

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

OP (WAKF).No. 21 of 2015 (R)

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AGAINST THE ORDER/JUDGMENT IN I.A.NO.143/2015 IN OS 97/1101 ME  
of WAKF TRIBUNAL, ERNAKULAM DATED 06.06.2015

PETITIONER(S) :

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

BY ADVS.SRI.T.M.MOHAMED YOUSEFF (SR)

SMT.AYSHA YOUSEFF

SMT.MOLLY JACOB

SRI.JOBI.A.THAMPI

SRI.C.M.EBRAHIM

SMT.ASHIFA TALIB

SMT.RABIA BEEGAM T.K.

RESPONDENT(S) :

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1. E.S.M. KABEER  
ADVOCATE, MANAGER, KANJIRAMATTOM MOSQUE  
KANJIRAMATTOM P.O., PIN-682 315,  
ERNAKULAM DIST.

2. THE CHIEF EXECUTIVE OFFICER,  
KERALA STATE WAKF BOARD, KALOOR,  
KOCHI-682 017.
3. M.M. SALIM,  
EXECUTIVE OFFICER, KANJIRAMATTOM MOSQUE  
KANJIRAMATTOM P.O., PIN - 682 315,  
ERNAKULAM DISTRICT.

R1 BY SRI.ESM.KABEER

R2 BY SRI.K.SHIBILI NAHA, SC, KERALA STATE WAKF BOARD

THIS OP (WAKF) HAVING BEEN FINALLY HEARD ON 26-11-2015,  
ALONG WITH OP(WAKF) 22 OF 2015, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

- P1 - RELEVANT EXTRACT OF THE SCHEME IN OS.97/1101 ME
- P2 - COPY OF THE APPOINTMENT ORDER OF 2ND RESPONDENT AS  
MANAGER DIRECTING TO TAKE CHARGE.
- P3 - COPY OF THE APPOINTMENT ORDER OF 3RD RESPONDENT.
- P4 - COPY OF THE APPOINTMENT ORDER OF MOHAMMED.
- P5 - COPY OF THE NOTIFICATION DATED 1.11.2013
- P6 - COPY OF THE FIR IN CRIME NO.188/15.
- P7 - COPY OF THE ORDER IN OP (WAKF)1/2015 DT.9.1.2015
- P8 - COPY OF THE REPORT FILED BY THE WAKF TRIBUNAL BEFORE THE  
HON'BLE HIGH COURT DATED 8.1.2015
- P9 - COPY OF THE REPORT DATED 16.1.2015 BEFORE THE WAKF  
TRIBUNAL FILED BY THE 2ND RESPONDENT.
- P10 - COPY OF THE ORDER OF THE WAKF TRIBUNAL.
- P11 - COPY OF THE COMMON JUDGMENT DATED 29.1.2015 IN OP(WAKF)  
1/2015 AND 4/2015
- P12 - COPY OF THE JUDGMENT IN OP(WAKF)97/1101 ME  
DT.28.3.2015.
- P13 - COPY OF THE JUDGMENT IN OP(WAKF)11/2015 DT.10.4.2015.
- P14 - COPY OF THE JUDGMENT IN OP (WAKF)14/2015 DT.10.4.2015
- P15 - COPY OF THE ORDER DATED 6.6.2015 IN I.A.NO.143/2015
- P16 - COPY OF THE ORDER DATED 6.6.2015 IN IA.143/2015

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE.

THOTTATHIL B.RADHAKRISHNAN &  
MARY JOSEPH, JJ.

.....  
OP(Wakf) Nos.21 and 22 of 2015  
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Dated this the 26<sup>th</sup> day of November, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned Senior counsel for the petitioners in these original petitions filed under Article 227 of the Constitution of India. We have also heard the learned standing counsel for the Wakf Board and Adv.E.S.M.Kabir, who is the manager of Kanjiramattom mosque.
- 2.We have delinked two original petitions, which were listed along with the captioned matters, since they can be decided separately.
- 3.Insofar as the original petitions in hand are concerned, the issue revolves around the decision of the Wakf Tribunal to permit Mr.M.M.Salim, third respondent in O.P.(Wakf) No.21 of 2015, to act as the executive officer even after the appointment of Adv.E.S.M.Kabir as the manager. It is not in dispute that Mr.Salim

was appointed as the executive officer while the chief executive officer of the Wakf Board was made the manager. Mr.Salim being an employee of the Wakf Board was obviously the choice. That was appropriately made at that point of time. However, when Adv.E.S.M.Kabir was brought in as the manager of Kanjiramattom mosque, administrative wisdom and the consequential judicial exercise should have left it to Adv.E.S.M.Kabir to appoint a proper person of his choice to be the executive officer who will work under the command of Adv.E.S.M.Kabir and such officiation by the executive officer whom Adv.E.S.M.Kabir may choose, will be co-terminus with the office of Adv.E.S.M.Kabir as the manager of Kanjiramattom mosque. We are clear in our mind that going by the submission, this is all that needs to be done particularly when the learned Tribunal was justified in saying in the order impugned in O.P.(Wakf) No.22 of 2015 that the manager is the supreme authority under whose management the mosque would be; and any function, meeting or any other proceedings can be carried out in the premises of Kanjiramattom wakf only under the written

orders of the manager.

In the result, these original petitions are ordered confirming the order impugned in O.P.(Wakf) No.22 of 2015 and modifying the order impugned in O.P.(Wakf) No.21 of 2015 to the effect that Adv.E.S.M.Kabir who is now the manager of Kanjiramattom mosque will be at liberty to retain any executive officer whom he has appointed to be co-terminus with the term of office of Adv.E.S.M.Kabir as the manager of Kanjiramattom mosque.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(MARY JOSEPH, JUDGE)