



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

CIVIL APPLICATION NO. 13305 OF 2009

IN

SECOND APPEAL NO. 1295 OF 2005

HAMIDODDIN CHIRAGODDIN KAZI AND ORS

VERSUS

**SANJIDABI ZIYAUDDIN KAZI LRS ZIAUDDIN CHIRAGAODDIN KAZI
LRS MOMINABAI AZIMUDDIN BIYATANI AND ORS.**

Mr. Mukul Kulkarni, Advocate for the applicants/resp.No.18D in SA.

Mr. M.M. Patil (Beedkar), Advocate for respondent No. 1A to 1H,2

Mr. Mahesh R. Sonawane, Advocate for respondent Nos. 27A-1 to A-4.

Mr. Jay Veer h/f. Ms. Anjali Dube, Advocate for respondent No. 28 in SA/1295/2005.

Mr. Akash E. Madne h/f. Mr. A.B. Kale, Advocate for respondent No. 27-C in SA/1295/2005.

Mr. Madhav Kalyane h/f. Mr. G.B.Rajale, Advocate for the respondents.

**CORAM
DATED**

**: KISHORE C. SANT, J.
: 26.08.2025**

ORDER :-

01. This application is filed for restoration of names of the applicants as respondent Nos. 18-A to 18-D in the Second Appeal. The application is pending since 2009. In the meantime subsequent developments have taken place. Main issue involved in this application is that respondent No. 18 in the appeal is a trust. Respondent Nos. 18-A to 18-D were shown as trustees. In a subsequent application a leave was sought to delete respondent Nos. 18-A to 18-D. Such leave was granted. Thereafter, some orders were passed. Now the question raised before

this Court by the applicants is that when respondent Nos. 18-Trust is very much a party before this Court, the same can be represented only by a natural person i.e. trustees. Therefore, their names should again be shown as trustees. Now, out of present three applicants, applicant Nos. 1 and 2 are no more. Applicant No.3 is only alive and thus now prayer is only in respect of the present applicant No.3 who was shown as respondent No. 18-D.

02. It is alleged that by misleading the Court about service of the application on other side, it was shown that the parties are served and deletion was prayed. This Court was moved by filing an application to restore the names. This Court, however, by order dated 16.12.2009 rejected the application and kept it open for the applicants to intervene in the matter. Said order came to be challenged before the Hon'ble Apex Court by filing SLP No. 2136 of 2010. Said leave was granted and same was treated as Civil Appeal No. 7150 of 2014. The Hon'ble Apex Court by order dated 30.07.2014 remanded the application for fresh consideration. Thus, the application is before this Court.

03. The prayer is opposed by learned Advocate Mr. M.M. Patil (Beedkar) for the respondents. He made various submissions including

the status of the trust in view of the new Wakf Act, 1995 and subsequent amendments and also status of the trustees. He has referred to some other proceedings presently pending before the Wakf Tribunal and other forums.

04. This Court, at this stage, finds that it is not necessary to go into the other aspects and need not decide the status of the applicants as to trustees or their rights as trustees.

05. Considering that when the trust is a party, it is natural that same needs to be represented only by natural person. Considering that the present applicants were trustees and now the present applicant No.3 is the only trustee alive, this Court is allowing this application to that extent only.

06. This Civil Application stands allowed to the above extent. Necessary amendment be carried out within a period of two weeks from the date of uploading of this order.

[KISHORE C. SANT, J.]