IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.853 OF 2024

Feroz Kassamali Bhanwadia & Ors. .....Petitioners
Vs.
The State of Maharashtra & Ors. .....Respondents

Mr. Milind Sathe, Senior Advocate with Mr. Sagheer A. Khan, Mr. Sharique Nachan, Ms. Afsha Khan, Mr. Aqil S. Khan, i/b. Judicare Law Associates for Petitioners.
Mr. Abhay L Patki, Addl. Government Pleader, for the Respondent Nos.1 & 2-State.
Mr. Abdul Hafeez Yakub Kotwala, Advocate for the Respondent No.3.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 3rd APRIL 2025.

P.C.:-

1. This Petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

> *"(a) This Hon'ble Court be pleased to direct the Respondent No. 1 and/or Respondent No. 2 to produce the proceeding of the survey conducted under Section 4 of the Waqf Act, 1995 relating to The Diamond Jubilee Trust bearing PTR No. B-755(MUM) on the basis of which the impugned entry is made;*
>
> *(b) This Hon'ble Court be pleased to issue a writ of*

mandamus or any other writ in the nature of mandamus or any other appropriate writ, order, direction under Article 226 of the Constitution of India, directing the Respondent No. 2 not to transfer The Diamond Jubilee Trust bearing PTR No. B-755(MUM) to the Respondent No. 3 and continue to exercise supervisory jurisdiction over the same in accordance with law, till the said Waqf Applications (Exhibit 'D' hereto) pending before the Maharashtra State Waqf Tribunal at Aurangabad are finally heard and decided, in accordance with law;

(c) That this Hon'ble Court be pleased to issue a writ of Quo Warranto or any other writ in the nature of Quo Warranto or any other appropriate writ, order, direction under Article 226 of the Constitution of India, directing the Respondent No. 3 by itself, by its agent or officer to forbear from usurping supervisory jurisdiction over The Diamond Jubilee Trust bearing PTR No. B-755(MUM), till the said Waqf Applications (Exhibit 'D' hereto), pending before the Maharashtra State Waqf Tribunal at Aurangabad are finally heard and decided in, accordance with law;

(d) In the event the Public Trust Register of The Diamond Jubilee Trust bearing PTR No. B-755(MUM) is transferred to the Respondent No. 3 by the Respondent No. 2 this Hon'ble Court be pleased to direct the Respondent No. 3 to return the PTR of the said Trust to the Respondent No. 2 with the direction to continue to supervise over the said Trust in accordance with law till the

said Waqf Applications (Exhibit 'D' hereto) are heard and finally decided;

(e) That pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to restrain the Respondent No. 2, the Charity Commissioner from transferring The Diamond Jubilee Trust bearing PTR No. B-755(MUM) to the Waqf Board, the Respondent No. 3 and continue to supervise over in accordance with law;

(f) In the event, the said Trust is transferred, pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to direct the Respondent No. 3 to return the Public Trust Register (PTR) to be supervised over by the Respondent No. 2 under the provisions of MPT Act, 1950;

(g) Interim and Ad-interim relief in terms of prayer clause (e) and (f);

(h) Costs;

(i) For such further and other reliefs as the nature and circumstances of the case may require;"

2. At the outset, learned Counsel for the Petitioners has fairly stated that the Waqf Application (L) No.406 of 2022 filed u/s. 7 of the Waqf Act, 1995, by the Petitioners along with delay condonation application, are pending consideration before the Maharashtra State Waqf Tribunal at Aurangabad. It is his contention that admittedly the

Petitioners are filing its accounts with the Charity Commissioner as, according to the Petitioners, the position of the Petitioners is that it continues to be a trust as registered under the Maharashtra Public Trusts Act, 1950. The Petitioners are now desirous of filing its accounts, as they were doing in the past till the last financial year, with the Charity Commissioner.

3. Considering the complexion of the Petitioners' grievance and, more particularly, considering the fact that the Petitioners' Application is pending before the Maharashtra State Waqf Tribunal at Aurangabad, it would be in the interest of justice that the Petition is disposed off by the following order:

ORDER

(i) Waqf Application (L) No. 406 of 2022 filed u/s. 7 of the Waqf Act, 1995, by the Petitioners along with delay condonation application, be taken up and decided as expeditiously as possible and in any event within a period of three months from today. All contentions of the parties in that regard are expressly kept open.

(ii) As the Petitioners were filing the accounts with the Charity Commissioner, without prejudice to the rights and contentions of the parties, the Petitioners are permitted to file the accounts with the Charity Commissioner for the current Financial Year 2024-2025. The Petitioners are permitted to file its audited accounts through e-filing as also as a matter of abundant precaution also manually.

(iii) All contentions of the parties are expressly kept open.

4. The Petition is accordingly disposed off in the aforesaid terms.

(DR. NEELA GOKHALE, J.) **(REVATI MOHITE DERE, J.)**

SHAMBHAVI NILESH SHIVGAN Digitally signed by SHAMBHAVI NILESH SHIVGAN Date: 2025.04.05 16:01:15 +0530