NC: 2025:KHC-K:1157
RP No. 2504 of 2013

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 20TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

REVIEW PETITION NO.2504 OF 2013

BETWEEN:

MOHAMMAD ISMAIL
S/O LATE RAJAKHAN SARWAR,
AGED ABOUT 65 YEARS,
OCC: NILL R/O HALBAG GALLI, II 785 B
GOKAK, DIST. BELGAUM – 590 002.

…PETITIONER

(BY SRI. HARSHAVARDHAN R. MALIPATIL, ADVOCATE)

AND:

1. SRI. AMEENSAB S/O HABEEBULLAH MASHALKAR,
   DECEASED BY LRS;

   A. MOHAMMED IQBAL
      S/O AMEENSAB MASHALKAR,
      AGE: 40 YEARS(SON)

   B. MOHAMMED RAFEEQ
      S/O AMEENSAB MASHALKAR,
      AGE: 35 YEARS, (SON)

   C. MOHAMMED HABEEBULLAH
      S/O AMEENSAB MASHALKAR,
      AGE: 45 YEARS, (SON)

   D. SHAHEEN, AMEENSAB MASHALKAR,
      AGE: MAJOR,

Digitally signed by RENUKA
Location: High Court Of Karnataka

E. MEHARUNNISA AMEENSAB MASHALKAR,
AGE: MAJOR,

F. PAHAMIDA W/O SULTAN SAB KHADKE
AGE: MAJOR(DAUGHTER)

ALL R/O MAHALBAGAYAT,
NOW R/O HOUSE NO. H-2
SHAHAPUR DARWAZA, KALAL GALLI BIJAPUR.

2. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
REVENUE DEPARTMENT, VIDHANA SOUDHA,
BANGALORE-560001.

3. THE SECRETARY,
KARNATAKA STATE BOARD OF WAKFS
CUNNINGHAM ROAD,BANGALORE-52

4. THE DEPUTY COMMISSIONER
BIJAPUR DIST. BIJAPUR-586101.

5. THE ASSISTANT COMMISSIONER, BIJAPUR
DISTRICT BIJAPUR-586101.

6. THE TAHASILDAR
BIJAPUR TALUKA BIJAPUR-586101.

…RESPONDENTS

(BY SRI. GANESH S. KALBURGI, ADVOCATE R1(1) TO R1(5);
SRI. SHESHADRI JAISHANKAR, AGA FOR R2, R4 TO R6;
SRI. P. S. MALIPATIL, ADVOCATE FOR R3)

THIS REVIEW PETITION IS FILED UNDER SECTION 114 OF CPC PRAYING TO REVIEW IT'S ORDER DATED 21.09.2012 IN WRIT PETITION NO. 81781/2010 AND CONSEQUENTLY DISMISS THE WRIT PETITION.

THIS PETITION, COMING ON FOR ORDER, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ

ORAL ORDER

The petitioner has sought for review of the order dated 21.09.2012 passed by this Court in W.P No.81781/2010.

2. The petitioner contends that a corrigendum dated 01.01.2011, issued by respondent No.3 was the basis of the order passed in W.P No.81781/2010. He contended that the corrigendum was issued by misconstruing the representation made by him. He contended that his representation was not to correct the extent mentioned in the notification dated 14.02.1974, but it was meant only to correct the serial number of the wakf property found in the notification dated 14.02.1974. Therefore, he contended that the order passed by this Court granting relief to the respondent No.1 on the basis of corrigendum dated 01.01.2011 needs to be reviewed.

3. Learned counsel for the petitioner reiterated the above contentions and submitted that the respondent No.3 relied upon a fabricated letter to issue the corrigendum dated 01.01.2011. He contended that the said letter was not submitted by the petitioner. He submits that the letter that was submitted by the petitioner was only to correct the serial number from 891 to 291 and nothing else. He has placed on

record the said letter and contends that the respondent No.3 instead of merely correcting the serial number found in the notification dated 14.02.1974, had issued the corrigendum reducing the wakf property from 22 acres 30 guntas to 31 guntas.

4. Per contra, the learned counsel for respondent No.1 submits that, this Court did not grant any relief to the respondent No.1. On the contrary, what this Court did was it merely quashed the order dated 09.04.2010 passed by the Wakf Tribunal in view of the corrigendum dated 01.01.2011. He submits that the relief sought for by the respondent No.1 before the Wakf Tribunal is not granted, since the corrigendum reduced the wakf extent from 22 acres 30 guntas to 31 guntas. This Court merely noticed the reduction in the area and held that the corrigendum would enure to the benefit of the petitioner.

5. The learned counsel for respondent No.3 reiterated the contentions of the learned counsel for respondent No.1 and submitted that there is no error apparent on the face of record warranting review of the order dated 21.09.2012.

6. I have considered the submissions of the learned counsel for the petitioner, learned counsel for respondent No.1 and learned counsel for respondent No.3.

7. The respondent No.1 had sought for a declaration before the Wakf Tribunal that, he is the owner of Sy No.757/2A and 757/2B of Mahalbagayath, Bijapur, measuring 4 acres and 12 acres 20 guntas respectively, having purchased it in terms of two sale deeds dated 06.09.1965 and 29.10.1966. The said suit was dismissed by the Tribunal on the ground that it cannot entertain a claim after one year from the date of the notification issued under sub section(2) of Section 5 of the Wakf Act, 1954 (hereinafter referred to as 'the Act'). The said order was challenged before this Court in W.P No.81781/2010. In the meanwhile, the respondent No.3 issued a corrigendum dated 01.01.2011, reducing the wakf property from 22 acres 30 guntas to 31 guntas. Contemporaneously, this Court held that any person interested in wakf does not mean only a person who is interested in wakf but also a person interested in the property and therefore held that the respondent No.1 must have been notified before the declaring it as a wakf property. Hence, this Court quashed the order passed by the Tribunal

dated 09.04.2010. Since the wakf property stood reduced from 22 acres 30 guntas to 31 guntas in terms of the corrigendum dated 01.01.2011, this Court felt that there was no need to pass any orders regarding the relief sought for by the respondent No.1 before the Tribunal. This Court did not recognize the rights of the respondent No.1, but merely held that the corrigendum dated 01.01.2011 shall enure to the benefit of the respondent No.1.

8. Therefore, there is no error apparent on the face of record warranting review of the order dated 21.09.2012. Hence, this review petition is ***dismissed***. However it is open for the petitioner to challenge the corrigendum dated 01.01.2011, before the appropriate Court in accordance with law.

9. If the corrigendum dated 01.01.2011 is set aside, the notification dated 14.02.1974 shall stand revived and then it will be open for the respondent No.1 to challenge the notification in accordance with law.

Sd/-
(R.NATARAJ)
JUDGE

THM/List No.: 1 Sl No.: 2: CT:SI