



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

CIVIL REVISION APPLICATION NO.178 OF 2016

Raza Ali Shah s/o Gulam Ali Shah,
Age : 39 years, Occu.: Business
R/o.: Silk Mills Compound,
Railway Station Road, Aurangabad **APPLICANT**

VERSUS

1. Maharashtra State Board of Wakfs
Through its Chief Executive Officer,
Panchakki, Aurangabad
2. District Wakf Officer, Aurangabad,
Office at Panchakki, Aurangabad
3. Syed Karim s/o Syed Ahmed Saudagar,
Age : 56 years, Occu.: Business,
R/o.: Delhi Gate, Aurangabad **RESPONDENTS**

....
Advocate for the Applicant : Mr. Akram Inamdar h/f Mr. S.S. Kazi
Advocate for Respondent Nos.1 & 2 : Mr. N. E. Deshmukh h/f
Mr. Y. B. Pathan
Advocate for Respondent No.3 : Mr. M. M. Khan
....

CORAM : SANDIPKUMAR C. MORE, J.

DATED : 22/03/2024.

ORDER :

1. The applicant, who is original respondent No.2 in Wakf Application No.70 of 2014, has challenged the judgment and order dated 08/08/2016 passed by the Maharashtra State Wakf

Tribunal, Aurangabad (hereinafter referred to as 'the learned Wakf Tribunal'). By the aforesaid impugned order, present respondent No.1 is directed to implement the judgment and order dated 02/05/2012 in Wakf Application No.7 of 2011 by following the order of this court dated 05/04/2013 in Review Application No.275 of 2012 in CRA No.174 of 2012.

2. The learned counsel for the applicant submits that he is running an Arabic Madarsa on the disputed plot i.e. CTS No.8276, admeasuring 319.4 sq. mtrs., since last so many years. He had in fact paid an amount of Rs.1,50,000/- to the erstwhile possessor – Nandram and purchased the aforesaid property and started the Madarsa. Thereafter, the applicant had entered in to a lease agreement with respondent No.1 – Wakf Board for 11 months on 29/05/2009 and the rate was fixed to Rs.1,600/- per month. Present respondent No.3 being a whistle-blower, has challenged the said lease-deed and thereafter the learned Wakf Tribunal directed respondent No.1 – Wakf Board to take possession of the disputed plot alongwith the Arabic Madarsa and to deliver it to the managing committee of Masjid. The learned counsel for the applicant pointed out that the applicant had filed CRA No.174 of 2012 against the aforesaid direction, but it was dismissed and in the Review

Application No.275 of 2012 filed by the applicant, this court granted status-quo in respect of his possession over the Madarsa and subject matter of the dispute.

3. On the contrary, learned counsel for respondent Nos.1 & 2 namely the Wakf Board and its officer, strongly opposed the application on the ground that the status-quo order granted by this court in the aforesaid review application, was only to the extent of limited period and in fact the review application was dismissed by this court. According to him, the present applicant can also take part in the bidding process after the plot is handed over to the managing committee of Masjid for running a Madarsa.

4. The learned counsel for respondent No.3 also opposed the application by adopting the argument on behalf of respondent Nos.1 & 2.

5. Heard rival submissions. Also perused the documents on record.

6. It is significant to note that the property involved in the this matter, is admittedly a Wakf property. Further, the learned Wakf

Tribunal has also directed respondent No.1- Wakf Board to implement the judgment and order dated 02/05/2012 in Wakf Application No.7 of 2011, whereby it was directed to take possession of the Madarsa as well as suit plot and to deliver the same to the managing committee of the Masjid, Motikaranja. It is also directed under the said order that if the management with permission of the Board intends to lease out the property again for running a Madarsa, it can do so by calling bids by the proposed contenders intending to take the said plot on lease. It is important to note that this court in CRA No.174 of 2012, has confirmed the aforesaid order passed by the learned Wakf Tribunal in Wakf Application No.7 of 2011.

7. The learned counsel for the applicant submits that this court despite confirming the said order, has granted status-quo in favour of the applicant meaning thereby continuation of his possession. In short, the learned counsel for the applicant tried to argue that the applicant is protected by the order of this court in Review Application No.275 of 2012. However, if the said order dated 15/04/2013 in Review Application No.275 of 2012 is perused, it is clearly evident that this court was not at all inclined to entertain the said review application on merit and it was rejected. The order

indicates that this court by keeping in mind the interest of students, only allowed the present applicant to continue his possession by maintaining status-quo only till the end of July 2013. Further, this court had already directed present respondent No.1- Wakf Board that in case it is desirous to continue the possession of the applicant over the suit premises, keeping in view the interest of students, it can do so. Thus, the present applicant was left to the mercy of present respondent No.1 – Wakf Board in continuing his possession over the suit plot for running Madarsa. The learned counsel for respondent No.1 – Wakf Board in clear terms argued before this court that the Wakf Board does not intend to continue the possession of the applicant. Further, it is also open to the present applicant to take part in the bidding for running the Madarsa. As such, when this court has confirmed the order of the learned Tribunal directing the dispossession of the present applicant, it cannot be said that the applicant is protected by this court. As such, there is no substance in the present civil revision application and accordingly it stands dismissed and disposed of.

(SANDIPKUMAR C. MORE, J.)