



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

13 WRIT PETITION NO.12895 OF 2025

MOHD. HANIF MOHD. ISMAIL
THROUGH GPA SHAIKH MOHD HANIF

VERSUS

SHAIKH NAIM SHAIKH LAL AND OTHERS

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Advocate for the petitioner : Mr.S.S.Gangakhedkar

Advocate for Respondent no.1 : Mr.P.S.Agrawal

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CORAM : ARUN R. PEDNEKER, J.

DATE : 03.11.2025

P.C. :

1] By the present Writ Petition, the petitioner challenges the impugned order dated 18.09.2025 passed by the 2nd Civil Judge Senior Division, Hingoli below Exh.58 in Regular Darkhast No.5/2022, thereby rejected the application filed by the petitioner.

2] It is the case of the petitioner that the respondent no.1 does not have jurisdiction or authorization by the Waqf to institute the suit or execution proceedings. The petitioner has filed an application raising several

questions regarding execution of decree in Regular Darkhast No.5/2022. It is submitted that the trial Court, by order dated 18.09.2025, has rejected the application filed by the petitioner on the ground that Civil Revision Application was filed by the petitioner before this Court and said Civil Revision Application is disposed off, as such, decree passed by the Tribunal is merged in the said order. He further submits that the respondent no.1 has no authorization to institute the execution proceedings, as such, execution proceedings is not tenable at the instance of the respondent no.1 and the said execution proceedings may not be proceeded.

3] *Per contra*, the learned counsel for the respondent no.1 points out the document at Page no.54 of the petition i.e. the letter of the Wakf Board dated 05.08.2025 and submits that the Managing Committee, which was approved in the year 2013, is looking after the administration of the Waqf. It is also to be noted that the present respondent no.1 himself has instituted the suit. The

objection as regards authorization to institute the suit was raised in the suit and has been rejected. The decree in Waqf Suit No.177/2018 was challenged by the petitioner before this Court by filing Civil Revision Application No.35/2022. While disposing of the Civil Revision Application No.35/2022, the learned counsel appearing for the petitioner made following submissions at para nos.2, 3, 4 and 5 :

2. After arguing the matter for quite some time, learned counsel appearing for the applicant, on instructions of the applicant, who is present in the Court, states that he may be granted liberty to make an application for getting the suit property on lease. For that purpose, the applicant is ready to make an application before the Managing Committee/Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli. He further states that in the event he is granted such liberty then he will not press the present civil revision application.

3. Learned counsel appearing for respondent

no.1/plaintiff submits that in the event such an application is made by the applicant, his application will be decided by the Managing Committee/Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli as per rule 4 of the Waqf Properties Lease Rules, 2014.

4. Learned counsel for the applicant submits that in the event his application for grant of lease is not favorably decided then he may be granted time of three months from the date of such decision, to vacate the suit property. Learned counsel appearing for the contesting respondent i.e. original plaintiff, on instructions, states that if any application is made by the applicant for grant of lease, he has instructions to state that same will be decided as per rule 4 of the Waqf Properties Lease Rules, 2014.

5. Considering the facts and circumstances of the case, the request made by the applicant is reasonable and can be granted on certain terms and conditions.

4] This Court, by order dated 9th January, 2023 in Civil Revision Application No.35/2022 made above

observations while disposing of the Civil Revision applications. It was also observed in the said order that the applicant would make an application before the Managing Committee / Board of Masjid Paltan and Madarsa Anjuman-e-Islamia, Hingoli for the purpose of grant of suit property on lease. If such application is rejected, then, the petitioner – applicant would vacate the suit property within a period of three months from the date of decision on his application. It was brought notice to this Court that pursis seeking extension of only three days for filing undertaking as per order dated 9th January, 2023 was moved. However, when the matter was called out the learned counsel appearing for the applicant submitted, on instructions, that the applicant was not ready to file an undertaking. Hence, this Court did not pass any orders on the application for extension of time.

5] From the year 2023 onwards, the petitioner has not vacated the premises and has not paid any rent to the Waqf and is continuing in occupation of the suit

property of the Wakf. The objection raised by the petitioner as regards the authorization to file suit is already rejected, so also, document at page No. 54 of the petition indicates that the Managing Committee, which was approved in the year 2013, is looking after the administration of the Waqf and the tenants are paying rent to the Managing Committee of the Waqf.

6] Accordingly, no case is made out as regards the authorization of the respondent no.1 to institute the suit or the execution proceedings and the Writ Petition is thus dismissed.

[ARUN R. PEDNEKER]
JUDGE

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