mr. Kshitij Surve, Advocate for applicants
Mr. A.N. Sabnis, Advocate for respondent no.1
Mr. S.W. Munde, A.G.P. for respondent no.2
Mr. N.E. Deshmukh, Advocate for respondent no.3

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**CORAM : R.G. AVACHAT, J.
DATE : 16th JUNE, 2022**

PER COURT :

1. The challenge in this application is to an order dated 27th August, 2021 passed below application Exhibit 22 in Waqf Suit No. 193 of 2019.

2. Heard. The Waqf Suit No. 193 of 2019 was instituted by Respondent No.1 claiming the subject open land to be a waqf property. Relief of injunction was also prayed for. The residents of the locality had approached the Waqf Tribunal and moved an application Exhibit 22 seeking intervention in the suit. It was their case that they were interested in the suit land. According to them, the suit land was not the waqf property.

3. On the day of hearing of the application Exhibit 22, neither the applicants nor the advocate representing them remained present before the Waqf Tribunal. The application, therefore, came to be dismissed in terms of following order :-

“Present application is filed on 02.01.2020 by third party applicants to add them as party defendants. Say to it was filed on 20.01.2020 vide Exh.24. Thereafter, matter was posted for hearing on Exh.22 and it was adjourned from time to time for hearing on Exh.22. Third party applicants and their Advocate are absent. It seems that, third party applicants are not interested to prosecute present application. Therefore, application is dismissed for want of prosecution.”

4. It is the case of the applicants that the mother of the advocate representing them passed away on the day before the application Exhibit 22 was rejected. The advocate, due to untimely demise of his mother could not appear before the the Waqf Tribunal. The applicants have also been residing at a distance of 450 kms. away from the office of Waqf Tribunal. They too, therefore, could not remain present.

5. Although this application has been opposed, this Court is inclined to allow the same in view of the facts and circumstances of the case. The learned counsel for the applicants could not remain present due to demise of his mother. The Waqf Tribunal could have deferred the hearing of the said

application. With a view to give the applicants an opportunity to put forth their case before the Waqf Tribunal, present application is allowed in terms of following order :-

Civil revision application is allowed. The order impugned herein is hereby set aside. The Waqf Tribunal shall decide the application Exhibit 22 on it's own merits.

(R.G. AVACHAT, J.)

SSD