

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 11457 of 2022**

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ASHOKBHAI NARSINH THAKOR/ PADHIYAR

Versus

GUJARAT STATE WAKF TRIBUNAL (THROUGH CHAIRMAN)

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Appearance:

MS MAMTA R VYAS(994) for the Petitioner(s) No. 1

MR. JAY TRIVEDI, ASSISTANT GOVERNMENT PLEADER, for the
Respondent(s) No. 1

MR ARSHAD SHAIKH(11761) for the Respondent(s) No. 2

MR MANISH S SHAH(5859) for the Respondent(s) No. 3

MR SP MAJMUDAR(3456) for the Respondent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV**Date : 22/02/2023****ORAL ORDER**

1 Rule returnable forthwith. With consent of the learned advocates appearing for the respective parties, the matter is taken up for final hearing today. Heard Mr. Manish Shah, learned counsel appearing for respondent No.3, Mr. S.P. Majmudar, learned counsel appearing for respondent No.2 and Mr. Jay Trivedi, learned AGP for the respondent No.1-State.

2 Challenge in this petition is to the order passed by the Tribunal, by which, a conditional order has been

passed by the Tribunal to the effect that the Tribunal shall issue a notice only if the petitioner deposits cost of Rs.20,000/- each for all the respondents.

3 Facts in brief indicated that it is the petitioner's case that the petitioner's forefathers had donated the land to the respondent No.2 for constructing 'Musafir Khana' for giving accommodation to the pilgrims. It is the case of the petitioner that the respondent No.1 constructed a guest house and used the same for commercial purposes. An application was therefore made to the Tribunal to stop the illegal construction and use of the guest house. By the impugned order, the Tribunal has held that the petitioner is neither beneficiary of the Trust, nor the person interested in the Waqf. However, it directed the petitioner to deposit cost of Rs.20,000/- so that notice can be issued to the concerned respondents in the application.

4 Perusal of the Gujarat State Waqf Tribunal

(Procedure) Rules, 1998, indicated that there is no procedure of the Tribunal to insist on deposit of cost. On this ground alone, the order dated 23.02.2022 is quashed and set aside. The Tribunal is directed to register the application and issue notices to the parties concerned and decide the same in accordance with law. However, it is made clear that the Court has not gone into the merits of the matter. The petition is disposed of, accordingly. Direct service is permitted.

BIMAL

(BIREN VAISHNAV, J)