



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

CRA NO. 187 OF 2016

1. Nagar Parishad Kandhar
Through Its Chief Officer
Nagar Parishad, Kandhar
Dist. Nanded.

.....APPLICANT
(Org. Defn. No.1)

VERSUS

1. Sayyed Rashid s/o Sayyed Chand
Age 52 years, Occ-Business
R/o Choti-Galli, Kandhar,
Tq. Kandhar, Dist. Nanded.
2. Gousiya Begum w/o Shaikh Khaled
Age 45 years, Occ-Business & Housewife
R/o Dargah-Pura, Kandhar,
Tq. Kandhar, Dist. Nanded
3. Maroof Khan s/o Farooq Ahmed Khan
Age 24 years, Occ-Business
R/o Vijaygad, Kandhar,
Tq. Kandhar, Dist. Nanded
4. Sayyed Nawab s/o Sayyed Mahmood
Age 48 years, Occ-Business
R/o Dargah-Pura, Kandhar,
Tq. Kandhar, Dist. Nanded.
5. Sayyad Salim s/o Sayyed Mahmood
Age 46 years, Occ-Business
R/o Dargah-Pura, Kandhar,
Tq. Kandhar, Dist. Nanded.
6. Sayyed Anwar s/o Sayyed Mahmood
Age 44 years, Occ-Business
R/o Dargah-Pura, Kandhar,
Tq. Kandhar, Dist. Nanded.
(Died through L.Rs.)

- 6A. Sayyed Taijuddin s/o Sayyed Umar
Age 22 yrs, Occu. Business,
- 6B. Sayyed Awrar s/o Sayyed Umar
Age 20 yrs, Occu. Business
- 6C. Sayyed Haji S/o Sayyed Umar
Age 18 years, Occu. Business

All R/o Dargahpura, Kandhar,
Tq. Kandhar, Dist. Nanded.

7. Dargah Hazrat Sanghade Sultan (RH)
Through Sajjada Nashin & Multawalli
Syed Shah Anwarullah Hussaini s/o Syed Shah
Noorullah Hussaini
Through his Special Power of Attorney Holder
Sajjad Ali s/o Ahmed Ali Quadri
Age 45 years, Occ-Advocate
R/o Sri Nagar, Nanded, Dist. Nanded
8. Maharashtra State Board of Waqf
Through Its Chief Executive Officer
Panchakki, Aurangabad

.....**RESPONDENTS**

(Resp. No.1 to 6 are Orgi. plaintiffs,
Resp. no.7 & 8 are orig. Defn. no.2 and 3.

Mr. M. D. Narwadkar, Advocate for the Applicant
Mr. Shaikh Mujtaba Gulam Mustafa, Advocate for Respondent
nos. 1 to 5
Mr. Y. B. Pathan, Advocate for Respondent no.8

WITH
CIVIL APPLICATION NO. 15151 OF 2018
IN CRA/187/2016

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 08TH OCTOBER, 2025

ORDER :-

. Feeling aggrieved by the judgment and decree dated 15.03.2016, passed by the learned Presiding Officer, Maharashtra Sate Waqf Tribunal, Aurangabad in Waqf Suit No.51/2012, the Applicant/Nagar Parishad Kandhar through its Chief Officer has moved this Civil Revision Application.

2. Heard Mr. M. D. Narwadkar, learned Advocate for the applicant and Mr. Shaikh Mujtaba Gulam Mustafa, learned Advocate for respondent nos.1 to 5. Both the Advocates submit that they have no objection if the Civil Revision Application is disposed of finally at admission stage.

3. Hence, the Civil Revision Application is heard finally at the stage of admission.

4. It was the contention of the plaintiffs in brief that the suit was for perpetual injunction against the Nagar Parishad that the Nagar Parishad be restrained from interfering into the peaceful possession of the plaintiffs over the suit properties specifically described in paragraph 5 of the plaint without following due procedure of law.

5. Mr. Shaikh Mujtaba Gulam Mustafa, learned Advocate for respondent nos.1 to 5 would fairly agree that the plaintiffs do not contend their ownership over the suit property, but they are tenant of the suit property which is owned by the Dargah Hazrat Sanghade Sultan (RH)/respondent no.7. Apprehending that, the Nagar Parishad would dispossess the plaintiffs without following due procedure of law, the suit was filed.

6. Upon hearing all the parties, the learned Tribunal decreed the suit and issued perpetual injunction against the present applicant in terms of clause 2 of its operative order, which is reproduced as follows:

2. Perpetual injunction is granted restraining the defendant No.1 Nagar Parishad Kandhar its employees, servant, agent or anybody on its behalf from dispossessing the plaintiffs from their shops on the suit properties specifically described in Para No – 5 of the plaint without following due procedure of law.

7. Today, when the matter is heard on its merits and after the parties have extended their arguments, Mr. M. D. Narwadkar, learned Advocate would submit that in view of the findings rendered by the learned Tribunal that the

Nagar Parishad in as much not prevented from taking any action by following due procedure of law, the Civil Revision Application be disposed of permitting the applicant to take appropriate action in conformity with the order passed by the learned Tribunal, particularly leaving the Nagar Parishad at liberty to take recourse to the due procedure of law.

8. It is seen that during the proceeding of the trial, the Court Commission was appointed under order 26 of the Civil Procedure Code. It is also seen that neither party to the suit was happy with the report produced by the Court Commissioner. Even the learned Tribunal has observed that the map is not helpful to the defendant no.1 to establish the fact of encroachment of the plaintiffs on the acquired land of 00H 34R on Survey No.7/2 as pleaded in the written statement Exh 14.

9. Mr. Shaikh Mujtaba Gulam Mustafa, learned Advocate would however support the findings rendered by the learned Tribunal and would submit that in no event unless due procedure of law is followed, the Nagar Parishad could insist any action against the original plaintiffs/present respondents.

10. Needless to mention, the applicant/Nagar Parishad can proceed in respect of suit properties except by taking recourse to due procedure of law.

11. The parties are at liberty to raise every objection to establish their rights. Even both the parties submit that they be left at liberty to seek Court Commission, if they so desire in the circumstances and they submit that report of the Court Commission produced in the trial should not come in their way. It is ordered accordingly.

12. Civil Revision Application is disposed of.

13. Pending Civil Applications, if any, stand disposed of.

(AJIT B. KADETHANKAR, J.)