



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.139 of 2024  
IN  
SUIT NO.337 OF 2014

Taher Fakhruddin Saheb  
alias Taherbhai K. Qutbuddin  
alias Taher Bhai Qutubuddin .. Appellant

Versus

Mufaddal Burhanuddin Saifuddin .. Respondent

Mr. Anand Desai a/w. Mr. Chirag Modi i/b. DSK Legal, *Advocate for the Appellant.*

Mr. Janak Dwarkadas, Senior Counsel a/w. Mr. Fredun Devitre, Senior Counsel, Mr. Pankaj Sawant, Senior Counsel, Ms. Azmin Irani, Shahan Pradhan, Mr. Ammar Faizullahoy, Mr. Chirag Kamdar, Mr. Abeezar Faizullahoy, Mr. Murtaza Kachwalla, Mr. Jehaan Mehta, Ms. Jaisha Sabavala, Mr. Satvik Tejasvi & Mr. Mustafa Maimoon i/b. Argus Partners, *Advocates for Respondent.*

CORAM: B. P. COLABAWALLA &  
SOMASEKHAR SUNDARESAN, JJ.

DATE : DECEMBER 17, 2024

P. C.

1. The above Appeal challenges the Judgment and Order dated 23<sup>rd</sup> April, 2024 passed by the Learned Single Judge. By the impugned Judgment and Order, the suit filed by the Appellant herein was

dismissed. Since this is a First Appeal, the Appeal is admitted. There is no question of granting any stay since the suit itself has been dismissed.

2. At this stage, Mr. Devitre, the Learned Senior Counsel appearing on behalf of the Respondent, submitted that even after the Judgment dated 23<sup>rd</sup> April, 2024 dismissing the Appellant's suit, the Appellant continues to describe and hold himself out in various public forums, including on his own website, and on social platforms, as the 54<sup>th</sup> Dai al-Mutlaq i.e. the leader of the Dawoodi Bohra Community worldwide, and his father as the duly appointed 53<sup>rd</sup> Dai al-Mutlaq. In support of this contention, he tendered to the Court certain printouts of some of the pages from the Appellant's website and social media platforms.

3. Mr. Modi, the Learned Counsel appearing on behalf of the Appellant, submitted that this is an Appeal filed by his client and if the Respondent wants any relief, he ought to take out an application seeking whatever relief he desires. At this stage, no relief can be granted to the Respondent in the Appeal filed by the Appellant.

4. We have heard Mr. Devitre as well as Mr. Modi. We have also perused the printouts of the pages from the Appellant's website and the social media platforms. The suit that was filed by the original Plaintiff

[the father of the Appellant] as well as the current Appellant *inter alia* seeking the following declarations:-

*“(a) that this Hon’ble Court be pleased to declare the Original Plaintiff was appointed as the 53<sup>rd</sup> Dai al-Mutlaq of the Dawoodi Bohra Community and that he was entitled to succeed as the 53<sup>rd</sup> Dai al-Mutlaq of the Dawoodi Bohra Community.*

*(a-1) That this Hon’ble Court be pleased to declare the Plaintiff was duly and validly appointed as the 54<sup>th</sup> Dai al-Mutlaq of the Dawoodi Bohra Community by the Original Plaintiff and the Plaintiff is entitled to succeed as the 54<sup>th</sup> Dai al-Mutlaq of the Dawoodi Bohra Community.*

*(b) this Hon’ble Court be pleased to further order and declare that Original Plaintiff being the 53<sup>rd</sup> Dai al-Mutlaq of the Dawoodi Bohra Community was entitled and the Plaintiff being the 54<sup>th</sup> Dai al-Mutlaq of the Dawoodi Bohra Community is entitled to administer control and manage all the properties and assets of the Dawoodi Bohra Community including and not limited to community’s wakfs and trusts, and assets/properties which have been presently usurped by the Defendant;”*

5. When the above suit went to trial, the Learned Single Judge of this Court framed several issues. One of the issues, namely, Issue No.3A, was *“Whether the Plaintiff proves that a valid Nass was conferred/pronounced on him as stated in the Plaint?”* This issue was answered in the negative. On the other hand, Issue No.5 was framed as *“Whether the Defendant proves that a valid Nass was conferred on him by the 52<sup>th</sup> Dai al-Mutlaq on 28<sup>th</sup> January, 1969; in the year 2005; on 4<sup>th</sup> June, 2011; and on 20<sup>th</sup> June, 2011?”*. This issue was answered in the affirmative and in favour of the Defendant [namely the Respondent herein]. Considering the findings given by the Learned Single Judge, we are of the opinion, at least *prima facie*, that the Appellant, during the pendency of the Appeal, cannot hold himself, or his father out as

the 54<sup>th</sup> and 53<sup>rd</sup> Dai al-Mutlaq or the Syedna or the leader of the Dawoodi Bohra Community, respectively. We say this because the declarations sought by the Appellant have been negated in the Judgment passed by the Learned Single Judge.

6. Considering these circumstances, we are of the view that during the pendency of the Appeal, the Appellant shall not hold out his father, the original Plaintiff, or himself out as the 53<sup>rd</sup> and 54<sup>th</sup> Dai al-Mutlaq or the Syedna or the leader of the Dawoodi Bohra Community. At this stage, Mr. Modi pointed out and submitted that the Appellant has a large following and these followers believe that the Appellant is the 54<sup>th</sup> Dai al-Mutlaq and that such followers should be free to express their view. Considering this, we make it clear that wherever, on the website of the Appellant or on the social medial platforms or otherwise in the public domain, the Appellant refers to himself, the following words shall also be added :-

*“Whom these followers believe as a matter of their faith could be the 54<sup>th</sup> Dai al-Mutlaq of the Dawoodi Bohra Community worldwide, which contention has not been accepted by the Learned Single Judge of the Bombay High Court in the judgment dated 23<sup>rd</sup> April, 2024. The Appeal against dismissal of the suit has been admitted and is pending.”*

7. We make it clear that this should not give a licence to the Appellant to hold himself out as the 54<sup>th</sup> Dai al-Mutlaq. It is needless to clarify that if it is the name of the father that is mentioned on the website or the other social media platform, the above addition shall be

made and the words 54<sup>th</sup> Dai al-Mutlaq appearing in the reproduced paragraph above shall be read as 53<sup>rd</sup> Dai al-Mutlaq. All references presently on the Appellant's website or any other social media platforms or in the public domain shall be altered by the Appellant to conform to the above.

8. We have passed this direction because we are not impressed by the arguments of Mr. Modi that the Respondent ought to take out a separate application seeking the aforesaid relief. We say this because once the suit of the Plaintiff [the Appellant] is dismissed and once he has failed to get any declaration as sought, coupled with the fact that the Defendants have got a positive declaration in their favour, the question of allowing the Appellant to continue to hold himself out to be the 54<sup>th</sup> Dai al-Mutlaq would be in breach of the judgment passed by the Learned Single Judge.

9. Considering the issue involved in the present Appeal, the same is expedited.

10. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**[SOMASEKHAR SUNDARESAN, J.]**

**[B. P. COLABAWALLA, J.]**