

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

CRP(WAKF).No. 199 of 2015 ()

I.A.NO.60 OF 2014 IN O.S.NO.10 OF 2014 OF the WAKF TRIBUNAL,
KOZHIKODE DATED 11.12.2014

REVISION PETITIONER/RESPONDENTS/DEFENDANTS:

1. MUHAMMED RAFI AGED 37 YEARS
S/O.MUHAMMED KOYA, MULLAVEETIL HOUSE, OLAVANNA AMSOM
DESON, KOZHIKODE TALUK, KOZHIKODE DISTRICT.

2. SHIHABUDHEEN AGED 42 YEARS
S/O.KUNHI MOIDEENKUTTY, MANGATH HOUSE, OLAVANNA AMSOM
DESON, KOZHIKODE TALUK, KOZHIKODE DISTRICT.

BY ADVS.SRI.P.K.MOHAMMED PUZHAKKARA
SRI.N.P.AMMU

RESPONDENTS/PETITIONERS/PLAINTIFFS:

1. ODUMPARA PAZHAYA JUMA-ATH PALLY PARIPALANA
COMMITTEE, AGED 63 YEARS
REPRESENTED BY ITS SECRETARY P.MUHAMMED, S/O.KOYA
VALAPPIL HOUSE, OLAVANNA AMSOM DESOM, KOZHIKODE TALUK
KOZHIKODE DISTRICT-673001.

2. P.MUHAMMED, AGED 63 YEARS
S/O.KOYA, SECRETARY
ODUMBRA PAZHAYA JUMA-ATH PALLI PARIPALANA COMMITTEE
VALAPPIL HOUSE, OLAVANNA AMSOM DESON
KOZHIKODE DISTRICT-673001.

3. C.MUHAMMED, AGED 55 YEARS
S/O.KUNHI, CHERAKKAL HOUSE, PRESIDENT
ODUMBARA PAZHAYA JUMA-ATH PALLI PARIPALANACOMMITTEE
ODAVANNA AMSOM DESOM, KOZHIKODE TALUK
KOZHIKODE DISTRICT-673001.

4. KERALA STATE WAKF BOARD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, K.P.ROAD
KALOOR, KOCHI-17.

R1 BY ADV. SRI.V.V..SURENDRAN
R BY SRI.K.SHIBILI NAHA, SC, KERALA STATE WAKF BOARD

THIS CRP (WAKF ACT) HAVING COME UP FOR ADMISSION ON 25-05-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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C.R.P(Wakf).No.199 of 2015

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Dated this the 25th day of May, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

1. We have heard learned counsel for the revision petitioners, the contesting first respondent and the learned Standing Counsel for the Kerala State Wakf Board.
2. The revision petitioners are the defendants. They impeach the order of temporary injunction issued against constructions being effected in the property in dispute. Whatever be the niceties of the rival contentions based on the claim as to whether the property is a Wakf or not, the fact of the matter remains that the defendants have not obtained appropriate sanction from the competent statutory authority under the provisions of the Kerala Panchayath Raj Act, 1994 and the Rules made thereunder for effecting the construction. Similarly, permission has also not been obtained under the Wakf Rules. Therefore, the learned Tribunal was eminently justified in passing the impugned order of temporary injunction. It has also been done in such a manner

that no rival contentions on the merits, which would be put to trial ultimately, have been touched upon. Under such circumstances, we find no merit in this revision petition.

In the result, this revision is dismissed clarifying that the learned Tribunal will decide the main matter ultimately, untrammelled by anything stated in the order impugned in this revision. If any matter is pending before the Wakf Board or the competent authority under the Panchayath Raj Act, 1994, pendency of the suit from which the revision arises will not stand in the way of those authorities deciding on such applications in accordance with law.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

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