

Spl.C.S No.141/2021
Nasreen Vs. Roshan Begum
CNR No. MHAU02-001654-2021

Order below Exh.68

1. This is application filed by (Intervener) i.e. the Maharashtra State Board of Waqf through its CEO Juned Sayyad R/o. Chhatrapati Nagar, as per Order 1 Rule 10 of Civil Procedure Code. It is contended by the intervener that the suit properties shown in the plaint are the properties of waqf board, those properties have been registered with the intervener as per the provisions of Waqf Act. The Waqf institution namely Masjid Nazir Rozba Mohalla came to be registered as per provisions of 36 of the Waqf Act which is bearing no.MSBW/ABD/313/2012 dated 30.04.2012. The said property is bearing number survey no.175 admeasuring 10 Acre 01 Guntha situated at Harsool. The said property has been shown in the Maharashtra State Government Gazette dt. 17.05.1973 as property of said Waqf institution. There is another Waqf institution namely Dargah Magribi Auliya (Sayyad Shaha Daud Magribi). The said Waqf is registered as per Section 36 of the Waqf Act which is bearing number MSBW/ABD/762/2016, its property is bearing CTS No. 12496 admeasuring 798 sq. mtr. There is another Waqf property its PR card CTS no. 19496.

2. It is further contended by the intervener that the Gut No.47 situated at Abdi Mandi is also property of Waqf institution namely Masjeed Dargah and Grave Yard bearing registration no.

MSBW/ABD/982/2019 dated 11.03.2019 admeasuring 2 Acres land. The intervener has filed on record government gazette dtd. 04.05.1973 as per column number there is conversation of survey no.104 into survey no.56 and in consolidation scheme it was converted to gut no.47. The said conversation has been shown in copies of 7/12 extract. All these properties are properties the above stated Waqf institutions. It is further contended by the intervener that as per Section 85 of the Waqf Act 1995 the jurisdiction of the Civil Court to decide Waqf property is barred by the law. As per the Sections 90(1), 92, 108 of the Waqf Act 1995 the suit or proceedings in respect of Waqf properties are not tenable, those should be decided by the Waqf board. So the intervener prayed for granting its application.

3. The application filed by the intervener has been strongly objected by the plaintiff by filing reply of the Exh.74. The plaintiff has denied all contentions of application of intervener. It is contended by the plaintiff that intervener does not have locus standi to interven in partition suit. The property shown in the suit is owned by one Mr. Yunus Motiwala who was father of the plaintiff and defendant no.2 to 8. The said property is ancestral property, so the plaintiff has filed suit for partition of the said properties. The intervener is office bearer of so called Waqf Malmatta Suraksha Force. The suit property is not at all concerned with the Waqf Board or Waqf Institution. The intervener is trying to change the nature of the suit by making false contentions in the application. The intervener has not given correct area of the

property of the Waqf. The copy of gazette filed by the intervener is having irregularities. The area of the property shown in the documents filed by the plaintiff are different than the documents filed by the intervener. There is no mention of Waqf institution shown by the intervener in the record like Pahanipatrak, Khasarapatrak in the record maintained by the Government. The Waqf institutions are not at all concerned with the suit properties, the properties are not of the Waqf board or institutions. The application of the intervener is gross abuse of process of law. On all these grounds, plaintiffs prayed for rejection of the application.

4. Heard Ld. Advocates of both the sides and gone through the record. Both the advocates are submitted as per their contentions. As per contention of the intervener properties shown in para no.4 in plaint are waqf properties and he took revenue record of it. The said waqf properties were got illegally mutated in the name of plaintiff and other defendants. The said properties being waqf properties have been shown official Gazette dt.17.05.1973. The suit property survey no.175 admeasuring 10 Acre 1 R situated at Harsool, Aurangabad is waqf property. So far as this plea of the intervener is concerned, intervener has filed on record copy of Jodpatra, it shows that in survey no.175 there is mention of property of Waqf institution namely Masjid Nazir Rozba Mohalla. The intervener has filed copy of registration certificate of Masjid Nazir Rozba Mohalla (Kille Ark), it shows that it is registered Waqf institution and it is registered on 30.04.2012.

