

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

OP (WAKF).No.2 of 2015 (R)

I.A.Nos.179 & 180/2014 IN OS 11/2014 of WAKF TRIBUNAL, KOLLAM

PETITIONER :

SHAJAHAN, AGED 47 YEARS,
S/O.YUNUS KUNJU,
PERUMPALLIL PUTHEN VEEDU (KIZHAKKEVILA), VENG,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.

BY ADVS.SRI.SIJU KAMALASANAN
SRI.S.ABHILASH

RESPONDENTS :

1. MUHAMMED KUNJU, AGED 52 YEARS,
S/O.IBRAHIM KUTTY, CHARUVILA PUTHEN VEEDU, VENG,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT-691391.
2. MUHAMMED KUNJU, AGED 62 YEARS,
S/O.ALIKUNJU, SHANIDA MANZIL, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT-691391.
3. NIZAR, AGED 35 YEARS,
S/O.POOKUNJU, KADIYATTUM VILAYIL, VALIYAPADAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
4. NIZAM, AGED 35 YEARS,
S/O.IBRAHIMKUTTY, KADUKILACHATHIL, VENG,
MYNAGAPPALLY VILLAGE, KUNNNATHOOR TALUK,
KOLLAM DISTRICT.

5. MUHAMMED KUNJU, AGED 63 YEARS,
S/O.KASIM KUNJU, IDAPPURA KIZHAKKATHIL, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
6. THAHAKUTTY, AGED 63 YEARS,
S/O.PAREEDKUNJU, PALACKAL, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
7. ABDUL AZEEZ, AGED 57 YEARS,
S/O.MUHAMMED KUNJU, KOIPPALLY VADAKKATHIL, KAVOOR,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
8. Y.A.SAMAD, AGED 47 YEARS,
S/O.YUNIS KUNJU, AL-ARAF, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
9. ASHARAF, AGED 32 YEARS,
S/O.ALIKUNJU, ASHARAF MANZIL, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
10. ABDUL MUTHALIF, AGED 47 YEARS,
S/O.ALIYAR KUNJU, BISMILLAH MANZIL, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
11. NOUSHAD SAKKAFI, AGED 38 YEARS,
S/O.JALALUDIN, TAIVILA PUTHEN VEEDU, VENGA,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
12. SHANAVAS, AGED 25 YEARS,
S/O.THAJUDEEN KUNJU, MUNDAPPALLIL CHARUVIL,
KANATHARKUNNAM, WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
13. ANZAR, AGED 27 YEARS,
S/O.ABDUL KADAR, PADANILATHU, VENGA,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
14. NAVAS, AGED 34 YEARS,
S/O.SHAHUL HAMEED, SANKURUTHIL VEEDU, VENGA,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.

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15. SHAJAHAN, AGED 47 YEARS,
S/O.HAMEED KUNJU, SHAJAHAN MANZIL, VENGA,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
16. SHAMEER, AGED 28 YEARS,
S/O.ALIYARUKUNJU, SUDHEER MANZIL, VALIYAPADAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
17. POOKUNJU @ NIZAM, AGED 32 YEARS,
S/O.HANEEFA KUNJU, K.K.HOUSE, VALIYAPADAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
18. NOUSHAD, AGED 28 YEARS,
S/O.SHAMSUDEEN, KADUKILACHATHIL, VENGA,
MYNAGAPPALLY VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
19. NIZAR, AGED 32 YEARS,
S/O.MUHAMMED KUNJU, KOTTAKUZHIL, VALIYAPADAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
20. NIZAM, AGED 28 YEARS,
S/O.THANGAL KUNJU, MULLA MANGALAM, KANATHARKUNNAM,
WEST KALLADA VILLAGE, KUNNATHOOR TALUK,
KOLLAM DISTRICT.
21. MULAMOOTTIL ABDUL SALAM, AGED 48 YEARS,
ADVOCATE, KOLLAM.
(RETURNING OFFICER OF THE ELECTION TO THE KARALIMUKKU
MUSLIM JAMA-ATH PARIPALANA SAMITHI).
22. KERALA WAKF BOARD,
VIP ROAD, COCHIN, ERNAKULAM.

BY SRI.K.SHIBILI NAHA, SC, KERALA STATE WAKF BOARD

THIS OP (WAKF) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS :-

- P1- THE COPY OF PLAINT IN O.S.NO.11/2014 PENDING BEFORE THE WAKF TRIBUNAL, KOLLAM.
- P2- THE COPY OF I.A.NO.179/2014 IN O.S.NO.11/2014.
- P3- THE COPY OF I.A.NO.180/2014 IN O.S.NO.11/2014.
- P4- THE COPY OF OBJECTION FILED BY RESPONDENTS 1,2,5,6,7 & 9 TO 20.
- P5- THE COPY OF OBJECTION FILED BY THE 21ST RESPONDENT.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

O.P.(Wakf)No.2 of 2015

Dated this the 23rd day of January, 2015

JUDGMENT

P.N.Ravindran, J.

The plaintiff in O.S.No.11 of 2014 on the file of the Wakf Tribunal, Kollam has filed this original petition under Article 226 of the Constitution of India for an order directing the Wakf Tribunal to hear and dispose I.A.Nos.179 and 180 of 2014 in O.S.No.11 of 2014 within a time limit to be fixed by this Court. The petitioner has averred in paragraph 4 of the original petition, that though pleadings in respect of the aforesaid applications were completed as early as in October, 2014, the Wakf Tribunal is not willing to hear and dispose of the above applications.

2. When this original petition came up before us for admission hearing on 16-1-2015, we directed the Registry to communicate a copy of pages 2 to 8 of the original petition to the Wakf Tribunal, Kollam and to call for the remarks of the Presiding Officer by fax. We also directed the Registry to call for a copy of the proceedings paper/'B' diary by fax. The Presiding Officer has

submitted a report dated 21-1-2015 wherein it is stated that, though the pleadings were completed in I.A.Nos.179 and 180 of 2014 on 18-10-2014 and the applications were posted for hearing and the suit was posted for written statement on 1-11-2014, on that day there was no representation for the plaintiff and therefore, the suit and the applications were adjourned to 6-12-2014 for written statement and for hearing the interlocutory applications. He has also reported that there was no sitting on 6.12.2014 due to the Mega Lok Adalath and the case was adjourned by notification to 17.1.2015, that on 17.1.2015 both sides were not ready and the applications were therefore adjourned to 25.2.2015 for hearing the applications and for written statement.

3. It is evident from the report submitted by the Presiding Officer and the order sheet and 'B' diary that, when I.A.Nos.179 of 180 of 2014 were called on for hearing on 1.11.2014, there was no representation on behalf of the petitioner. When the applications were called for hearing on 17.1.2015, both sides were not ready and therefore the Wakf Tribunal was constrained to adjourn the applications to 25.2.2015. The statement made by the petitioner in

paragraph 4 of the original petition to the effect that, the Wakf Tribunal was not willing to hear the applications, though the pleadings were completed as early as in October, 2014 does not represent the correct factual situation. The conduct of the petitioner does not in our opinion entitle him to seek an order as prayed for in the original petition. The original petition fails and it is accordingly dismissed.

P.N.RAVINDRAN, JUDGE

ANIL K.NARENDRAN, JUDGE

skj