

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16253 OF 2024

1. Muhammad Saleem Muhammad Iqbal,
Motorwala, Age : 74 years, Occu: Business,
Residing at B-1101, Orchid Tower, Mumbai
Central, Mumbai-400008.
2. Irfan Abdul Rehman Patni,
Age : 58, Occ: Business,
Residing at 102, Central Housing Society,
18-Motlibai Street, Agripada, Mumbai-400008.
3. Mohammed Fakhre Alam Shaikh,
Age : 65 year, Occu: Business,
Residing at B-204, Orchid Enclave,
Bellasis Road, Mumbai- 400008. ...Petitioners

Versus

1. The State of Maharashtra,
through its Principal Secretary,
Minorities Development Department,
Mantralaya, Mumbai- 400 001.
2. The Maharashtra State Board of Waqfs,
Through its Chief Executive Officer,
Having its District Waqf Office, 801, 8th
Floor, Free Press Journal Building,
Nariman Point, Mumbai – 400 021.

Adv. Sageer A. Khan a/w Afsha M. Khan, i/b Judicare Law Associates, for the
Petitioners.

Adv. P.J. Gavhane, for the Respondent No. 2- State.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 29 JANUARY 2025

P.C.:

1. We have heard Mr. Sageer A. Khan, learned counsel for the petitioner and Ms. P.J. Gavhane, learned AGP for the respondent – State. The grievance of the petitioner is mainly that the Change Report dated 20 January 2023 bearing No. 42/73/2023 to bring on record the name of the partners of one M/s. Gauri Constructions is, since then, pending before the respondent no. 2. The only substantive prayer in the petition, reads thus:-

“(a) this Hon'ble Court be pleased to issue a writ of mandamus and/or an appropriate suitable writ in the nature of mandamus, order and direction under Article 226 of the Constitution of India directing the Respondent No. 2 to take appropriate action on the Representations (being Exhibit "K and L" hereto) in accordance with law and further also to hear and dispose of, the said Change Report bearing No. 42/73/2023 in accordance with law;”

2. Considering the issues, grievance is raised by the petitioner and also that the proceedings with regard to the said Change Report (Supra) are pending before the respondent no. 2, it will not be appropriate for us to consider the rival contentions and delve into the merits, as a decision is required to be taken by the respondent no. 2 under such pending proceedings.

3. The petitioner is aggrieved by the inaction of respondent no. 2 in deciding the said Change Report. According to the petitioner, this inaction is adversely affecting the interest of the Waqf and Waqf properties by permitting

persons having vested interests to continue managing such Waqf and its properties. Despite persistently knocking the doors of the said respondent no. 2 by the petitioner, the pending proceedings are not disposed of, which according to the petitioner has frustrated the object behind enacting the new legislation which has now repealed the Waqf Act, 1995.

4. Ms. Gavhane, learned AGP for State would not dispute that the said Change Report is pending adjudication before respondent no. 2. Considering the above, we dispose of the petition by the following order which to our mind would meet the ends of justice:-

ORDER

- (i) Let the pending Change Report No. 42/73/2023 dated 20 January 2023 be heard and decided as expeditiously as possible preferably within a period of three months from the date of this order is made available to respondent no. 2, under provisions of sections 42(1) and (2) of the Waqf Act, 1995.
- (ii) All contentions of parties are expressly kept open.
- (iii) Disposed of in the above terms. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]