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

40 WRIT PETITION NO. 9 OF 2024

IRSHAD KHAN PATHAN SHER KHAN PATHAN AND OTHERS
VERSUS
THE MAHARASHTRA STATE WAQF BOARD, THROUGH ITS
CHIEF EXECUTIVE OFFICER AND OTHERS

....

Mr S. S. Kazi, Advocate for Petitioners;

Mr S. I. Hashmi, Advocate for Respondent Nos.2 and 4

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 2nd January, 2024

PER COURT:

1. The Petitioners have put forth prayer clauses (i), (ii),
(iii) and (iv), which read as under :-

“i) Allow the instant Petition;

ii) stay to the impugned order dated 15/12/2023, passed by Respondent No.1, the Maharashtra State Waqf Board through its Chief Executive Officer Panchakki, Aurangabad in Case No.69/10/2020, during the pendency of the appeal before the learned Maharashtra Waqf Tribunal, Aurangabad, in the interest of justice;

iii) Grant ad-interim relief in terms of prayer clause- (ii) & (iii);

iv) Any other relief which this Hon'ble court deems fit under the facts and circumstances of the case in the interest of justice.”

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2. The Petitioners rely upon the order passed by the Co-ordinate Bench of this Court, to which one of us is a party (Y. G. Khobragade, J.), dated 14/12/2022 in Writ Petition No.5697/2022. This Court has expressed its astonishment that, though the Statutory Appeal is permitted before the Waqf Tribunal, the proviso precludes the Tribunal from passing interim orders. The Petitioners' Statutory Appeal is pending and the Tribunal is not passing any order on the interim Application in view of the proviso below Sub-section (3) of Section 69 of the Waqf Act, 1995.

3. The learned Advocate for the Petitioners submits that, if the pending Appeal (St.) No.405/2023 is directed to be decided by the Waqf Tribunal within a time frame, the Petitioners would be satisfied.

4. The learned Advocate representing Respondent Nos.2 and 4 submits that, they have no objection if the Waqf Tribunal decides the pending Appeal of the Petitioners within a time frame.

5. In view of the above, **this Writ Petition is disposed off.** We expect the Waqf Tribunal to deal with the pending Appeal

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preferred by the Petitioners, within a period of 90 days from today. All the parties would co-operate in expeditious disposal of the said Appeal.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk