



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

MISCL. FIRST APPEAL NO. 200796 OF 2026 (RES)

BETWEEN:

1. MOHAMMED AZEEMUDDIN JUNAIDI,
AGED ABOUT 31 YEARS,
S/O LATE MOHAMMED NAYEEMUDDIN JUNAIDI,
R/ AT NO.9-590, SHAIKH-E-DECCAN DARGAH,
SHAIKH ROZA, NEAR QUADRI CHOWK,
KALABURAGI-585101.
2. ULFAT JUNAIDI,
AGED ABOUT 37 YEARS,
S/O DR. MOHAMMED SHAFIUDDIN JUNAIDI,
R/AT NO.9-594, SHAIKH ROZA,
NEAR QUADRI CHOWK,
KALABURAGI-585 101.



...APPELLANTS

(BY SRI HARSHAVARDHAN R. MALIPATIL, ADVOCATE)

AND:

1. KARNATAKA STATE BOARD OF AUQAF,
NO.6, CUNNINGHAM ROAD,
BANGALORE-560 052,
REP. BY ITS CHIEF EXECUTIVE OFFICER.



2. MOHAMMED AFZALUDDIN JUNAIDI,
AGED ABOUT 45 YEARS,
S/O LATE MOHD. TAJUDDIN JUNAIDI,
SHAIKH ROZA, KALABURAGI-585 101.
3. MOHAMMED QIWAMUDDIN JUNAIDI,
AGED ABOUT 42 YEARS,
S/O LATE MOHD. TAJUDDIN JUNAIDI,
SHAIKH ROZA, KALABURAGI-585 101.
4. MOHAMMED GULAM MOHIUDDIN JUNAIDI,
AGED ABOUT 44 YEARS,
S/O LATE MOHD. TAJUDDIN JUNAIDI,
SHAIKH ROZA, KALABURAGI-585 101.

...RESPONDENTS

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE FOR R1;
SRI SACHIN M. MAHAJAN, ADVOCATE FOR R2 TO R4)

THIS MFA IS FILED UNDER ORDER 83(9) WAKF ACT AMENDMENT ACT 2025 PRAYING TO A) SET -ASIDE THE IMPUGNED COMMON ORDER PASSED ON IA NO.1 AND I.A NO. 6 IN OS NO.5/2025 DATED 21.04.2025 BY THE LEARNED PRESIDING OFFICER OF THE KARNATAKA WAKF TRIBUNAL KALABURAGI DIVISION, KALABURAGI AND CONSEQUENTLY ALLOW IA. NO.1 BY ALLOWING THIS MISC. FIRST APPEAL. B) PASS SUCH OTHER ORDER/S DIRECTION/S IN THE MATTER AS THIS HON'BLE COURT DEEMS FIT AND THINKS PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 21.02.2026, COMING ON FOR



'PRONOUNCEMENT OF JUDGMENT' THIS DAY, THE COURT
DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

CAV JUDGMENT

Though this appeal is listed for orders, with the consent of the learned counsel appearing for the parties, the appeal was heard and reserved for judgment on account of the exigency expressed by the learned counsel appearing for the parties in view of Ramzan (Ramadan) holds supreme importance of culture as a sacred, blessed month of fasting (Roza), spiritual reflection, and divine mercy.

2. This appeal is preferred by the plaintiffs challenging the order dated 21.04.2025 passed in O.S. No.5/2025 on I.A. No.1 and I.A. No.6, on the file of the Presiding Officer, Karnataka Waqf Tribunal, Kalaburagi Division, Kalaburagi (hereinafter referred to as "the Tribunal").



3. For the sake of brevity, the parties in the appeal shall be referred to in terms of their status and ranking before the Trial Court.

4. The relevant facts for adjudication of this appeal are that, the plaintiffs have preferred O.S.No.5/2025 before the Karnataka Wakf Tribunal Kalaburagi ((hereinafter referred to as 'Tribunal'), seeking the relief of permanent injunction in respect of performing rituals of their parents and grand parents in the suit schedule graveyard, as detailed in the plaint at Annexure-H. The plaintiffs have filed application in I.A.No.1, seeking ex-parte temporary injunction and the said application was considered on 03.03.2025 by the Tribunal and an ad-interim temporary injunction was granted, restraining defendant Nos.2 to 4 from interfering with the performance of rituals to the grave of Mohammed Shafiuddin Junaidi.

5. After entering appearance, the defendants filed objections. Defendant Nos.2 to 4 also filed I.A. No.6 under



Order XXXIX Rule 4 of the Code of Civil Procedure seeking to vacate the ad-interim order of injunction. The said application was considered by the Tribunal and passed the impugned order dated 21.04.2025, allowing I.A.No.6 and as such, the interim order of temporary injunction granted on 03.03.2025, came to be vacated. Hence, the plaintiffs have preferred this appeal.

6. Heard Sri. Harshvardhan R. Malipatil, the learned counsel appearing for the appellants/plaintiffs, Sri. Sachin M. Mahajan, the learned counsel appearing for respondent Nos.2 to 4/defendant Nos.2 to 4 and Sri. Liyaqat Fareed Ustad, the learned counsel appearing for respondent No.1/defendant No.1.

