



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRA NO. 197 OF 2025

Rashid s/o Pasha Quadri And Others

...APPLICANTS

VERSUS

Syed Aslam s/o Syed
Muntajibuddin Quadri and Others

....RESPONDENTS

Ms. Madhaveswari S. Mhase, Advocate for Applicants
Shri. S. R. Kedar, Advocate for Respondent No.1
Shri. Amol Gandhi h/f. Mr. Afzal Hussain, Advocate for Respondent
Nos.6 and 9
Shri. Syed Afzal Pasha Quadri, Advocate for Respondent No.17 (Party
In Person)
Shri. N. E. Deshmukh, Advocate for Waqf Board (through v.c.)

CORAM : SHAILESH P. BRAHME, J.
RESERVED DATE : 04.12.2025
PRONOUNCED DATE: 10.12.2025

ORDER :-

1. Heard both sides finally at the admission stage.
2. Applicants are taking exception to the order dated 15.09.2018 passed by the learned Chairman Maharashtra State Waqf Tribunal in Waqf Suit No.210 of 2017 decreeing the suit in terms of compromise, Exhibit-66.

3. Applicants were not party to Waqf Suit No.210 of 2017 which was filed by respondent nos.1 to 5 against rest of the respondents. It was in respect of Dargah Hazrat Nooruddin Noor-Ut-Haq Isaq Quadri @ Syed Peer Pasha Quadri Aljilani (RAH) situated at Nilanga, Dist. Latur and Dargah Hazrat Syed Shah Mohammed Quadri Aljilani (RAH), Hazrat Syed Shah Afzal Tiktiky (RAH) and Kankha Sharif Peer Pasha Quadri situated at Udgir. The dispute pertained to distribution of the incomes collected through offerings, rent of the shops/stalls in Urus, money fetched by selling skins, legs and heads of the goats, income from Musafirkhana, Function Hall and other income from Service Inam lands.

4. The parties are stated to be descendants of Syed Wali Pasha Quadri. The relief of declaration in respect of shares in the subject matter to the extent of 1/3, mandatory injunction of providing accounts and distribution of income and perpetual injunctions were solicited. The parties arrived at a settlement and the terms were submitted before the Tribunal. The suit was permitted to be compromised by order dated 15.09.2018. A decree was drawn in terms of compromise pursis at Exhibit-66.

5. The grievance of the applicants is that the decree is collusive and obtained fraudulently and suppressing material facts. The genealogy produced at Exhibit-B of the paper book is pressed into service to show that applicants are also descendants of original Muntakhab Pasha Nabisab Quadri but they were excluded and behind their back settlement was arrived at. It is further submitted that in previous litigation i.e. RCS No.57 of 1973, the decision was rendered in their favour which was confirmed in RCA No.75 of 1982. Arising out of same Second Appeal Nos.462 of 1989 and 292 of 1988 are subjudiced. The impugned decree is stated to be prejudicial to the applicants as they have right, interest and share in the subject matter.

6. Per contra, the party in person respondent no.17 - Syed Afzal Pasha Quadri s/o Syed Peer Pasha Quadri raised preliminary objection of maintainability of the revision. He would further submit that earlier proceedings were in respect of Survey No.183 situated at Nilanga. The prepositus of the family Syed Pasha Quadri had two wives Pyaran Bee and Fakran Bee. The decree obtained in previous

litigation is by fraud, suppressing the true genealogy. It is submitted that the subject matter in earlier suit was a Waqf property and could not have been partitioned. It is further contended that while compromising the suit, the consent of the Maharashtra Waqf Board was secured and pendency of the Second Appeals were also disclosed. Lastly it is submitted that the settlement arrived at amongst the respondents in the Waqf Suit No.210 of 2017 is without prejudice to the claim of the applicants.

7. The genealogy produced on record indicates that applicants and respondents are descendants of prepositus Pasha Nabisab Quadri. Applicants fall in the line of Fakirpasha and Jainoddin. The respondents are descendants of Wali Pasha. The dargah in question and the lands are Waqf properties incorporated in the Government Gazette. It cannot be said that applicants are not concerned with the subject matter. They are parties in the suit, Second Appeal Nos. 462 of 1989 and 292 of 1988 and revision applications pending in the High Court. The applicants are successful party in Second Appeals.

8. The party in person tried to point out that the judgment rendered in RCS No.57 of 1973 arising out of which Second Appeals are pending is bad in law and pertains to partitioning of the Waqf properties. The validity of the judgment can be dealt with in the Second Appeals. Intricate questions of law and facts are involved in the matter. Under such circumstances, I find no merit in the preliminary objection raised by the respondents regarding maintainability of the revision.

9. The party in person and the respondents made submission across the bar that Waqf Suit No.210 of 2017 was permitted to be compromised and that would not cause any prejudice to the rights of the applicants. The compromise deed also refers to the matters pending in the High Court and Tribunal. The respondent no.18 – Maharashtra Board had given consent at Exhibit-68 and thereafter impugned order was passed.

10. In the backdrop of above referred facts, it would be open for the applicants to assert and agitate their rights. The compromise decree in question would not be an impediment if they choose to avail

remedy as permissible in law before the Tribunal. They were not party to the impugned decree and the suit. Hence, the settlement arrived at amongst the respondents cannot bind the applicants.

11. Learned counsel for the applicants Ms. Mhase vehemently submitted that impugned order be quashed and the matter be remitted back to the Tribunal. I am not inclined to accept the submission. Remanding of the matter would create complications. This Court is guided by law laid down by Supreme Court in Triloki Nath Singh vs. Anirudh Singh reported in (2020) 6 Supreme Court Cases 629. The applicants are not bound by the compromise decree. They can approach Tribunal and can point out their grievance about compromise decree.

12. The respondents have candidly informed that the settlement in question is without affecting any independent right and interest of the applicants. It is always open for the affected persons who are not party to the proceedings to agitate grievance founded on fraud and/or asserting any independent right.

ORDER

A. Civil Revision Application is disposed of with a liberty to the applicants to take recourse to the remedy as permissible in law asserting their right, interest and grievance against the impugned order or the compromise decree in Waqf Suit No.210 of 2017.

B. If any proceedings are filed by applicants before the Tribunal those shall be decided on their own merits and impugned compromise decree would not be fetters.

(SHAILESH P BRAHME, J.)

1. After pronouncement of the judgment, learned counsel for the applicants brings to my notice that present revision application was being heard with second appeals and Civil Revision Application No.200 of 2023 and the orders of appointment of receiver and further ancillary orders were initially passed in the application preferred in the present revision application. Those orders further suffered modifications. The disposal of the present revision application is likely to merge those orders in the present matter which would cause

prejudice.

2. Other connected matters are still pending in the High Court. The interim orders passed in respect of appointment of receiver and the administration during the course of Urus festival are required to be continued. Hence, it is clarified that notwithstanding the disposal of the application, the appointment of receiver and further consequential orders would still occupy the field and it would be open to the parties to file any separate applications in the pending matters for further clarification or continuation of those orders.

(SHAILESH P. BRAHME, J.)

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