

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

CRA NO.192 OF 2023

SHAIKH SHAMSUDDIN RAHIMUDDIN
VERSUS
SHAIKH JAHANGIR SHAIKH MOHAMMAD ISA (MUJAWAR)
AND OTHERS

...
Advocate for Petitioner/Applicant : Mr. Sachin S. Deshmukh.
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CORAM : S. G. MEHARE, J.
DATE : 02.11.2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. The applicant was the original defendant No.2 in the Wakf Suit No.69 of 2020. The plaintiffs had filed the suit for recovery of the possession of the suit property. They also attached the rough sketch map with the plaint. The present applicant had contested the suit and matter was closed for judgment. However, the Chairman, Maharashtra State Wakf Tribunal, Aurangabad after closing the case for pronouncement of judgment, suo motu passed an order below Exh.1 on 21.07.2023 directing the plaintiffs to correct the inadvertent error in the description of the property and file a correct sketch map, for observing that correcting such description would not

affect the merits. Thereafter, the plaintiffs moved an application for compliance of the order of the Court dated 21.07.2023 along with a fresh sketch map. The present applicant was strongly opposed the said application, but the learned Chairman allowed the plaintiffs to place a fresh rough map on record.

3. The applicant has a serious grievance that no such corrections can be done at the fag end of the case. The Court has the power, to ask for the sketch map, but only in a situation where there is no any map available on record. To point out this legal position, learned counsel for the applicant referred to the case of *Pratibha Singh and another Vs. Shantidevi Prasad and another (2003) 2 Supreme Court Cases 330*.

4. Learned counsel for the applicant has vehemently argued that learned Chairman, Maharashtra State Wakf Tribunal, Aurangabad has misread the above case law. In no case, such opportunity could be granted. After granting the opportunity to produce a fresh rough map, the nature of the suit has been changed in its entirety. Therefore, the order dated 10.10.2023 is illegal.

5. The grievance as appear from the argument of the learned counsel for the applicant is that no such corrections are

permissible. The nature of the suit has been completely changed. The Court is going to dispose of the appeal by tomorrow on the basis of the fresh map, recently allowed to be taken on record. In such scenario, the opportunity should have been granted to the contesting defendants to explain and contest the matter afresh. Such an expectation of the contesting defendants is rational. If any changes are made, the Court is bound to give an opportunity to both the sides to oppose and confront the new facts came on record.

6. Learned Chairman, Maharashtra State Wakf Tribunal, Aurangabad committed error in not granting an opportunity to the defendants to file an additional written statement, if any or recall the witnesses on the new sketch map. To avoid the further complications, the mistakes detected before the pronouncement of the judgment can be well corrected, but opportunity to the opponent shall be given.

7. In view of the above facts, without notice to the respondents, following order is passed :

ORDER

- (i) Civil Revision Application is partly allowed.

- (ii) The Chairman, Maharashtra State Wakf Tribunal, Aurangabad is directed to give an opportunity to the defendants to bring the material against the fresh map and allow them to recall the witnesses, if any. Same way, the opportunity may also be granted to the plaintiffs.

(S. G. MEHARE, J.)

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vmk/-