



\$~A-1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **TR.P.(C.) 59/2024**

SYED MOHD YAHYA NIZAMI

....Petitioner

Through: **Mr. Rajat Aneja and Mr. Abhinav
Chauhan, Advs.**

versus

MOHD NAEEM

.....Respondent

Through: **Mr. Ayez Ahmed, Adv.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

%

07.04.2025

REVIEW PET. 445/2024 and CM APPL. 69918/2024

1. Heard learned counsel for the parties.
2. Learned counsel for the applicant places reliance on the decision of the Supreme Court in the case of ***Rashid Wali Beg v. Farid Pindari***¹, to contend that in the instant matter, the suit itself should have been returned to the plaintiff.
3. Learned counsel for the applicant-respondent draws the attention of the Court to paragraphs no.56 and 57 of the said decision, which reads as under:-

*“56. A combined reading of Sections 68(6), 86, 90 and 93 goes to show that the bar of jurisdiction under Section 85 does not apply at least to the following matters, covered by Sections 68(6), 86 and 90:
56.1. Whenever a District Magistrate passes an order directing the removed mutawalli or removed members of a Committee of Management*

¹ (2022) 4 SCC 414



to deliver possession of the records, accounts and properties of the waqf, to the successor or successor Committee of Management, any person claiming that he has right, title and interest in the properties specified in the order so passed by the Magistrate can approach a civil court.

56.2. The Board itself may approach a civil court either to set aside the sale in execution of a decree of civil court, of an immovable property which is a waqf property, or to set aside the transfer of any immovable property made by the mutawalli without the sanction of the Board or to recover possession of the property so sold or transferred, as the case may be.

56.3. The mutawalli is also empowered to approach the civil court to recover possession of any immovable property which is a waqf property, but which had been transferred by the previous mutawalli without the sanction of the Board (this is implicit in Section 86).

56.4. A waqf property can be brought to sale in execution of a decree of a civil court or for the recovery of any revenue, cess, rates or taxes due to the Government or any local authority, but such a proceeding will be void if no notice thereof is given to the Board [this is implicit in Sections 90(2) & (3)].

57. Thus the Act itself has created some confusion, leaving the rest to the courts to compound the conundrum. Sadly, the Amendment Act 27 of 2013 also did not address the problem fully.”

4. Under the facts and circumstances of the case, since the Court has exercised the power under Section 24 of the CPC, and had directed for the transfer of the Civil Suit before the Waqf Tribunal, with the direction to proceed with the matter from the stage at which it was pending. Therefore, it does not make any substantial difference as to whether the civil suit is transferred or has to be returned to the plaintiff to be presented before the Waqf Tribunal.

5. Therefore, the Court does not find any merit in the instant review petition, and accordingly, the same stands dismissed, along with pending application.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 7, 2025/DPA/SP