5. In regard to further contentions of the intervener as to 5 to 6 properties shown by the plaintiffs are properties of waqf institution, the intervener has filed on record copy of Jodpatra dt. 20.04.2012, it shows that Masjid Nazir Rozba Mohalla has 10 Acre land from survey no.175. The copy of 7/12 extract of survey no.175 (a) shows that plaintiff and other have equal share in the property mentioned in it. The said copy of 7/12 extract does not show the name of the said waqf institution. Moreover other copy of 7/12 extract of survey no.175 2(b) shows that plaintiff has some property in it. The said copy of 7/12 extract does not show the name of any waqf board or institution. The copy of third 7/12 extract of survey no. 175(c) it show that the plaintiff has share in the property. The said copy of 7/12 extract does not show if waqf institutions have some properties from survey no.175(c) shown by the intervener. The intervener has also filed on record copy of 7/12 extract of survey no.175(d), it also does not show name of the intervener and on how much property is possessed by the waqf institution. All the four copies of the 7/12 extract relating to survey no.175 does not show that how waqf institutions alleged by the intervener in the application are related to suit properties.

6. So far as record of Gazette of Maharashtra Pradesh Waqf Malmatta Suraksha Force 1973 filed by intervener is concerned, in survey no./gut no. 175 area is shown as 10 Acre land of the waqf institution but actually area of survey no. 175 is 10 Acre land. The actually area of 10 acre land is not shown in copy of 7/12 extract of survey no.175. The plaintiff has filed on record to show his

name at the properties shown in survey no.175(a), 175(c) of the property. There is no name of the intervener at copies of 7/12 extract of survey no.175(a), 175(c), so how the intervener can be said to be related with suit properties. In regard to Gut no. 47, which is said to be property of Masjid Dargah and Grave yard is concerned, it is stated that in Gut No.47, above waqf institution has 2 acre land as per Gazette dt. 03.05.1973. The said property form Gut no.47 which was earlier survey no. 56 and prior to it, it was survey no.104. The said changes in survey number to gut number occurred as per notification dt. 05.11.1982. The intervener has not filed document like any document of the waqf institution namely Masjid Dargah and Grave yard to show that to said waqf institution has 2 acre land from Gut no.47. There is no record to show that if Masjid Dargah and Grave Yard is waqf institution.

7. The intervener has filed on record copy of gazette dated 17.05.1973, as per it at serial no.83, there is property in the name of Masjid Nazir Rozba Mohalla and it is bearing no.15108, 1299 Hazeri area 100 X 90 Sq. ft. but intervener has not filed on the record documents to show that how the said property bearing no. 15108, 1299 has been converted in City Survey no.12496. Therefore mere filing copy of gazette showing some area is in the name of said Masjid Nazir Rozba Mohalla is not sufficient to show that the said property is City Survey No.12496. So also intervener has not filed on record documents showing how it is concerned with the CTS No. 12900/2004 area 2383.1 sq. mtr.

8. The intervener has not filed document to show that property from Gut No.47 situated at Abdimandi is waqf property of institution namely Masjid Dargah and Grave yard. So also intervener has also not filed documents to show that Dargah Magribi Auliya has any properties and which is related to plaintiff or which is in the possession of the plaintiff. Mere moving applications and contending about the properties of the waqf institution are the subject matter of the suit, is not helpful to the intervener to show their interest in the suit properties. In absence of detail descriptions of the properties shown in the application by the defendant how intervener is said to have interest in the suit property. There is no cogent and substantial record by the intervener to support its contention. The intervener can not be said to be required, necessary party moving such application is one kind of delay tactice or to prolong the matter. The said application filed intervener is not helpful one. It is liable to be rejected, Hence following order is passed,

ORDER

The application is rejected.

Date :- 20.12.2025

(**A. S. Chonde**)
6th Jt. Civil Judge Senior Division,
Aurangabad.

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CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of Stenographer	: J. A. Jamdade
Court	: 6 th CJSD & CJAM , Aurangabad
Date of order	: 20.12.2025
Order signed by the Presiding Officer on	: 22.12.2025
Order uploaded on	: 22.12.2025

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