



( 1 )

fa2751.25

[This order is corrected pursuant to speaking to the minutes order dated 27.11.2025 & 02.12.2025]

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

**FIRST APPEAL NO. 2751 OF 2025**

SHIRIN MUNIR MERCHANT

VERSUS

THE DIAMOND JUBILEE TRUST BEARING THRU ITS TRUSTEES MR. ISMAIL  
BADRUDDIN SONAWALLA AND OTHERS

**WITH**

**CIVIL APPLICATION NO. 11587 OF 2025 IN FA/2751/2025**

**AND**

**FIRST APPEAL NO. 2755 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 11422 OF 2025 IN FA/2755/2025**

**AND**

**FIRST APPEAL NO. 2756 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 11411 OF 2025 IN FA/2765/2025**

**WITH**

**CIVIL APPLICATION NO. 11410 OF 2025 IN FA/2763/2025**

**WITH**

**CIVIL APPLICATION NO. 11418 OF 2025 IN FA/2756/2025**

**WITH**

**FIRST APPEAL NO. 2763 OF 2025**

**WITH**

**FIRST APPEAL NO. 2765 OF 2025**

**AND**

**FIRST APPEAL NO. 2757 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 11416 OF 2025 IN FA/2757/2025**

**AND**

**FIRST APPEAL NO. 2758 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 12085 OF 2025 IN FA/2758/2025**

**AND**

**FIRST APPEAL NO. 2759 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 11409 OF 2025 IN FA/2759/2025**

**AND**

**FIRST APPEAL NO. 2760 OF 2025**

**WITH**

**CIVIL APPLICATION NO. 11417 OF 2025 IN FA/2760/2025**

**AND  
FIRST APPEAL NO. 2761 OF 2025  
WITH  
CIVIL APPLICATION NO. 11414 OF 2025 IN FA/2761/2025  
AND  
FIRST APPEAL NO. 2762 OF 2025  
WITH  
CIVIL APPLICATION NO. 11420 OF 2025 IN FA/2762/2025  
AND  
FIRST APPEAL NO. 2764 OF 2025  
WITH  
CIVIL APPLICATION NO. 12084 OF 2025 IN FA/2764/2025  
AND  
FIRST APPEAL NO. 2766 OF 2025  
WITH  
CIVIL APPLICATION NO. 11331 OF 2025 IN FA/2766/2025  
AND  
FIRST APPEAL NO. 2767 OF 2025  
WITH  
CIVIL APPLICATION NO. 11419 OF 2025 IN FA/2767/2025  
AND  
FIRST APPEAL NO. 2768 OF 2025  
WITH  
CIVIL APPLICATION NO. 11421 OF 2025 IN FA/2768/2025  
AND  
FIRST APPEAL NO. 2769 OF 2025  
WITH  
CIVIL APPLICATION NO. 11412 OF 2025 IN FA/2769/2025  
AND  
FIRST APPEAL NO. 2770 OF 2025  
WITH  
CIVIL APPLICATION NO. 11415 OF 2025 IN FA/2770/2025  
AND  
FIRST APPEAL NO. 2771 OF 2025  
WITH  
CIVIL APPLICATION NO. 11413 OF 2025 IN FA/2771/2025  
AND  
FIRST APPEAL NO. 2825 OF 2025  
AND  
FIRST APPEAL NO. 2735 OF 2025  
WITH  
CIVIL APPLICATION NO. 11327 OF 2025 IN FA/2735/2025  
WITH  
FIRST APPEAL NO. 2734 OF 2025**

**WITH  
CIVIL APPLICATION NO. 8726 OF 2025 IN FA/2734/2025  
WITH  
CIVIL APPLICATION NO. 11181 OF 2025 IN FA/2734/2025  
AND  
FIRST APPEAL NO. 2752 OF 2025  
WITH  
CIVIL APPLICATION NO. 11586 OF 2025 IN FA/2752/2025**

Mr. Rajendra Deshmukh, Sr. Advocate a/w. Mr. Prathamesh Kamat and Mr. Ishwar Ahuja i/b. Mr. N.E. Deshmukh and Mr. Yusuf Baugwala, Mr. Mohiyuddin Y. Baugwala and Mr. Khan Abdul Hakeem, Mr. S.V. Advant Advocates for the respective appellants.

Ms. Sana Yusuf Baugwala, Advocate for appellant in FA/2752/2025.

