



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 CRA NO. 99 OF 2025

CHANGDEO S/O KACHRU GHODKE AND OTHERS
VERSUS
SHAIKH WALIYUDDIN S/O ABDUL MAJEED AND OTHERS

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Advocate for the Applicants : Mr. Muthiyan Namit Sunil.
Advocate for Respondent Nos.1 to 8 : Mr. Deshmukh Javed H.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 09.07.2025

PER COURT :-

1. Heard both the sides.
2. This revision application is filed to the limited extent challenging quantum of cost awarded by order dated 20.03.2025 while allowing application Exh.100. Parties are litigating in Wakf Suit No.129 of 2012 for declaration, possession and injunction. Applicants are opponents whereas respondents are the applicants in the proceedings.
3. As the applicants did not turn up after filing affidavit in lieu of examination-in-chief and offer themselves for cross-examination their evidence was foreclosed. There are rival claims of the parties for the date of foreclosure of the evidence. On 20.03.2025 application Exh.100 was filed by the applicants to set aside the order of forfeiture. The same is allowed subject

to cost of Rs.20,000/- per person which would come to Rs.1,40,000/-.

4. It is contended by the applicants that cost is exorbitant. There are convincing reasons assigned in application Exh.100 and there is no reason to impose such a heavy cost. It is further submitted that even say of the respondents was restricted to cost of Rs.50,000/-.

5. Per contra, learned counsel for the respondents submits that there are deliberate lapses on the part of the applicants. They are in possession of valuable properties and fetching huge income. Even the affidavit in lieu of examination-in-chief was filed belatedly in the year 2020. Sufficient opportunity was given to them for remaining present for cross-examination. Ultimately, order of foreclosure of evidence was required to be passed. The Wakf Suit is of 2012 and the evidence is yet to be completed. Impugned order is therefore, contended to be legal and proper.

6. Wakf Suit No.129 of 2012 is at the stage of recording of evidence. In the year 2022 order of foreclosure of the evidence was passed which is sought to be set aside by application at Exh.100 filed on 20.03.2025. Learned counsel for the respondents is justified in contending that adequate

opportunity was given to the applicants and there are serious lapses on their part.

7. By the impugned order, cost of Rs.20,000/- was awarded. The tenor of the order shows that learned Chairman was convinced with the reasons for delay. No specific reasons are assigned for imposing quantum of Rs.20,000/- per person. Apparently, the quantum is unreasonably high and needs interference. Purport of setting aside the order of foreclosure of evidence would not lost if unreasonable and exorbitant conditions are imposed. The quantum is taxing. I deem it appropriate to reduce it to Rs.10,000/- per person.

8. Impugned order is modified to the extent that the applicant shall pay cost of Rs.10,000/- per person i.e. Rs.70,000/- in aggregate to the respondents within a period of four (4) weeks from today.

9. Civil revision application is allowed partly and stands disposed of.

(SHAILESH P. BRAHME, J.)

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vmk/-