

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

Con.Case(C).No. 1413 of 2013 (S)

JUDGMENT DATED 22-07-2013 IN WP(C) 14709/2013

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PETITIONER(S)/PETITIONERS IN THE WRIT PETITION:

1. NAFEESA, AGED 63 YEARS,
W/O.KAMBRAN MUHAMMED KUTTY, KAMBRAN HOUSE,
KANNATTIPPADY, VENGARA P.O.,
MALAPPURAMDISTRICT - 676 304.
2. KAMBRAN MUHAMMED KUTTY, AGED 90 YEARS,
S/O.KAMBRAN KUNHAHAMMED, KAMBRAN HOUSE, KANNATTIPPADY,
VENGARA P.O., MALAPPURAM DISTRICT - 676 304.
3. MOHAMMED RAFI, AGED 35 YEARS,
S/O.KAMBRAN MUHAMMED KUTTY, KAMBRAN HOUSE,
KANNATTIPPADY, VENGARA P.O.,
MALAPPURAM DISTRICT - 676 304.

BY ADV. SMT.K.R.DEEPA

RESPONDENT(S)/3RD RESPONDENT IN THE WRIT PETITION:

**B.M.JAMAL, AGED 48 YEARS,
FATHER'S NAME NOT KNOWN TO THE PETITIONER,
CHIEF EXECUTIVE OFFICER, KERALA STATE WAKF,
ERNAKULAM, PIN - 682 017.**

BY ADV. SRI.K.SHIBILI NAHA, SC

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY
HEARD ON 12-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE I: CERTIFIED COPY OF THE JUDGMENT IN WP(C) NO.14709/2013
DTD.22.7.2013.**

**ANNEXURE II: TRUE COPY OF THE RECEIPT OF ANNEXURE JUDGMENT
DTD.17.8.2013.**

**ANNEXURE III(I): TRUE COPY OF THE APPLICATION DTD.10.12.2014 FILED BY THE
PLAINTIFFS BEFORE THE TRIBUNAL TO WITHDRAW THE SUIT.**

**ANNEXURE III(II): TRUE COPY OF THE ORDER DTD.11.12.2014 PASSED THE
HONOURABLE WAKF TRIBUNAL ON THAT APPLICATION.**

RESPONDENT(S)' ANNEXURES:

ANNEXURE A: TRUE COPY OF THE PROCEEDINGS NO.E4-5131/2011 DTD.30.6.2014.

**ANNEXURE B: TRUE COPY OF THE REPORT OF ADVOCATE COMMISSIONER AND
SURVEY REPORT DTD.26.4.2014 IN OS.NO.6/2012 ON THE FILE OF
WAKF TRIBUNAL, KOZHIKODE.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

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Cont. Case (C) No. 1413 of 2013

against

W.P.(C) No. 14709 of 2013

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Dated, this the 12th day of March, 2015

JUDGMENT

This contempt matter has been filed by the petitioners alleging contumacious act on the part of the respondent in complying with the direction contained in Annexure I verdict.

2. The writ petition was filed, seeking for a direction to be given to the respondents 4 and 5 to measure and fix the boundaries and survey numbers of the Wakf properties near Kuzhichinappally, Vengara, Tirurangadi taluk, Malappuram district and also for a direction to the third respondent to complete the proceedings in respect of the Wakf properties pending before the Board as per Ext. P4 enquiry report. After hearing both the sides, the writ petition was finally disposed of with the directions as given in Ext. P7, which are extracted below :

"7. After hearing both the sides, this Court finds that the issue which is pending consideration before the Wakf Tribunal by way of Ext. P10 as to the relief of injunction sought for against the petitioners need not

stand in the way of the matter getting redressed pursuant to Ext. P4 and the direction given by the respondent Wakf Board vide Ext. P6. The matter has to be taken to a logical conclusion, so as to have the issue settled, once and for all, notwithstanding the right of the respondents 1 and 2 to move against the petitioners, with regard to the injunction sought for, if there is any attempt on the part of the petitioners to trespass into the property, if any, belonging to the Wakf Board. In the said circumstance, there will be a direction to the third respondent to proceed with further steps, so as to give effect to Exts. P4 and P6 and appropriate steps shall be taken in this regard, which shall be finalized at the earliest, at any rate, within three months from the date of receipt of a copy of this judgment. Both the petitioners, as well as

3. According to the petitioner, the third respondent in the writ petition has not given effect to the directions given by this Court as above, and as such the proceedings under the Contempt Court Act are liable to be taken against the said respondent, which is sought to be pursued by way of present proceedings.

4. Respondent has filed an affidavit dated 04.07.2014 and an additional affidavit dated 11.11.2014, pointing out the facts and figures. Paragraphs 9, 10 and 11 of the affidavit dated 04.07.2014 are relevant, which read as follows :

"9.As a matter of fact, urgent notice for hearing was issued to the counsels intimating date of hearing on 28.06.2014 at Manjeri as against 30.06.2014 notified earlier. The 3rd petitioner Sri. Kambran Mohammed Rafi and the counsels for other party respondents in the writ petition Sri. K. M. Iqbal and K.P. Sreenesh appeared on 28.06.2014 and the matter was heard finally by the Chief Executive Officer. The copy of the report submitted by the Advocate Commissioner as well as the sketch prepared by the Taluk Surveyor was produced by Advocate Sir. K.M. Iqbal and order No. E4-5131/2011 was passed by this respondent on 30.06.2014. A true copy of the proceedings is produced herewith and marked as Annexure A.

10. The delay in finalization of the above proceedings was neither willful nor deliberate. The delay occurred for want of survey report from the Taluk Surveyor for which the matter was being adjourned from time to time by the Divisional Officer at the request of the counsel on either side. It is most respectfully

submitted that the directions issued by this Hon'ble Court in W.P.(C) No. 14709/2013 has been scrupulously complied with. There are no willful latches or disobedience of orders of this Hon'ble Court as alleged in the contempt petition. This respondent may therefore be exonerated of all charges leveled against him in the above petition.

11. It is respectfully submitted that after hearing the parties, the petition was dismissed finding that the properties occupied by respondents 1 to 8 before the Waqf Board are not Waqf properties covered by documents No. 109/1934 and that the original Waqf property is still in the possession of Waqf Committee and there is no encroachment or alienation of Waqf property as alleged by the petitioners in the above case.

5. The learned counsel appearing for the respondent submits that Annexure A order was passed on 30.06.2014, after hearing the parties and thereafter the consequential order was passed by the Revenue Authorities as well, which in fact has been taken up by the petitioner by way of separate writ petition. It is also pointed out that, if at all the petitioner is aggrieved in any manner, it is all the more open for the petitioner to file an appeal under Section 83 of the Act.

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6. After hearing both the sides, this Court finds that no further steps are necessary in this contempt matter. It is closed, leaving all the issues open to be challenged by the petitioner, if aggrieved in any manner, by way of appropriate proceedings.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd