

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18892 OF 2024

Yakub Baig Trust Panvel and Anr.

...Petitioners

Versus

The Assistant Charity Commissioner
Alibag, District : Raigad and Anr.

...Respondents

Mr.Rajiv Patil – Senior Advocate a/w Mr.Sachin Punde:-	Advocates for Petitioners.
Mr.J.P.Patil : AGP:-	On behalf of Respondent No.1– Assistant Charity Commissioner.
Mr.Priyanshu S. Mishra a/w Mr.Ajitsingh Ghorpade:-	Advocates for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 18th DECEMBER 2024

P. C. :-

1. Heard learned Senior Advocate Shri.Patil for the Petitioners and learned AGP for Respondent No.1 – Assistant Charity Commissioner. Also heard learned Advocate for Respondent No.2 – Mansoor.
2. Copy is served on the Office of Government Pleader. Yet, learned AGP has to take instructions from the Assistant Charity Commissioner. Let him take instructions.

3. The Respondent No.2 even not served with copy of the Petition. Let, the Petitioners to serve him copy. He is at liberty to file an Affidavit-in-Reply till next date by serving copy on the Petitioners.

4. Learned Senior Advocate Shri.Patil has invited my attention to the order dated 11th December 2024 passed by the learned Principal Principal District Judge, Raigad-Alibag. (Page No.30). He has directed the Assistant Charity Commissioner to look after the Management of the Trust namely Yakub Baig Trust Panvel. It was till the decision of an inquiry under Section 40 of the Waqf Act, 1995.¹ By passing this order, the learned Principal District Judge has disposed of the request made by the Chief Trustee vide Application below Exhibit-6. (Page No.247). (There was a request for allowing the Trustees to continue with their Office of the Trust till the time, new Trustees are appointed). On this Application, the learned Principal District Judge has permitted the Applicant to continue with the decision till the reply is filed. It is on 4th May 2024.² (Page No.256).

5. There was an objection raised by the present Respondent No.2 (Page No.257) for continuing the arrangement.

6. As per the impugned order, the learned Principal District Judge

1 Vide Clause No.(1) of the Order

2 Vide Clause No.2) of the Order

has directed the Assistant Charity Commissioner to look after the Administration of the Trust. It is true, that both the Respondents need to be given some time to go through the Petition and to file Affidavit-in-Reply, if they desire. Even though, learned Advocate after taking instructions from the Respondent No.2 submitted that the learned Assistant Charity Commissioner on the basis of the order dated 11th December 2024, has written a letter to the Chief Trustee, yet the charge is not taken over. Even, learned AGP is not having those instructions.

7. In view of the above situation, the existing arrangement needs to be continued for certain period. The learned Advocate for the Respondent No.2 is having a strong objection for continuing the arrangement. He has invited my attention to certain observations made by the learned Principal District Judge. The submissions were made about misuse of the authority by the Trustees in selling and dealing with the property. This issue can be gone into when the pleadings will be over. Subject to conditions, I am inclined to continue this arrangement.

8. It is submitted by learned Senior Advocate Shri.Patil that the Trust owns Masjid at Panvel. Learned Advocate for Respondent No.2

is having instructions to submit, that one Mutawalli and Secretary on behalf of the Trust are deputed therein. According to Mr.Patil, only Secretary is there.

9. Prayer clauses [C] and [D] read thus:-

[C] *Pending the hearing and final disposal of this Writ Petition on its own merits this Honourable High Court be pleased TO GRANT INTERIM RELIEF by granting STAY to the execution, implementation, effect, and operation of impugned Common Order dated 11/12/2024 passed by learned Principal District Judge Raigad at Alibag, below Exhibit 6 and 20 in Civil Miscellaneous Application No.108 of 2024.”*

[D] *Pending the hearing and final disposal of this Writ Petition on its own merits this Honourable High Court be pleased TO GRANT INTERIM RELIEF BY CONTINUING Order dated 04/05/2024 passed by learned Principal District Judge Raigad at Alibag, below Exhibit 6 Civil Miscellaneous Application No.108 of 2024.”*

10. In view of that, following order is passed:-

ORDER

(i) Ad-interim is granted till next date in terms of prayer clauses (c) and (d) subject to following conditions:-

(a) The Petitioners should not deal with the Trust property in any manner.

- (b) The Petitioners can only operate the Bank Account for the purpose of incurring day to day expenses of the Masjid and other Trust properties.
 - (c) They are directed to maintain the Accounts and submit it to the Office of the Assistant Charity Commissioner within fifteen (15) days.
 - (d) No major policy decision will be taken without permission of this Court.
11. In view of the above, stand over to **18th February 2025**.
12. Liberty to mention before the Vacation Judge after making out a case of urgency by informing the other side.

[S. M. MODAK, J.]