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

CIVIL REVISION APPLICATION NO. 7 OF 2024

Meerasaheb Yaqub Sahab Mujawar and Ors. .. Applicants

Versus

Mohammad Yusuf Bashasahab Mujawar and
Ors. .. Respondents

WITH

CIVIL REVISION APPLICATION NO. 8 OF 2024

Meerasaheb Yaqub Sahab Mujawar and Ors. .. Applicants

Versus

Ibrahim Hamidsaheb Mulla and Ors. .. Respondents

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- Dr. Uday Warunjikar a/w. Mr. Aditya Kharkar i/by Mr. Siddhesh Pilankar, Advocate for Applicants.
- Mr. Burhan Bukhari, Advocate for Respondent Nos.1 to 3 in both Civil Revision Applications.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 04, 2024.

P.C.:

1. Heard Dr. Warunjikar, learned Advocate for Applicants and Mr. Bukhari, learned Advocate for Respondent Nos.1 to 3. Facts in Civil Revision Application No.7 of 2024 are delineated hereinabove for consideration.

2. Civil Revision Application No.7 of 2024 takes exception to the order dated 18.12.2023 passed by the Maharashtra State Waqf Tribunal (for short “**the Tribunal**”) in Waqf Application No.7 of 2019. This Application No.7 of 2019 was filed by the Respondents seeking to

challenge appointment of the Trustees of the Khawja Peer Saiful Malik Dargah, Mosque and Graveyard at Village Hydra, Taluka Akkalkot, District Solapur who were appointed by order dated 19.01.2019. The order dated 19.01.2019 was passed in a Change Report filed in the year 2015 by the Waqf Board. The order is appended at Exhibit "C" - page No.35 of the Civil Revision Application.

3. Prior to the said order, there were 9 Trustees who managed the aforementioned Waqf Institution. Out of them 4 expired in the interregnum leading to filing of the Change Report in the year 2015 before the Tribunal. In place of the 4 expired Members of the Waqf Institution, by virtue of order of appointment on 19.01.2019, 4 Members were appointed in their place. Since January, 2019, the Waqf Institution is managed by their 9 Trustees.

4. Mr. Bukhari would submit that challenge in the Waqf Application No.7 of 2019 was restricted to the 4 Members who were substituted in place of the 4 deceased Members / Trustees and that challenge was upheld by the impugned order passed on 18.12.2023, resultantly leading to removal of the said 4 Members / Trustees out of the 6 Applicants before the Court. This position is admitted by Dr. Warunjikar.

5. Dr. Warunjikar would fairly submit that the impugned order dated 18.12.2023 has been passed on two specific grounds namely; (i)

appointment of the 4 Trustees in place of the deceased Trustees does not meet the mandate of the constitution of the Trust; and (ii) while appointing and considering the substitution of the 4 Trustees in place of the 4 deceased Trustees, there was insufficient notice given / published / issued contrary to the prescribed procedure / period as mandated.

6. Dr. Warunjikar has drawn my attention to the constitution of the Trust which is appended at page No.15 of the Civil Revision Application as also to the issue requiring giving of notice which I find at Item No.13 on page No.23 of the Application. On perusal of the above, it is seen that there is no restriction as such for appointment of the heirs of the deceased Trustees in the place of the Trustees. Applicants would submit that the constitutional mandate has been followed as also sufficient notice for appointment of the 4 Trustees in place of the deceased Trustees was adequately given and has been considered by the Waqf Board while granting the change report. The consideration of the aforesaid two issues by Waqf Institution as also by the learned Tribunal therefore needs to be looked into and decided by the Court.

7. However, in the meanwhile the 4 Trustees who have functioned since their appointment on 19.01.2019 in place of the 4 earlier deceased Trustees are directed and permitted by the Court to

continue as Trustees alongwith the existing 5 Trustees of the Waqf Institution as an interim measure. It is clarified that their continuation as Members of the Waqf Institution shall be subject to the outcome of the present Civil Revision Application.

8. In the meanwhile, Respondents are directed to file their Affidavit-in-Reply to the Civil Revision Application and place on record all such sufficient relevant material evidence to meet the issue of not following the constitution mandate as also the issue of not having been given sufficient notice. Respondents are directed to file their Affidavit-in-Reply within a period of two weeks from today. Rejoinder, if any, to be filed within two weeks thereafter.

9. Mr. Bukhari incidentally appears for Respondent Nos.1 to 3.

10. Hence, issue notice to Respondent No.4.

11. If Respondent No.4 shall file its Affidavit-in-Reply within the aforementioned timeline. I am informed by Dr. Warunjikar that Respondent No.4 has been served by email. However, physical copy of the Civil Revision Application shall also be served by the Applicants within a period of one week from today and appropriate Affidavit of service shall be filed on or before the next adjourned date.

12. At the joint request of both the parties, list the Civil Revision Application on Board on **02nd February, 2024** for final disposal at the

stage of admission.

13. In that view of the matter, parties are directed to complete their pleadings on or before the next date.

CIVIL REVISION APPLICATION NO. 8 OF 2024

14. Civil Revision Application No.8 of 2024 is filed to challenge the separate order dated 18.12.2023 passed by the learned Maharashtra State Waqf Tribunal (for short “**the Tribunal**”) which has allowed the Application of the private Respondent being Waqf Application No.18 of 2019. It is in respect of the same set of parties as also the Waqf Institution and the properties involved and incidentally in respect of the same Change Report which was allowed by the Waqf Board by order dated 19.01.2019.

15. It is seen that in this Civil Revision Application, Respondent Nos.1 and 2 are the third parties claiming to be appointed as Trustees of the Trust. They were the persons who had filed the Waqf Application No.18 of 2019 before the Tribunal to challenge the appointment of the Trustees by order dated 19.01.2019.

16. However due to the reasons given in Civil Revision Application No.7 of 2024, no separate order is required to be passed in the present Civil Revision Application as the interim order which is passed in Civil Revision Application No.7 of 2024 should suffice.

17. Admittedly, Respondent Nos.1 and 2 in the present Civil Revision Application are directed to be served by the Applicants.

18. Respondent No.6 – Maharashtra State Board of Wakf shall also be served by the Applicants in the same time which has been given in Civil Revision Application No.7 of 2024.

19. Parties in this Civil Revision Application are also directed to complete their pleadings on or before the next date.

20. It is directed that present Civil Revision Application shall be heard alongwith Civil Revision Application No.7 of 2024 together for convenience of the parties.

21. Stand over to **02nd February, 2024.**

[MILIND N. JADHAV, J.]

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