

SGA

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

CIVIL REVISION APPLICATION NO.35 OF 2022
WITH
CIVIL APPLICATION NO. 3702 OF 2022
IN
CIVIL REVISION APPLICATION NO. 35 OF 2022

Mohd Hanif Mohd Ismail

... Applicant

Versus

Shaikh Naim Shaikh Lal and others

... Respondents

...

Mr. S.C. Bhosale – Advocate for Applicant

Mr.P.S. Agrawal – Advocate for respondent no.1

Mr. Krishna K. Solapure h/f Mr. A.M. Gaikwad – Advocate for
respondent no.9

Mr.Najam E. Deshmukh – Advocate for respondent no.10

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CORAM : GAURI GODSE, J.

DATE : 09th January, 2023

PER COURT :

1. This civil revision application is filed by defendant no.7 for challenging the judgment and decree dated 5th April, 2021 passed by Maharashtra State Waqf Tribunal Aurangabad in Waqf Suit No.177of 2018. By the said decree, the applicant is directed to hand over the vacant possession of the land bearing C.T.S. No.4404, Municipal House No.8-158-8 admeasuring 20 x 40 square feet.

2. After arguing the matter for quite some time, learned counsel appearing for the applicant, on instructions of the applicant, who is present in the Court, states that he may be granted liberty to make an application for getting the suit property on lease. For that purpose, the applicant is ready to make an application before the Managing Committee/Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli. He further states that in the event he is granted such liberty then he will not press the present civil revision application.

3. Learned counsel appearing for respondent no.1/plaintiff submits that in the event such an application is made by the applicant, his application will be decided by the Managing Committee/Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli as per rule 4 of the Waqf Properties Lease Rules, 2014.

4. Learned counsel for the applicant submits that in the event his application for grant of lease is not favorably decided then he may be granted time of three months from the date of such decision, to vacate the suit property. Learned counsel appearing for the contesting respondent i.e. original plaintiff, on instructions, states that if any application is made by the applicant for grant of lease, he has instructions to state that same will be decided as per rule 4 of the Waqf Properties Lease Rules, 2014.

5. Considering the facts and circumstances of the case, the request made by the applicant is reasonable and can be granted on certain terms and conditions.

6. Hence following order is passed :-

(i) The applicant shall make an application within a period of one week from today before the Managing Committee / Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli for the purpose of grant of suit property i.e. land bearing C.T.S. No.4404, Municipal House No.8-158-8 admeasuring 20 x 40 Squire feet on lease. In the event such an application is made, the Managing Committee/Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli shall decide the application as per rule 4 of the Waqf Properties Lease Rules, 2014.

(ii) In the event, the application made by the applicant for lease is not favourably decided, in that event, the applicant will be entitled to retain the suit property for a period of three months from the date of decision of his application.

(iii) The applicant will file an undertaking before this Court, thereby stating that in view of the liberty granted to him to file an application for lease, he do not press the present civil revision application, in the event his application for lease is not decided in his favour, he shall vacate the suit property within a period of three moths from the date of

decision on his application. Undertaking will also state the names of the members residing in the suit property along with the applicant and that the applicant shall not create any third party interest and part with the suit property.

(iv) Undertaking will be filed by the applicant in this Court within a period of one week.

(v) Needless to state that in the event such an application is made, the same will be decided on its own merits, in accordance with law and without being influenced by the impugned order and/or present order.

(vi) Civil Revision Application is disposed of in above terms.

(vii) Pending Civil Applications stand disposed of.

[GAURI GODSE]
JUDGE