Mr.S.S. Kazi, Advocate for the applicant in CA/11181/2025.

Mr. Sageer A. Khan and Mr. G.D. Shaikh, Advocate for respondent Nos. 1 to 8.

**CORAM : KISHORE C. SANT, J.  
RESERVED ON : 13.11.2025  
PRONOUNCED ON : 24.11.2025**

**ORDER :-**

01. This group of appeals is filed under Section 83 (9) of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995, challenging judgment and orders passed by the learned Chairman and Member of the Waqf Tribunal, Aurangabad (Chh. Sambhajinagar). Initially, under the Waqf Act, prior to amendment, remedy provided was of filing of revision against the judgment and order. By way of the amendment, now remedy of appeal is provided.

02. A preliminary objection is raised by the respondents in the First Appeals. There is delay caused in filing the suit and an application

was filed for condonation of delay. Appeal is therefore filed challenging order passed by the Waqf Tribunal condoning the delay. The suit before the Waqf Tribunal was filed in respect of property situated in Pune district. It is the Principal Seat at Bombay, which has jurisdiction and this Bench at Aurangabad will have no jurisdiction. This objection is raised in view of Chapter XXXI, Rules (1), (2) and (3) of the Appellate Side Rules. All these rules deal with jurisdiction of the Principal Seat and respective Benches. Rule (3) is in respect of territorial jurisdiction of this Bench to decide all these appeals, applications, writ petitions under Articles 226 and 227 of the Constitution of India, which provide that such appeals, applications and writ petitions arising out of and from the districts under the jurisdiction of this Bench shall be filed before this Bench. For the purpose of convenience, said Chapter XXXI and Rules 3 is reproduced below :-

**"CHAPTER XXXI  
[PRESENTATION OF PROCEEDINGS AT THE OFFICE OF THE HIGH  
COURT OF BOMBAY AT THE PRINCIPAL SEAT, ITS BENCHES AND  
AT GOA]**

xxxxxxx

3. All appeals, applications, references, petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution of India, arising in the State of Goa, which lie to the High Court at Bombay, shall be presented to the Registrar, High Court of Bombay at Goa and shall be disposed of by the Judges sitting at High Court of Bombay at Goa;

xxxxxxx"

03. Learned Advocate Mr. Sagheer Khan appearing for the respondents by relying upon the Rules submits that in view of these Rules, it is only the respective Bench, within whose jurisdiction the property is situated or Mutawali resides will have jurisdiction and for that purpose also he relies upon sub-section (3) of Section 83 of the Waqf Act, which gives jurisdiction of the Tribunal. This sub-section (7) in the present case is not very material as it deals with the jurisdiction of the Waqf Tribunal, where there are more than one Waqf Tribunal for the State. In the present case, the question does not arise as there is only one Waqf Tribunal for the entire State of Maharashtra. The suits in respect of properties situated under the territorial jurisdiction of the Principal Seat or any of the Benches are maintainable in the Waqf Tribunal at Aurangabad. He further submits that proceeding under section 83(3) of the Waqf Act is a departure from the general rule of place of order suing under the provisions of sections 16 to 20 of the Civil Procedure Code. He also submits that reading of sub-section (3) of section 83 of the Waqf Act shows that the term of cause of action is align to the Waqf Act.

04. This Court has already dealt with this issue, when revisions

were held maintainable against judgment and order passed by the Waqf Tribunal at Aurangabad, when this Court had occasion to decide the question. The revisions were regularly filed and were being entertained by this Court. In one such revision, question was raised about jurisdiction and in that view this Court was called upon to decide the issue of jurisdiction. So far as revision is concerned, in the present case learned Advocate Mr. Khan submits that the appeal needs to be considered separately from the Revision as under Revision the jurisdiction can be exercised by the High Court even suo-moto. The power is in the nature of superintendence, akin to the power under Articles 226 and 227 of the Constitution of India and thus it was held that this Court has territorial jurisdiction to entertain revisions. His submission is that since the appeal is continuation of suit and is necessarily to be filed by the parties to the proceedings, parties do not have choice to chose forum of their choice and therefore the appeal needs to be filed only before the Principal Seat or respective Benches where the property is situated and it is situs of the property that will decide the territorial jurisdiction. He relies upon following judgments :-

- i) Volvo Group of India Pvt. Ltd. formerly known as Volvo Buses India Pvt. Ltd. Vs. Union of India through the Secretary, Ministry of Finance, Department of Revenue and Others, 2024 SCC OnLine Bom 2897.
- ii) Adam A. Jumma Vs. Guddu S. Malha, 2023(3) Mh.L.J. 494.