7. Sri. Harshavardhan R. Malipatil, the learned counsel appearing for the appellants/plaintiffs argued that, the plaintiffs have sought for performance of rituals of their grandparents, who have been laid down to rest in the suit schedule graveyard. It is further submitted that since the month of Ramzan has commenced, the plaintiffs



intend to perform the annual death ceremonies of their grandparents. Therefore, it is submitted that, the impugned order passed by the Tribunal required to be interfered with. It is also argued that, the Tribunal has committed an error in arriving at a conclusion that, the respondent No.2/defendant No.2 has been discharging his duties as a Muthavalli and it will be difficult for the Muthavalli to discharge his duties and therefore, sought for interference of this Court.

8. *Per contra*, Sachin M. Mahajan, the learned counsel appearing for respondent Nos.2 to 4/defendant Nos.2 to 4 argued that, the Tribunal after considering the material on record has rightly passed the impugned order, which does not calls for in interference in this appeal. He further contended that, the father of the plaintiffs was arraigned as defendant in O.S.No.345/1986, filed by the contesting defendants herein before the Court of Munsiff at Kalaburagi, seeking relief of declaration and the said suit came to be decreed on 05.12.1988, which has



reached finality. Therefore, he sought for dismissal of the appeal. It is also argued by the learned counsel appearing respondent Nos.2 to 4 that, the respondents herein have preferred O.S.No.7/2025 before the Tribunal, seeking relief of declaration with consequential relief of permanent injunction against the plaintiffs herein and in the said suit, an order of injunction has been granted and as the said order is in operation, the Tribunal has rightly dismissed the application (I.A.No.1), filed by the plaintiffs herein in O.S.No.5/2025. Hence, he sought for dismissal of the appeal.

9. In the light of the arguments advanced by the learned counsel appearing for the parties, it is not in dispute that, the plaintiffs in OS No.345/1986 has filed suit seeking relief of declaration with permanent injunction, claiming that, the plaintiffs claims to be the Sajjada and Mutavalli, of Dargah Hazrath Shaik Junnadi, of Roza Shaik Gulbarga, and the said suit came to be decreed on 05.12.1988. It is also to be noted that on 16.07.1974, the



graveyard at Shaik Roza has been notified as Waqf as per the Gazette notification dated 16.07.1974. It is not in dispute that, the ancestors and father of the plaintiffs have been buried in the subject matter of the graveyard. The respondents herein, have filed OS No.7/2025, seeking relief of declaration that, the succession of Sajjada Nashin and Hereditary Mutavalli is vested in spiritual line of succession in elder son among the sons in the family of Sufi Saint Hazrath Shaikh Sirajuddin Junaidi, Shaikh Roza Kalaburgi and said suit is pending consideration before the Tribunal. The rights of the parties, as to the performance of the rituals of the ancestors, in which the claim of the plaintiffs and defendants in the OS Nos. 5/2025 and 7/2025 are yet to be decided by the Tribunal. It is to be noted that, though the relief claimed in the aforementioned suit are distinct, however, the entire gammet of the facts as to decide the rights of the parties to perform the rituals of their ancestors/deceased parents. Therefore, though it is argued by the learned counsel



appearing for the respondents that, the plaintiffs in OS No. 6 / 2025 have admitted as to the performance of rituals by the defendants, however, by looking into the interim order dated 03.03.2025 in which, the Tribunal has permitted the plaintiff to perform the rituals of their grandparents, father of the plaintiffs and such, ritual has to be performed by the plaintiffs after the completion of rituals by the Mutavalli, (respondents herein) and same was continued on the previous year. Since the rights of the parties are yet to be crystallized in the aforementioned suits, I am of the opinion, the said practice allowed by the Tribunal as per the order dated 03.03.2025 shall be continued till the conclusion of the proceedings before the Tribunal, so that, the essential requirement of performing the rituals by the children of deceased whose grave is being situated in the graveyard including the grand parents of the plaintiffs and the defendants. It is not in dispute that plaintiffs and contesting defendants have common lineal ascendants and propositus. It is also to be noted that, the deprivation of



performing of the rituals by the children towards their deceased parents would not only affect their legal right but also performing rituals as per their religion, which cannot be interfered with by way of interim order by the Courts till the conclusion of the proceedings before the Tribunal, in which, the rights of the parties will be adjudicated by the Tribunal after conducting a full fledged enquiry. Hence, balance of convince lies in favour of the plaintiffs to perform the rituals as being done during the previous year. Therefore, I pass the following:

ORDER

- i) The appeal is ***allowed***;
- ii) Order dated 21.04.2025 (Annexure-A) passed in OS No.5 of 2025 on IA No.1 and IA No.6, on the file of the Presiding Officer, Karnataka Waqf Tribunal, Kalaburgi, are hereby set aside.
- iii) Order dated 03.03.2025, and 10.03.2025 passed by the Tribunal shall continue till the



conclusion of the proceedings before the Tribunal.

- iv) The Tribunal is directed to expedite the hearing and the parties have to co-operate for early disposal of the suits.

Sd/-
(E.S.INDIRESH)
JUDGE

SB
List No.: 1 Sl No.: 1
Ct:pk