

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

924 WRIT PETITION NO.272 OF 2023

RAMESH GOVINDRAO KOTTAWAR
VERSUS
THE COLLECTOR PARBHANI AND OTHERS

...

Advocate for Petitioner : Mr. D.A. Madake
AGP for Respondent 1 : Mr. K.B. Jadhavar
Advocate for Respondent 2 : Mr. S.N. Janakwade
Advocate for Respondent 3 : Mr. Saud N. Deshmukh

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CORAM : ARUN R. PEDNEKER, J.
DATED : 01/02/2023

PER COURT :

1. Heard the learned counsel for the respective parties.
2. Mr. D.A. Madake, learned counsel for the petitioner submits that he has been granted construction permission by the Municipal Council and the said permission is objected by respondent No. 3. He further submits that respondent No. 3 had also filed Waqf Suit No. 88/2022 before the Maharashtra Wakf Board, Aurangabad in respect of the same property. The learned counsel for the petitioner further submits that respondent No. 3 has approached the Collector and claimed ownership over the said land and asked for cancellation of the construction permission. The learned counsel further submits that the Collector granted stay to the construction permission of the petitioner and constituted four members committee for deciding the ownership of the suit property. The learned counsel further submits that the Collector has acted far beyond the jurisdiction as there is no provision to challenge the construction permission. He further submits that the Collector has passed the order without jurisdiction.
3. Mr. Janakwade, learned counsel for respondent No. 2, Chief

Executive Officer, Purna, Dist. Parbhani submits that they have issued independent notice to the petitioner for violation of the construction permission.

4. The learned AGP appearing for respondent No. 1 Collector submits that the Collector granted stay to the construction permission of the petitioner and constituted four members committee for deciding the ownership of the suit property. The learned AGP submits that the Collector has done so on the basis of complaint of respondent No. 3.

5. Mr. Deshmukh, learned counsel appearing for respondent No. 3 submits that respondent No. 3 has already filed Waqf Suit No. 88/2022 before Waqf Board Aurangabad in respect of the same property.

6. Since there is pending suit between the parties, the order passed by the Collector is quashed and set aside. The outcome of the civil suit will be binding on the parties. As regards the proceedings initiated by the Municipal Council is concerned, Municipal Council is to proceed ahead independently.

7. The learned counsel for the petitioner submits that he would file application for regularization of the construction before the Municipal Council. He may do so. Municipal Council to decide the application of the petitioner, if filed, for regularization of the construction as per law. The learned counsel for the petitioner undertakes that he would not further construct beyond permission granted.

8. The writ petition is disposed of accordingly.

[ARUN R. PEDNEKER J.]

ssc/