

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 58 OF 2018

Syed Salimuddin s/o Syed Nasiruddin

Applicant

Versus

Maharashtra State Board of Wakf & others

Respondents

Mr. A. S. Kulkarni, Advocate for the applicant.

Mr. Y. B. Pathan, Advocate for respondent No. 1.

Mr. A. P. Bhandari, Advocate for respondents No. 2 and 3.

CORAM : R. M. JOSHI, J.

DATE : 27th MARCH, 2023.

PER COURT :

1. Heard.

2. This revision application is filed challenging the order dated 15th November, 2017 passed below Exhibits 1 and 41 by the Wakf Tribunal in Wakfs Suit No. 11/2013.

3. It is the contention of applicant that the advocate representing him before the Tribunal had moved an application Exhibit

40 to take the matter on board and had filed a pursis Exhibit 41 for withdrawal of the suit. It is his contention that he never instructed his advocate to withdraw the suit. The order is sought to be challenged with a contention that the pursis is not signed by him.

4. Respondents filed reply indicating that the advocate who had filed the pursis for withdrawing the suit had represented the applicant in other proceedings which shows that there is no merit in the application and that withdrawal was done at the instance of the present applicant.

5. Learned counsel for the applicant by relying upon the rejoinder filed by the applicant contended that since no allegation of dishonesty or professional misconduct was levelled against his advocate, he did not find it necessary to lodge any complaint against him before the Bar Council of Maharashtra. He also thought it fit to allow the advocate to continue with other cases. He also sought to give explanation as to why these facts were not mentioned in the application.

6. The basic objection of the applicant to challenge the impugned order is that the pursis for withdrawal is not signed by him. Similarly he claims that he never instructed his advocate to withdraw the said suit. His conduct, however, does not support the same. It is not in dispute that even after withdrawal of the said suit by the advocate, without his instructions as claimed by him, he continued to engage the same advocate to represent him in other proceedings. This conduct of the applicant speaks volume.

7. Further, perusal of the impugned order shows the circumstances in which the said order came to be passed and the withdrawal was allowed with imposition of cost. This Court finds that there is no error committed by the Tribunal in permitting withdrawal of the suit unconditionally with imposition of cost.

8. Infact, this is a fit case wherein exemplary cost needs to be imposed on the applicant. However, as Tribunal has already imposed cost on the applicant, the application is dismissed with cost of Rs. 3,000/-. The amount of cost be paid to the Advocates'

Association of Bombay High Court, Bench at Aurangabad, within a period of two weeks from today.

(R. M. JOSHI)
Judge

dyb