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Post of 53rd Syedna can be challenged: HC

With this order, son of late Khuzaima Qutbuddin can continue the suit further

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The succession battle to the post of 53rd Syedna is likely to continue with the Bombay High Court on Tuesday allowing an application filed by Taher Fakhruddin, son of the deceased original challenger to the post, Khuzaima Qutbuddin. Qutbuddin is uncle of the incumbent 53rd Syedna Mufaddal Saifuddin.

Justice Gautam Patel allowed Fakhruddin to amend the original suit filed by his father which sought the latter to be declared as the rightful 53rd Syedna. Thus now, Fakhruddin will be able to lead evidence, along with an additional prayer that since before his father's demise he was anointed as the successor to the post (54th Syedna), the court should declare the same.

Fakhruddin also prayed that all rights in the property of the Syedna, which he holds by way of leader of the Dawoodi Bohra community, should be rightfully given to him.

Senior counsel Ravi Kadam, advocate Anand Desai and advocate Nausher Kohli of DSK Legal argued that even if the original plaintiff (Qutbuddin) has expired, the cause which is of personal interest in nature, does not cease and his son — on whom *naas* (anointment) was conferred upon — can continue to seek the same declarations.



Khuzaima Qutbuddin, late father of Taher Fakhruddin —DNA FILE PHOTO

However, counsel Janak Dwarkadas, appearing for the incumbent 53rd Syedna Mufaddal Saifuddin, argued that on Qutbuddin's demise the suit filed by him stands abated, and if need be, Fakhruddin can file a separate suit seeking relief. However, this argument was countered by saying that the fresh suit, if filed, would also first seek the prayer for declaring Qutbuddin as the 53rd Syedna and then further reliefs can be sought. Thus, it would be multiplicity of proceedings.

The court agreed with the plaintiff saying, "On overall balance, it appears for me in distinct reasons to allow chamber summons. Not to do so not only will forever, unsuit the plaintiff but conceivably every possible challenge to the defendant position. Continuing of the pre-

sent suit is equally possible and appropriate in the interest of saving judicial time, money and heaps of paper."

The Saifuddin side sought a stay on the order, which the court rejected. Fakhruddin had moved a chamber summons in the court asking the court to implead him in the case and continue hearing the suit.

Qutbuddin expired in April last year in the USA. His body was flown to Mumbai and later buried in Thane. In June 2011, Saifuddin was nominated successor, according to a press statement from the community.

Qutbuddin had publicly challenged the succession first after the death of Syedna Mohammed Burhanuddin, the 52nd Syedna, on January 17, 2014.