

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

OP (WAKF).No. 11 of 2015 (R)

AGAINST THE ORDER IN IA 383/2012 IN O.S.NO.97/1101 M.E.of WAKF TRIBUNAL,
ERNAKULAM

PETITIONERS:

1. K.P. SULAIMAN, S/O.PAREED, AGED 61 YEARS,
THAVAKKAL MANZIL, NARIPPARAYIL,
KANJIRAMATTOM P.O. 682315
(PRESIDENT, KANJIRAMATTOM MUSLIM JAMA'ATH &
MEMBER OF THE COMMITTEE OF YOGAM OF KANJIRAMATTOM
MOSQUE ELECTED AS PER SCHEME)
2. V.K. AJMAL, S/O.KOCHUNNI, AGED 36 YEARS
VALUMMEL HOUSE, KANJIRAMATTOM P.O, ERNAKULAM DISTRICT
PIN 682 315
(MEMBER OF COMMITTEE ELECTED FROM THE YOGAM OF THE
MOSQUE)
3. E.M. BASHEER, S/O.MOHAMMED, AGED 60 YEARS,
EDAVATTATH HOUSE, MARITHAZOM PO,
KANJIRAMATTOM PO., 682315
(MEMBER OF THE COMMITTEE ELECTED FROM YOGAM)
4. K.A. JABBAR, S/O.KOCHUNNY,
KAREDATH, KANJIRAMATTOM PO, 682315
ERNAKULAM DISTRICT
(MEMBER OF THE COMMITTEE ELECTED BY YOGAM)

BY ADVS.SRI.T.M.MOHAMMED YOUSUFF(SR.)
SRI.C.M.IBRAHIM
SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SRI.JOBI.A.THAMPI

RESPONDENTS:

1. B.M. JAMAL, MANAGER,
KANJIRAMATTOM MOSQUE,
KANJIRAMATTOM PO. 682315
(CHIEF EXECUTIVE OFFICER
KERALA STATE WAQF BOARD, KALOOR).

2. M.M. SALIM, EXECUTIVE OFFICER,
KANJIRAMATTOM MOSQUE, KANJIRAMATTOM 682315.

R1 BY ADVSRI.K.SHIBILI NAHA, SC, KERALA STATE WAKF BOARD

R2 BY ADVS.SRI.M.I.JOHNSON
SRI.T.K.MOIDEEN KUTTY

THIS OP (WAKF) HAVING BEEN FINALLY HEARD ON 10-04-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE RELEVANT COPY OF THE SCHEME FRAMED IN O.S.97/1101.
- EXT.P2: COPY OF THE ORDER DTD.19.4.2013.
- EXT.P3: PHOTOCOPY OF THE REPORT DTD.8.1.2014 FILED BY THE 1ST RESPONDENT BEFORE THE TRIBUNAL.
- EXT.P4: PHOTOCOPY OF THE FIR IN CRIME NO.188/2011.
- EXT.P5: PHOTOCOPY OF THE APPOINTMENT ORDER OF 2ND RESPONDENT DATED 9.4.2014.
- EXT.P6: KERALA GAZETTE NOTIFICATION DT. 1.11.2013 CONTAINING THE POWERS DELEGATED TO THE 1ST RESPONDENT AT THE TIME OF THE APPOINTMENT OF THE 2ND RESPONDENT.
- EXT.P7: PHOTOCOPY OF THE ORDER IN GO(Rt)NO.1102/14/RD DATED 20.2.2014.

RESPONDENTS' EXHIBITS: NIL

/TRUE COPY/

P.S. TO JUDGE

VPS

P.N.RAVINDRAN & K.P.JYOTHINDRANATH, JJ.

O.P.(Wakf) No.11 of 2015

Dated this the 10th day of April, 2015

J U D G M E N T

P.N.Ravindran, J.

The petitioners are members of the Yogam of the Kanjiramattom Mosque. The respondents are officers of the Kerala State Wakf Board. In this original petition, the petitioners challenge Ext.P2 order dated 19.4.2013 issued by the Wakf Tribunal, Ernakulam on I.A.No.383 of 2012 in O.S.No.97 of 1101ME, whereby, the Wakf Tribunal appointed the first respondent herein who was and is even now the Chief Executive Officer of the Kerala State Wakf Board as the Manager of the Kanjiramattom Mosque. Such an order was issued in the wake of the resignation submitted by Sri.T.M.Abdul Latheef, Advocate of this Court who was the former Manager of the Kanjiramattom Mosque. The petitioners also challenge Ext.P5 order dated 9.4.2014 issued by the first respondent in his capacity as the Chief Executive Officer of the Kerala State Wakf Board whereby he appointed the second respondent herein, the Head Clerk attached to the Divisional Office of the Kerala State Wakf Board at Thiruvananthapuram as the Executive Officer of the Kanjiramattom

Mosque.

2. It is not in dispute that after this original petition was filed, the Wakf Tribunal, Ernakulam appointed Sri.E.S.M.Kabeer, learned counsel of this Court as the Manager of the Kanjiramattom Mosque by order passed on 28.3.2015. Sri.E.S.M.Kabeer has also taken charge as the Manager on 1.4.2015. The first respondent who is the Chief Executive Officer of the Kerala State Wakf Board has thus ceased to be the Manager of the Kanjiramattom Mosque. The challenge to Ext.P2 order has thus becomes infructuous. The only question that remains to be decided in the original petition is the validity of Ext.P5 order. While the petitioners contend that the Chief Executive Officer of the Wakf Board does not have the competence to appoint the second respondent as the Executive Officer of the Kanjiramattom Mosque and such power is available only with the Kerala State Wakf Board by virtue of the provisions contained in section 38(1) of the Wakf Act, 1995, the first respondent contends that the appointment was made by the Kerala State Wakf Board and not by the Chief Executive Officer of the Wakf Board. The petitioners should in our opinion in the first instance, seek an adjudication of the said dispute in the Wakf Tribunal, Ernakulam, instead of straightaway approaching this Court. It is also not in dispute that the various contentions which the petitioners have

raised in the instant original petition as regards the validity of the appointment of the second respondent have already been raised by them before the Wakf Tribunal itself.

In such circumstances, we dispose of this original petition with a direction that in the event of the petitioners filing an appropriate application before the Wakf Tribunal canvassing the validity of the order appointing Sri.M.M.Salim, Head Clerk attached to the Divisional Office of the Kerala State Wakf Board at Thiruvananthapuram as the Executive Officer of Kanjiramattom Mosque, the Wakf Tribunal shall consider the said question with notice to the present Manager of the Kanjiramattom Mosque as also the second respondent and take an appropriate decision thereon expeditiously and in any event within an outer limit of one month from the date on which such an application is filed. The contentions of both sides on the merits are kept open.

**P.N.RAVINDRAN,
(JUDGE)**

**K.P.JYOTHINDRANATH,
(JUDGE)**

vps/rka