

S.R.JOSHI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2924 OF 2023
WITH
INTERIM APPLICATION NO.3571 OF 2023
IN
WRIT PETITION NO.2924 OF 2023

SMITA
RAJNIKANT
JOSHI

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Dawle Industrial Premises Co-op. Society Limited ... Petitioner

Versus

State of Maharashtra
& Others ... Respondents

Mr. Pravin Tembhekar, for the Applicant/ Petitioner.
Mr. Milind More, Addl. G. P. for the Respondent-State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 6th MARCH, 2024

P.C.

This Petition is filed for diverse reliefs for assailing the order dated 15th June, 2021 passed by the State Government, Minority Development Department, under Government Decision No. Wakf 2021/Q. No.87/Ca 4. The only contention which urged by the Petitioner, and which we can consider to dispose of this Petition, would be that, the Petitioner had approached this Court earlier in the proceedings of CRA No.835 of 2011, which came to be disposed of in terms of judgement dated 26th April, 2016. Assailing the the said judgment, the Petitioner had approached the Supreme Court in the proceedings of Special Leave to Appeal (C) No. 16264 of 2016, on which, the Supreme Court, on 15th July, 2016, passed the following order, permitting the Petitioner to approach the Wakf Board in the light of the

amended Section 56 of the Wakf Act 1995 for lease of the wakf property for 30 years:-

“ Upon hearing the counsel the Court made the following order:-

We do not find any justification in interfering with the impugned judgment and order passed by the High Court.

The Special leave petition is accordingly dismissed. However, the dismissal of the special leave petition shall not stand in the way of the petitioner to approach the Wakf Board in the light of the amended Section 56 of the Wakf Act, 1995, for the lease of the wakf property for 30 years.”

2 We are informed that, in pursuance of such order, the Petitioner has approached the Maharashtra State Wakf Board by filing an application, on 1st August, 2016. A copy of the same is annexed as Exh. ‘E’ to the Petition, *inter alia*, praying for the following reliefs:

“(a):- In view of the order dated 15.07.2016 passed by the Hon’ble Supreme Court, the Applicant is approaching, this Hon’ble Coram for the lease of the said property for 30 years as per the amended provisions of Section 56 of The Wakf Act, 1995 viz. plot of land bearing Survey No.56, 57, 58, 59 & 60 admeasuring 19800 sq. mtrs. lying and being at Village Dawale, Shil-Diva Road, Tal & Dist. Thane, Maharashtra 400 612 is a Wakf property of Kausa Jama Masjid Trust.”

3 It is stated that, although the said application was pending and/or not heard, Respondent No.4 has proceeded to take steps to allot the land in question in favour of Respondent No.5 – Khadavali Educational Society, by way of a lease of 30 years, as approved by the impugned Order dated 15th June, 2021.

4 Considering the nature of grievance, we are of the opinion that we cannot adjudicate on the larger issues as raised by the Petitioner in the present proceedings as that would amount to adjudicating upon civil disputes. However, in so far as the contention of the Petitioner that the application

(Exh. E) filed by it before the said Maharashtra Wakf Board, being still pending, we would order that the said application, if not yet decided, be decided in accordance with law after hearing all the parties. We observe that passing of such an Order, in the absence of Respondent Nos. 4 & 5, would not cause any prejudice inasmuch as all the parties who are likely to be affected by any application filed by the Petitioner, be heard by the Wakf Board while considering the application of the Petitioner.

5 We keep open all the contentions of the parties with regard to the adjudication of the said application.

6 Petition accordingly stands disposed of in the above terms. No costs.

7 Interim Application, if any, also stands disposed of.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)