



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 CRA NO. 60 OF 2024

PATHAN ISAK KHAN AND ANOTHER
VERSUS
IQBAL GAFOOR KURESHI AND ANOTHER

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Advocate for Applicants : Mr. Tungar Hrishikesh V.
Advocate for Respondent No.1/Caveator : Mr. A. M. Inamdar.
Advocate for Respondent No.2 : Mr. Deshmukh N. E.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 18.12.2025

PER COURT :-

1. Heard learned counsels for respective parties.
2. Civil Revision Application is directed against order dated 03.01.2024 passed below Exh.12 by Maharashtra State Wakf Tribunal in Wakf Suit No.46 of 2023 refusing temporary injunction.
3. Learned counsel for the applicants submits that they are in possession of the suit land by virtue of unregistered lease deed dated 01.04.2008. They have paid taxes and the possession is corroborated by the compromise deed dated 13.03.2020 disclosing their possession over the half portion of the suit land. It is submitted that the Tribunal committed error of jurisdiction in considering the material on record in correct

prospective. It is further submitted that the affidavits produced by the applicants in support of his claim have not been dealt with by the Tribunal which is perversity. It is further submitted that the findings recorded by the Tribunal regarding suppression of material facts are patently illegal. The applicants' possession needs to be protected till the decision of the suit.

4. Per contra, learned counsel for the respondents supports impugned order. He would submit that the tax receipts produced on record are doubtful. Even the lease deed dated 01.04.2008 is vulnerable because the signature of the then President is forged one. It is further submitted that Tribunal has taken a reasonable view and no interference is called for.

5. The controversy pertains to land Gut No.193 measuring 8 H. 79 R. and Gut No.264 measuring 13 H. 29 R. situated at Nagapur. The suit lands are admittedly belonging to Sayyad Mansoor Shah Dargah which is registered Wakf. The suit lands were given on lease by respondent No.2 Board vide registered lease deed dated 26.12.1977 on certain conditions. Condition No.7 is restriction to create any mortgage or sublet the property. The plaintiff claims to be in possession by virtue of unregistered lease deed dated 01.04.2008.

6. My attention is adverted to the tax receipts which do not disclose specific survey number or gut number of the land. In view of the objection of the respondents regarding the signature of one of the plaintiffs in different ink, the documents cannot be relied upon at this juncture. There is no material on record to indicate that applicants are in possession and cultivating the suit land. The Tribunal has rightly recorded findings that it was impermissible for the Wakf to lease out the property for more than three years as per Section 56 of Wakf Act. Similarly subletting in favour of the applicants is prohibited by express condition No.7 incorporated in the registered agreement executed on 26.12.1977.

7. Considering the claim of the plaintiffs in the plaint or application Exh.12 and compromise deed dated 13.03.2020, there is inconsistency. The compromise deed discloses the names of the applicants. But sole document is not sufficient to infer possession.

8. The affidavits produced by the applicants in support of their claim have not been dealt with by the Tribunal. The affidavits are of interested persons. They are bound to support the applicants. There appears to be fundamental flaw in the

claim of the applicants in holding the property. Non consideration of affidavits could not vitiate impugned order.

9. I am guided by law laid down by supreme Court in the matter of *Wander Ltd. and Anr. Vs. Antox India P. Ltd. [1990 (Supp) SCC 727]*. No case is made out.

10. Civil Revision Application is rejected

(SHAILESH P. BRAHME, J.)

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vmk/-