

SPChauhan

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

CIVIL REVISION APPLICATION NO. 159 OF 2017

Radhakisan Narsu Pawar and others ... Applicants
Versus
Shaikh Shafique Shaikh Azim and another ... Respondents

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Mr. N.D. Sonavane – Advocate for Applicants
Mr. H.I. Pathan – Advocate for Respondent No. 1

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CORAM : GAURI GODSE, J.
DATE : 05th January, 2023

PER COURT :

1. This Civil Revision Application is filed by original defendant no. 1, heir and legal representative of defendant nos. 4, 7 and 8 for challenging the judgment and order dated 17th November, 2016, of Maharashtra State Wakf Tribunal, Aurangabad, in Wakf Suit No. 19/2009. The said suit was filed by respondent no. 1 claiming declaration and possession of the suit lands. The said suit is decreed and it is declared that the suit lands are service Inam lands and Wakf properties of Dargah Kochak Shah Wali alias Dargah Shahensha Wali, Beed, Dist. Beed. By the said order, the defendants including the present applicants are directed to hand over the lawful possession of the suit lands to respondent no. 2.

2. Learned counsel appearing for the petitioner submitted that the applicants were tenants of the suit lands. Further, he submitted that though, the applicants appeared in the suit and filed written statement they were unable to lead evidence either oral or documentary. He, therefore, submitted that the applicants may be granted fair opportunity to lead evidence and prove their case.

3. Perusal of the copy of the written statement of the

petitioner shows that the applicants claimed ownership on the suit land and also contended that initially their names were entered into 7/12 extract. However, it appears that from paragraph no. 6 of the written statement that the applicants have also stated that the subsequently their names were illegally removed from the 7/12 extract.

4. Perusal of impugned judgment shows that all the documents produced before the Tribunal are well considered and there was nothing produced on record to show that the applicants were in lawful possession of the suit lands. In view of the submissions made by the applicants, I have perused the written statement and perusal of the written statement do not show that the applicants have pleaded any valid source of title and / or possession of the suit lands. There is nothing shown to me to even, *prima facie*, say that the applicants are in any way entitled to retain the possession of the suit lands. The learned counsel for the applicants have made an attempt to argue that though the Advocate was served, the Advocate has not taken steps to lead any evidence on behalf of the applicants, and therefore, he submits that the petitioner should be given the fair chance to adduce the evidence. So far as this submission is concerned, it amounts to making allegations against the Advocate. Such allegations cannot be dealt with without making the concerned Advocate as a party. The pleadings with respect to the said allegations are vague and hence, cannot be taken into consideration.

5. Considering the well reasoned findings recorded by the Wakf Tribunal, I do not find any merit to interfere with the impugned judgment. Hence, Civil Revision Application is dismissed.

[GAURI GODSE, J.]