- iii) Dixons Cargo Consolidators Pvt. Ltd. Vs. Commissioner of Customs, Goa, 2018 SCC OnLine Bom 3411.
- iv) State of Maharashtra Vs. Narayan Shamrao Puranik & Ors., (1982) 3 SCC 519.
- v) Pandit Gulam Dastgir Vs. Ashfaq Ul Haque Khan & Ors., AIROnline 2019 Bom 2023.
- vi) Haji Abdul Razak Yasim Patel Vs. Bara Imam Masjid Trust & Ors., 2006(1) Mh.L.J. 184.
- vii) Kusum Ingots & Alloys Ltd. Vs. Union of India and Anr., (2004) 6 SCC 254.

05. Learned Advocate Mr. Prathamesh Kamat on behalf of the respective appellants in the First Appeals mainly argued for the appellants in all these appeals. Learned Sr. Advocate Mr. Deshmukh addressed on behalf of the respective appellants in First Appeals. Learned Advocate Mr. S.V. Advant for the respective appellant also addressed this Court supporting that this Court has jurisdiction to entertain appeal. Mr. Kamat relied upon Chapter XXIV-A of the Bombay High Court Appellate Side Rules. Their arguments are adopted by other learned learned Advocates appearing for the appellants in respective appeals.

06. It is argued that the appeals are arising out of the orders passed by the Waqf Tribunal situated at Aurangabad. It is the order

impugned that will give cause of action to file an appeal. It is submitted that there is only one Waqf Board for the entire State of Maharashtra and that is situated in Aurangabad. All the record is maintained at Aurangabad. The orders passed by actions taken by the Board are challenged before the Waqf Tribunal and in that view it is this Bench, which has the jurisdiction. Learned Advocate for the appellants relied upon various judgments. The main submissions are that the orders are passed at Aurangabad. It is the action which is under challenge that will give jurisdiction and not the place where the property is situated. In the appeal the Court is called upon to adjudicate upon the the actions/orders under challenge and not on the dispute. It is also submission that the litigant is *dominus litis* and therefore it is his choice of the forum when jurisdiction arises at two different places. This is different than hunting of the forum. He submits that no reliance can be placed on the judgments relied upon by learned Advocate Mr. Sagheer Khan, as those are under different statutes and not under the general statute and under the Waqf Act.

07. Learned Advocate Mr. Kamat heavily relied upon judgment in the cases of :-

- i) Kishore Rungta Vs. Punjab National Bank, 2001 (4) Mh.L.J. 195.



- ii) Volvo Group India Pvt. Ltd. Vs. Union of India, 2024 SCC Online Bom. 2897.
- iii) J.M. Baxi & Co. Vs. Deputy Collector of Customs & ors., 2002(4) Mh.L.J. 823.

08. Learned Sr. Advocate Mr. R.S. Deshmukh also addressed the Court supporting arguments of Mr. Kamat. Learned Advocate Mr. Advant also relies upon judgment in the case of **Haji Abdul Razak [supra]**.

09. For that purpose this Court feels that it is necessary to reproduce relevant provisions from the Waqf Act :-

83. Constitution of Tribunals, etc.—

(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals.

x x x x x

(3) Where any application made under sub-section (1) relates to any waqf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the waqf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter:

Provided that the State Government may, if it is of opinion that it is expedient in the interest of the waqf or any other person interested in the waqf or the waqf property to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such waqf or waqf property, transfer such application to any other Tribunal having jurisdiction, and, on such transfer,

the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interest of justice to deal with the application afresh.

x x x x x x

(5) The Tribunal shall be deemed to be a civil court and shall have the same powers as may be exercised by a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, or executing a decree or order.

x x x x x x

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

x x x x x x

(9) Any person aggrieved by the order of the Tribunal, may appeal to the High Court within a period of ninety days from the date of receipt of the order of the Tribunal:

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit."

