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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8372 OF 2016**

Mohafuzz Abadali Khan Petitioner.
V/s
Hazrat Sayyed Ahmed Badvi and Ors. Respondents.

Mr. Prasad B. Kulkarni for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 11, 2022

P.C.:-

1] Heard

2] Applicant has taken out proceedings under Order 7 Rule 10 for return of the Plaint, as it is claimed that suit property being Waqf property, cannot be dealt with by the Court of Small Causes for want of jurisdiction. The said prayer moved by the Applicant below Exhibit-29 came to be rejected by the Small Causes Court on 24/02/2016.

3] Contentions are, Section 83 of the Waqf Act puts express embargo on the right of the Respondent to claim relief before the Small Causes Court.

4] I have appreciated said submissions.

5] On earlier occasion, a similar attempt was made by the Petitioner by moving an Application-Exhibit-22 for framing preliminary issue of jurisdiction under Section 9A of the Civil Procedure Code. The said prayer was rejected by the Small Causes Court vide order dated 20/9/2014, which was confirmed in Revision being Revision Application No. 25 of 2015 on 24/11/2015. Small Causes Court as such while dealing with the prayer of the Petitioner seeking relief under Order 7 Rule 10 for return of the Plaint was sensitive to the aforesaid findings which were recorded while rejecting prayer made below Exhibit-22.

6] In that view of the matter, in my opinion, no case for interference under extraordinary jurisdiction is made out. Petition as such fails and same stands dismissed.

(NITIN W. SAMBRE, J.)