

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.112 of 2025

National Highways Authority of India through Project Director PIU Patna,
with its office at Project Implementation Unit, Patna, Shivpuram, Sainik
Colony, Near Hanuman Mandir, Gola Road, Danapur, Patna-801503

... .. Petitioner/s

Versus

1. Syed Mohammad Masood Jawed S/o Late Md. Abul Kalam, Near Masjid, resident of village- Shahpur Baghauni, Police Station-Vani, District-Samastipur
2. Md. Zafar Ahsan S/o Late Md. Yusuf R/o Ward No.2, village-Shahpur Baghauni, Police Station-Vani, District- Samastipur
3. Md. Shahzad Ahmad S/o Late Md. Sadul Hassan at PO-Razwa, Police Station-NH Bangda, District- Samastipur
4. The Bihar State Sunni Waqf Board through its Chief Executive Officer, 34, Haj Bhawan, Harding Road, Patna
5. The Chairman, the Bihar State Sunni Waqf Board, Haj Bhawan, Harding Road, Patna
6. The Chief Executive Officer, The Bihar State Sunni Waqf Board through its Chairman, Haj Bhawan, 34, Harding Road, Patna.
7. The District Magistrate, Samastipur
8. The Land Acquisition Officer, Samastipur
9. The Circle Officer, Anchal Office, Tajpur Block, District-Samastipur
10. The Union of India

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Preety Ranjan, Advocate Mr. Maurya Vijay Chandra, Advocate Mr. Gaurav Govinda, Advocate Mr. Aaraj Raj, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, G.P- 7 Mr. Sanjay Kumar, AC to GP-7

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

4 12-09-2025 Heard learned counsels appearing on behalf of

both the parties.

2. Learned counsel for the petitioner submits that

the present Civil Revision is maintainable under Section 83 of
the Waqf Act, 1995 read with Waqf (Amendment) Act, 2025 as

it is well settled law that any amendment made in the Act shall



have prospective effect and not retrospective effect. Accordingly, the amendment made in the Waqf (Amendment) Act, 2025 will have prospective effect from the date when the Gazette was published, which give liberty to any person aggrieved by the order of the tribunal, may appeal to the High Court within a period of 90 days from the date of receipt of the order of the tribunal. He further submitted that such amendment shall not affect the substantive rights of the petitioner, however, the position in law would be different in the matters which relate to procedural law but so far as substantive rights of parties are concerned they remain unaffected by the amendment in the enactment. Learned counsel further relied upon the judgment rendered by the Hon'ble Supreme Court in ***Shyam Sunder and Others v. Ram Kumar and Another*** reported in **(2001) 8 Supreme Court Cases 24**, the relevant para 28:

“28. From the aforesaid decisions the legal position that emerges is that when a repeal of an enactment is followed by a fresh legislation such legislation does not effect the substantive rights of the parties on the date of suit or adjudication of suit unless such a legislation is retrospective and a court of appeal cannot take into consideration a new law brought into existence after the judgment appealed from has been rendered because the rights of the parties in an appeal are determined under the law in force on the date of suit. However, the position in law would be different in the matters which relate to



procedural law but so far as substantive rights of parties are concerned they remain unaffected by the amendment in the enactment. We are, therefore, of the view that where a repeal of provisions of an enactment is followed by fresh legislation by an amending Act such legislation is prospective in operation and does not effect substantive or vested rights of the parties unless made retrospective either expressly or by necessary intendment. We are further of the view that there is a presumption against the retrospective operation of a statute and further a statute is not to be construed to have a greater retrospective operation than its language renders necessary, but an amending Act which affects the procedure is presumed to be retrospective, unless amending Act provides otherwise. We have carefully looked into new substituted section 15 brought in the parent Act by Amendment Act 1995 but do not find it either expressly or by necessary implication retrospective in operation which may effect the right of the parties on the date of adjudication of suit and the same is required to be taken into consideration by the appellate Court. In Shantidevi (Smt) and another vs. Hukum Chand [1996 (5) SCC 768] this Court had occasion to interpret the substituted section 15 with which we are concerned and held that on a plain reading of section 15 it is clear that it has been introduced prospectively and there is no question of such section affecting in any manner the judgment and decree passed in the suit for pre-emption affirmed by the High Court in the second appeal. We are respectfully in agreement with the view expressed in the said decision and hold that the substituted Section 15 in the absence of anything in it to show that it is retrospective, does not effect the right of the parties which accrued to them on the date of suit or on the date of



passing of the decree by the Court of first instance. We are also of the view that present appeals are unaffected by change in law in so far it related to determination of the substantive rights of the parties and the same are required to be decided in light of law of preemption as it existed on the date of passing of the decree.”

3. Learned counsel appearing on behalf of the respondents submits that the injunction order passed by learned tribunal was after the amendment made in the Waqf Act, 1995 by Waqf (Amendment) Act, 2025, so the petitioners have remedy to file an appeal before appropriate forum under Section 83 (9) of Waqf (Amendment) Act, 2025 and not Civil Revision.

4. On perusal of records available on record it is evident to note that the impugned order 19.05.2025 was passed after the amendment made in the Waqf Act, 1995. So, the legal position that emerges is that when there is any amendment in any act followed by a fresh legislation such legislation does not affect the substantive rights of the parties on the date of the suit or adjudication of the suit unless such a legislation is retrospective in nature. However, the position in law would be different in the matters which relate to procedural law but so far as, substantive rights of the parties are concerned they remain unaffected by the amendment in the said act. So, when there is repeal of provision of an enactment followed by fresh legislation by an amending act, such legislation is prospective in



operation and does not affect substantive or vested rights of the parties. On plain reading of Section 83 of Waqf (Amendment) Act, it is clear that the amendments made in aforesaid Section has been introduced prospectively and according to Section 83 (9) of Waqf (Amendment) Act, 2025 any person aggrieved by the order of the Tribunal, may appeal to the High Court within a period of 90 days from the receipt of the order of the tribunal. The judgment referred by learned counsel for the petitioner relates to the vested or substantive right of the parties concerned but wherein the present case amendment made in Waqf Act, 1995 gives substantive right to any person aggrieved by the order of the Tribunal to file appeal to the High Court and does not cause prejudice to the aggrieved person by affecting their substantive or vested rights.

5. Accordingly, learned counsel for the petitioner is directed to convert the present Civil Revision No. 112 of 2025 into Miscellaneous Appeal during course of the day.

6. Office is directed to extend co-operation to the learned counsel for the same.

(Ramesh Chand Malviya, J)

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