

MHRG010005022024



Yakub Baig Trust, Panvel  
through its Chief Trustee  
Muzaffar Mustafa Baig

Vs

The Assistant Charity Commissioner  
Alibag, Dist. Raigad.

**Civil Misc. Appln. No. 108/2024**

**COMMON ORDER BELOW EXH. 6 & 20**

Application Exh.6 is filed by the original applicant for allowing the existing trustees including the chief trustee to continue with their office of the trust till the decision of original application for appointment of new trustees. Whereas application Exh.20 is filed by the objector Mansur Mustafa Baig for cancelling the interim order passed on his application dated 04/05/2024.

2. On 04/05/2024 the applicant was permitted to continue with the administration of trust till filing of the reply by non applicant on condition that he shall not take any major policy decision without permission of the Court. Later on objector appeared in the matter and filed application Exh.20 alleging that the old trustees as well as chief trustees are causing loss to the trust, they are selling properties of the trust for meager amount and in spite of prohibitory order from the Hon'ble Supreme Court the chief trustee tried to sell the property and also entered into out of Court settlement with lessee of the trust property who is constructing illegal building on the trust property and

therefore the management of the trust may not be continued with the applicant or old trustees.

3. After partly hearing the argument of both the parties on Exh.6 it was transpired that the Hon'ble Supreme Court in Civil Appeal No.7812 to 7814 of 2022 directed the Waqf Board to examine the cases of the Waqf which were initially registered as Public Trust under the Bombay Public Trust Act 1950 and who are challenging that they are not Waqf. Undisputedly the applicant trust namely Yakub Baig Trust Panvel is also included in the said list of trusts and as per the directions of Hon'ble Supreme Court it is reported that the enquiry is pending before the Waqf Board in order to decide whether the present applicant trust is a waqf or a public trust. Neither of the parties have filed any status report in respect of said enquiry and therefore vide order dated 25/07/2024 status report from the Waqf Board, Chatrapati Sambhaji Nagar was called. Accordingly Maharashtra State Board of Waqfs, Chatrapati Sambhaji Nagar sent letter Exh.40 mentioning therein that enquiry/hearing of Yakub Baig Trust Panvel (present applicant) is pending before the board u/s 40 of the Waqf Act 1995.

4. As per the documents produced by the applicant one Yakubbeg Isabbeg of Panvel had executed deed of Waqf in the year 1909 for the purpose of creating trust for public religious and charitable nature and dedicated his considerable properties for the maintenance of Mosque known as Mominpada Mosque in Panvel. Thereafter in Regular Civil Suit No.9/1944 the District Judge Thane vide judgment and decree dated 26/04/1947 declared the said Waqf as a public trust and also formed scheme for the said trust and directed to

appoint new trustees for maintenance of the trust. Since then the trust by name Mominpada Masjid Yakub Baig Trust started functioning. It was later on registered as public trust under the Bombay Public Trust Act 1950. From the P.T.R. it appears that later on the name of the trust was amended as Yakub Baig Trust only and as per the scheme for every 5 years this Court is appointing new trustees for the said trust. The last trustees appointed by this Court in Civil Miscellaneous Application No.40/2020. The term of the said trustees was expired on 04/05/2024 and on this background interim order came to be passed below Exh.6.

5. Thus from the record prima facie it appears that initially one Yakubbeg Isabbeg created a Waqf by Waqf deed donating his considerable property to the waqf for maintenance of Mominpada Masjid at Panvel as well as for religious and charitable purpose. The said waqf was registered as public trust under Bombay Public Trust Act 1950. In a civil suit scheme was framed for proper management of the said trust by name Mominpada Masjid Trust. It appears from record that later on trustees changed the name of trust from Mominpada Masjid Yakubbeg Trust to Yakub Baig Trust. Now the trustees are claiming that the said trust is public trust and not a waqf. Undisputedly the issue as to whether the trust is a waqf or public trust pending before the Maharashtra State Board of Waqfs, Chatrapati Sambhaji Nagar in enquiry u/s 40 of the Waqf Act 1995. It appears that when the waqf was created by Yakubbeg Isabbeg the waqf act was not in existence and therefore in civil suit it was directed to be registered as public trust under Bombay Public Trust Act as a religious and charitable trust.

6. The objector has raised serious allegations against the present applicant chief trustee in respect of attempt to sell the trust property in spite of prohibitory order from the Supreme Court. Objector has produced on record copies of the order of Hon'ble Bombay High Court in Writ Petition No.7758/2023 wherein the Hon'ble High Court has maintained the order of the Jt. Charity Commissioner rejecting the application filed by the chief trustee for sale of trust property by observing that the chief trustee has no authority to take decision regarding sale of the trust property.

7. Considering the fact that the enquiry u/s 40 of the Waqf Act 1995 is pending before the Waqf Board, it will not be appropriate for this Court to proceed with the appointment of new trustees as the question of the status of the trust as to whether the trust is a waqf or public trust is pending before the Waqf Board. The objector has raised serious dispute in respect of the acts of the chief trustee and old trustees against the interest of the trust. The term of the old trustees is already expired in such circumstances they cannot be continued in the management of the trust. But the fact remains that the enquiry is pending before the Waqf Board since long and there is no certainty about time required for completion of the said enquiry. Meantime the management of the trust already registered with the office of Charity Commissioner cannot be left without any supervision. Considering all the circumstances it will be proper to direct the Assistant Charity Commissioner to look after management of applicant Yakub Baig Trust Panvel till the decision of enquiry before the Waqf Board. Hence the following order.

**Order**

1. Assistant Charity Commissioner Raigad-Alibag is directed to look after the management of the applicant trust namely Yakub Baig Trust Panvel, till the decision of enquiry u/s 40 of the Waqf Act pending before the Waqf board in respect of the applicant trust.
2. Both the parties are at liberty to pursue the Waqf Board for completion of the enquiry u/s 40 of the Waqf Act so that the main application can be proceeded with.
3. With these directions the applications Exh.6 and 20 stand disposed off.
4. Copy of this order be forwarded to Assistant Charity Commissioner Raigad-Alibag for necessary action and to the Maharashtra State Board of Waqfs, Chatrapati Sambhaji Nagar for information.

Alibag  
Dt. 11.12.2024

(A. S. Rajandekar)  
Principal District Judge,  
Raigad Alibag.