10. From these provisions, it is seen that there is only one Tribunal for the entire State of Maharashtra. No doubt, in view of section 83(1), the State has power to establish as many Tribunals as it may deem fit for determination of any dispute, question or other matter relating to Waqf or Waqf property. As per sub-section (5), the Tribunal is deemed to be a Civil Court having powers of Civil Court under Civil

Procedure Code for trying suits. In sub-section (9) of Section 83, the word used is only "may appeal to the High Court". It is not specified as to before which High Court or if there are Benches, before which Bench the appeal would lie. Since the same is not specifically provided, present objection is raised, in view of Rule (2) of Chapter XXXI of the Bombay High Court Appellate Sides Rules. This Rule gives jurisdiction in respect of appeals, applications, revisions, petitions under Articles 226 and 227 of the Constitution of India arising in the judicial districts specified therein.

11. In the case of **Volvo [supra]**, it was a group of petitions arising from the orders passed by the Revisionary Authority under the Customs Act. In the said five petitions, out of six petitions, were in respect of orders passed by the Authority situated outside the territorial jurisdiction of the Principal Seat at Mumbai, however, the Revisionary Authority was situated within the jurisdiction of Principal Seat. Therein, objection was raised that the Principal Seat will have no jurisdiction. It was held that the Revisionary Authority is situated in Mumbai and therefore Principal Seat at Mumbai will have jurisdiction.

12. In the case of **Adam A. Jumma [supra]**, Second Appeal

was filed in the High Court at Bombay, challenging Appellate Tribunal's order under the Real Estate (Regulation and Development) Act (16 of 2016). In the said case, dispute arose in respect of a project in Goa. The parties approached the forum at Goa. The order passed by the Regional Forum was challenged before the Appellate Tribunal under RERA Act. This Court considered section 58 of the Act, providing appeal to the High Court. Explanation to Section 58 is reproduced as under :-

"Explanation – The expression "High Court" means the High Court of a State or Union territory **where the real estate project is situated.**"

. The wording of explanation shows High Court means the High Court of a State or Union territory where the real estate project is situated.

13. Said judgment is under the RERA Act. The jurisdiction to decide the appeal under section 58 is specifically provided to the High Court, where the real estate project is situated. There is no manner of doubt that when the legislature provides forum in specific and unambiguous words, there cannot be any doubt about the jurisdiction. In the present case, the wording of the sub-section (9) of the Waqf Act only used the word 'High Court'. There is nothing to show that the High Court is specified by the legislature.

14. Further reliance is placed on **Dixons Cargo [supra]**. There appeals were filed under section 130 of the Customs Act and section 35G of the Central Excise Act from the orders of Tribunal at Mumbai. In the said case, the dispute had arisen in respect of excisable goods produced at Nagpur. The original proceeding was decided by the Authority at Nagpur and in that view, it was held that the appeal against the order would lie before the Bench at Nagpur.

15. In the case of **Narayan Shamrao Puranik [supra]**, the Hon'ble Apex Court considered the object, need, convenience etc. of the region of Marathwada and held that establishment of the Bench at Aurangabad is perfectly legal.

16. In the case of **Pandit Gulam Gastgir [supra]**, revision arose out of an order passed by the Waqf Tribunal at Aurangabad. By considering various judgments, this Court held that it is the Aurangabad Bench, which has jurisdiction. Mr. Khan pointed out this judgment only for the purpose that this judgment is in respect of revision and not appeal.

17. In the case of **Haji Abdul Razak [supra]**, an order passed by the Joint Charity Commissioner, Pune Region, Pune was challenged by filing Writ Petition at Principal Seat. Civil Applications were filed challenging order passed by the Joint Charity Commissioner, Pune, refusing permissions to alienate immovable properties of the trust, under section 36 of the Bombay Public Trust Act. In the Civil Applications, a prayer was made for return of the writ petitions for presenting those before the Aurangabad Bench. It was a case that the properties in respect of which the application before the Joint Charity Commissioner was filed were located at Ahilyanagar within territorial jurisdiction of Aurangabad Bench. Since the Joint Charity Commissioner for the area of Ahmednagar was at Pune, the applications under section 36 were filed at Pune. The Court considered that the order is passed at Pune within ordinary jurisdiction of the Appellate Side of the Principal Seat at Bombay. The objections came to be overruled.

