



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

CIVIL REVISION APPLICATION NO. 55 OF 2023

MASJID GANJ (JAMA MASJID) AND DARGAH MASTAN SHAH
WALI THR MUTAWALI N A

VERSUS

RAMESH GOVINDRAO KOTWAR AND ORS

...

Mr. Deshmukh Saud Ahemad N A, Advocate for the Applicant.

Mr. D. A. Madake, Advocate for Respondent No.1.

..

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 17th MARCH, 2025.

P.C.:-

1. The applicant impugns order dated 18.08.2022 passed by Waqf Tribunal, Aurangabad in Waqf Suit No.88/2022 below Exhibit-5.
2. The applicant is plaintiff in Waqf Suit No.88/2022. The suit has been filed seeking relief that suit property bearing Old Municipal No.4-4-75 (new Municipal No.4-4-76) situated near Bhaji Mandi, Purna is Waqf property belonging to Waqf Institution as described in plaint clause. The applicant filed an application below Exhibit-5 seeking temporary injunction restraining defendant no.1 or his Power of Attorney holders or anybody claiming through him from alienating or creating third party interest or making encumbrance on suit property or carrying out any sort of construction till disposal of suit.
3. According to applicant, suit property belonging to Waqf Institution. The applicant relies upon certain old entries, particularly entry showing that there are 21 shops including

godown used as girl's school adjacent to Masjid and it belongs to Waqf.

4. The question that arises for consideration is as to whether property possesses by defendants is part of property belonging to Waqf Institution. Certainly such question would require trial and findings after appreciation of evidence. *Prima facie*, what is apparent is that defendants are in possession of suit property since before 1974. Even, applicant/Mutawali of Waqf Institution had given no objection certificate for construction raised by defendants. In that eventuality, it is difficult to, *prima facie*, hold that property possesses by defendants is owned by Waqf Institution.

5. In that view of the matter, Waqf Tribunal has rightly declined to grant interim injunction as prayed for. No case is made out for interference in impugned order.

6. Consequently, Civil Revision Application stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE