

JVS.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 121 OF 2025

Aslam Maqbool Junaidi & Anr.	}	Petitioners
versus		
The State of Maharashtra & Ors.	}	Respondents

Mr. Hanif Shaikh, Advocate for the Petitioners.

Ms. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. Pooja Patil, AGP for Respondent No. 1.

**CORAM: SHREE CHANDRASHEKHAR, C.J. &
GAUTAM A. ANKHAD, J.**

DATE: 25th NOVEMBER 2025

P.C.:

The petitioners, stating that they are the daily wagers and social workers of the community, filed Civil Writ Petition No. 12352 of 2018. In the said writ petition, orders were passed by this Court making observations against the Chief Executive Officer of the Waqf Board. On 31st July 2025, this Court expressed its displeasure to the Chief Executive Officer of the Waqf Board who had failed to disclose complete details regarding the allotment of a piece of land to the respondent no. 5 and permission for raising construction thereon. Taking exception to the observations made by the writ Court in paragraph no. 12 of the order dated 31st July 2025, Haji Arafat Shaikh who is the respondent no. 5 in this Public Interest Litigation approached the Hon'ble Supreme Court by filing Special Leave to Appeal (Civil) No. 22424 of 2025. The said SLP came to be disposed of by an order dated 12th August 2025 with liberty to Haji Arafat Shaikh to file an application seeking permission to organize festivities on 15th August 2025. The relevant portions of the order dated 12th August 2025 are extracted below: -

“3. The legality of raising the controversial structure is the subject matter of proceedings pending before the High Court in a Writ Petition filed in the year 2018 where the petitioner is respondent no.3. As the impugned order dated 31.07.2025 of the High Court reveals, the interim directions have been invited by the petitioner due to non-cooperation and delaying tactics said to have been adopted.

4. Be that as it may, the short prayer made by the petitioner is to seek permission to organise festivities on the 15.08.2025. Such a permission can be granted by the High Court, subject to such conditions as the High Court may deem appropriate to impose after hearing both sides. We, therefore, dispose of this Special Leave Petition without expressing any opinion on the merits of the case, in the following terms:

(i) The petitioner may move an application during the course of the day before 4.00 P.M. seeking modification of para 12 of the impugned order and permission to hold the event on 15.08.2025, subject to such conditions that may be imposed by the High Court.

(ii) An advance copy of that application be given today itself to counsel for the writ petitioners, Wakf Board and other respondents.

(iii) The Registrar (Judicial) of the Bombay High Court at Bombay Bench is directed to scrutinise the application, and subject to curing of defects, if any, and also after prior permission of Hon’ble the Chief Justice or the Hon’ble Division Bench of the High Court, may list such an application before an appropriate Bench tomorrow or day after tomorrow, i.e., 13.08.2025 or 14.08.2025.

5. We request the High Court to consider the prayer that may be made by the petitioner before 15.08.2025.”

2. However, what happened thereafter is a little interesting. On 25th September 2025 when the writ petition was taken up for hearing, the learned counsel for the petitioners, making a statement in the Court that the petitioners are fighting for the cause of community, withdrew the said petition with liberty to file a public interest litigation. That is how this Public Interest Litigation has been filed.

3. In this Public Interest Litigation, the petitioners have stated as under: -

“5. The Petitioners submit that land for the public graveyard was granted by the Union Ministry of Environment, Forests and Climate

change, vide its letter dated 16/10/1986. It admeasures 1.45 hectare in area. The copy of the letter is annexed and marked hereto as **Exhibit-“B”**.

6. The Petitioners further submit that the area required for burial is 6 X3 feet per person and pucca construction is not allowed even on the said area. Needless to say, larger portion of land cannot be granted to any person, high or low; rich or poor.

7. The Petitioners submit that till April 2013, everything was going on smoothly. In April, 2013 the Father of Respondent No. 5 passed away and was buried in the graveyard. Respondent No. 5, who is politically well connected to the present Government in the State as well as at the Centre, decided to construct a structure on his late father's grave, saying that he was disciple of a suffi Saint.

8. The Respondent No. 5 occupied over 1000 Sq. Ft. of land for the structure claiming that he obtained the approval from the Waqf Board, which has no authority to do so. The Photographs of the structure are annexed and marked as **Exhibit- “C”**.

9. The Petitioners submit that if the permission is granted to one person, others would come forward with the same request and the community would fall short of land for the burial.

10. The Petitioners further submit that when they with 23 other community members tried to oppose the construction, they were beaten up by police and an FIR was lodged against them. The copy of the same is annexed and marked as **Exhibit “D”**

11. The Respondent No. 4 gave the approval for construction and directed the police to give protection for same. The copy of letter is annexed and marked as **Exhibit- “E”**.”

4. Having regard to the aforesaid statements made in the petition and the stand taken by the petitioners, we are of the opinion that this petition is not maintainable as a Public Interest Litigation. Merely because 23 community members opposed the construction over a piece of land allotted to the respondent no. 5, this petition cannot be labeled as a Public Interest Litigation.

5. Public Interest Litigation No. 121 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

JAYANT
VISHWANATH
SALUNKE

Digitally signed by
JAYANT
VISHWANATH
SALUNKE
Date: 2025.11.27
15:09:39 +0530