

**WAQF SUIT NO. 81/2023**

**ASLAM ALAMGIR MALKANI**

**Vs.**

**CHIE EXECUTIVE OFFICER OF MAHARASHTRA STATE BOARD  
OF WAQF, AURANGABAD & ORS.**

**ORDER BELOW EXH. 91**

- 1] Perused application and say of plaintiff.
- 2] Present application is filed by the defendant No.3 seeking permission to file their say and written statement on record. It is their contention that, defendant Nos. 1 and 2 filed application for rejection of plaint under Order 7 Rule 11 of C.P.C. which has been decided on 17.01.2024. So, after decision of said application, present application is filed. It is their contention that, there is no deliberate delay on their part and they are not going to be benefited from the delay as plaintiff is enjoying the interim order. They further contended that, their valuable rights in immovable property are involved in the matter. If permission is not granted to file their say and written statement, then there will be irreparable loss which cannot be compensated in any terms. On the contrary, no prejudice will be caused to the plaintiff if permission is granted to file their say and written statement. Accordingly, they made prayer in above terms.

3] Plaintiff filed his say through their advocate on present application itself. It is contended that, application is filed after statutory period is over. More so, requested to impose heavy costs.

4] It seems that, plaintiff has not seriously opposed the application, but requested to impose heavy costs upon the defendant No.3. Keeping in view nature of dispute, it can be gathered that, rights of defendant No.3 are involved in the present matter. So, it is improper to refrain them from contesting matter on merits. Defendant No.3 have shown their bonafide by annexing their say and written statement to the present application which demonstrates that, they do not want to protract the matter. Keeping in view facts of matter, for advancement of justice, we are inclined to allow present application by imposing certain costs upon defendant No.3. Accordingly, we pass the following order.

**ORDER**

- 1) Application at Exh.91 is allowed subject to costs of Rs. 5,000/- (Rs. Five thousand) payable to plaintiff.

2) On payment of costs, say and written statement of defendant No.3 be taken on record and marked exhibit.

Accordingly, application stands disposed of.

Date: 20.02.2024

Place: Aurangabad.

**( M. T. Asim )**

District Judge/Chairman  
Maharashtra State Waqf Tribunal  
Aurangabad.

**( Anees Shaikh )**

Retired Dy. Secretary, State Civil  
Services/Member M.S.W.T. Aurangabad

**(Mohd. Mohiuddin Moied)**

Having knowledge of Muslim law  
& Jurisprudence/Member,  
M.S.W.T. Aurangabad.

M.S. Waqf Tribunal