



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 CRA NO. 69 OF 2024

SHAIKH NAIM SHAIKH LAL

....Petitioner

VERSUS

SAYYED KALEEM S/O SAYYAD ISMAIL AND OTHERS

.....Respondent

.....

Advocate for the Petitioner : Mr. Agrawal Pawankumar Suryakiren

Advocate for respondent Nos. 1,2 and 5 : Mr. H.I. Pathan

AGP for respondent State : Mr. D.B. Bhange.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 4TH MARCH, 2025.

P.C. :-

1] Heard Mr. Agrawal, learned advocate for appellant and Mr. Pathan, learned advocate for respondents.

2] The applicant had instituted Wakf Suit No. 177 of 2018 against in all 10 defendants for recovery of possession and arrears of rent. The suit came to be decreed vide judgment and order dated 5.4.2021. After passing the decree, defendant Nos. 2 to 6 filed Misc. Application No. 15 of 2021 under Order IX Rule 13 of CPC for setting aside the ex-parte decree and also filed an application below Exh.5, for grant of stay to the execution of decree pending their application for setting aside ex-parte decree.

3] The Wakf Tribunal partly allowed the application below Exh.5 and stayed the operation, implementation and execution of the impugned judgment and decree dated 5.4.2021, passed in Waif Suit No.

177 of 2018. Further directions were issued to defendants to deposit certain amount with Wakf Board towards arrears of rent. Aggrieved by order dated 28.3.2024 below Exhibit 5 in Misc. Application No. 15 of 2021, original plaintiff has filed present civil revision application.

4] Mr. Agrawal, learned advocate for appellant submits that, in fact, in view of order dated 3.1.2024 passed by this Court in CRA No. 206 of 2023, the Wakf Tribunal ought to have decided Misc. Application No. 15 of 2021 within a period of two months, however, keeping that application pending, the Wakf Tribunal entertained application for stay to the execution of decree and passed impugned order. He submits that till today, the Misc. Application is pending consideration before the Wakf Tribunal, which has caused serious prejudice to the rights of plaintiff/applicant.

5] Per contra, learned advocate for respondents submits that now, evidence of defendants is closed and matter is posted for evidence of original plaintiff. Therefore, Misc. application itself would be decided shortly. Therefore, no interference is warranted in the impugned order.

6] Considering submissions advanced, apparently, this court has already issued directions to Wakf Tribunal under order dated 3.1.2024 to decide Misc. Application No. 15 of 2021 within two months. It is pointed out that, without seeking extension, such application is kept pending till this date. It was obligatory for the Wakf Tribunal to follow directions of this court and peremptorily decide the Misc. Application No. 15 of 2021. Apparently, the Wakf Tribunal without deciding it expeditiously, entertained application for grant of stay to the decree and passed impugned order dated 28.3.2024.

7] In aforesaid background, the Wakf Tribunal is directed to

complete the hearing of Misc. Application No. 15 of 2021 and dispose of the same within six weeks from today, without fail. Till then, interim stay granted by order dated 28.3.2024 shall continue. However, in case of failure of the Wakf Tribunal to decide Misc. Application No. 15 of 2021, the interim order dated 28.3.2024 shall stand vacated. Parties to cooperate for expeditious disposal of Misc. Application No. 15 of 2021.

[S.G. CHAPALGAONKAR, J]

grt/-