18. Both the parties have addressed relying on the case of **Kusum Ingots [supra]**. In the said case, the Hon'ble Apex Court was considering jurisdiction for the purpose of petition under Article 226 of the Constitution of India. There validity of the legislation was challenged in the High Court at Delhi, questioning the vires of the Indian Companies

Act by filing Writ Petition before Delhi High Court. In the said petition, the company had obtained loan from Bhopal Branch of State Bank of India. Notice was issued for repayment of loan from Bhopal under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act. Delhi High Court refused to entertain the petition on the ground of territorial jurisdiction. The matter was thus carried to the Hon'ble Apex Court with an argument that since the vires of the Act is under challenge, which is enacted by the legislation in Delhi, it is the Delhi High Court which has jurisdiction. The Hon'ble Apex Court by considering various judgments held that the Writ Petition would lie before the High Court, where an order is passed by a Court or Tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. It is also held that when an Authority is situated at one place and the Appellate Authority is situated at another place, the Writ Petition would be maintainable at both the places holding that the order of the Appellate Authority constitutes part of cause of action.

19. In the case of **Kishore Rungta [supra]** an order was passed by the Debt Recovery Tribunal, Jaipur, which was challenged before the Debt Recovery Appellate Tribunal, Mumbai. The petitioner therein

challenged the order of the Appellate Tribunal before the High Court at Mumbai. The Division Bench on preliminary objection as to the jurisdiction, held that the order passed by the Debt Recovery Tribunal, Jaipur merged into the order of Debt Recovery Appellate Tribunal, Mumbai i.e. Appellate Tribunal. The Court in Jaipur would have no jurisdiction to entertain the petition and it is the Court in Mumbai that would have jurisdiction to entertain the petition.

20. In the case of **J.M. Baxi and Co. Vs. Deputy Collector of Customs & Ors., 2002(4) Mh.L.J. 823**, the Division Bench of this Court was dealing with Writ Petition challenging an order passed under the Customs Act. The Dy. Collector of Customs, Kandla (Gujarat) had imposed penalty under Section 116 of the Customs Act for loss of cargo. Said order was confirmed by the Collector of Customs (Appeals), Mumbai. There again challenge was raised to the jurisdiction. This Court held that the order passed by the Appellate Tribunal also forms cause of action and therefore the Bombay High Court has jurisdiction to entertain the Writ Petition.

21. Mr. Yusuf Baugwala, learned Advocate for the appellant also relied upon judgments in the cases of **Pr. Commissioner of Income**



**Tax-I, Chandigarh Vs. ABC Papers Ltd.,** reported in AIR 2022 SCC 3907 and **Calcutta Gujarati Education Society and Anr. Vs. Regional Provident Fund Commissioner and Ors.,** reported in (2020) 19 SCC 380.

22. In the case of **Pr. Commissioner of Income Tax-1, Chandigarh Vs. ABC Papers Ltd., AIR 2022 SC 3905,** an order of the Appellate Tribunal i.e. Income Tax Appellate Tribunal was passed having jurisdiction over more than one State. It was held that in such cases, the appeal would lie against every decision of the Appellate Tribunal only before the High Court within whose jurisdiction the Assessing Officer, who passed the assessment order was situated.

23. In the case of **Calcutta Gujarati Education Society and Anr. Vs. Regional Provident Fund Commissioner and Others, (2020) 19 SCC 380,** it is held that the Writ Petition would be maintainable depending upon the place where the Regional authority or the Tribunal or the Court of first instance is situated. In the said case, the Regional Authority passed the order was situated in Calcutta. The Appellate Tribunal was situated at Delhi. It was held that the Calcutta High Court has territorial jurisdiction to decide the issue.

24. Coming to the facts of the present case and the ratio in the judgments, this Court finds that since the impugned orders are passed by the Waqf Tribunal at Aurangabad, having original jurisdiction, is situated within the territorial jurisdiction of this Bench, it is difficult to sustain the objection of the respondents. It is clear that the cause of action would arise at both the places where the original authority has passed order or where the Appellate Authority has passed order in view of judgment in the case of **Kusum Ingots [supra]**. In the case of **Calcutta Gujarati Education Society [supra]**, it was held that the jurisdiction would be decided considering the passing of the order by the original authority. In the present case the original authority itself is Waqf Tribunal, where the order passed by Waqf Board also happens to be within territorial jurisdiction of this Bench. It is, therefore, this Bench, which will have the jurisdiction.

25. In view of the above discussions, the preliminary objection raised cannot be sustained. These appeals are rightly filed in this Court at Aurangabad. Since the objection was raised to the jurisdiction, this Court has not dealt with any of the appeals on merit.

26. Office to act accordingly. Place these appeals on Board dated 02.12.2025.

27. Interim relief to continue till next date.

**[KISHORE C. SANT, J.]**