

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

OP (WAKF).No. 34 of 2015 (R)

AGAINST ORDERS DATED 9.9.15 IN I.A.No.569/15 & 10.09.15 IN I.A.No.568/15 IN
O.S.No.17/2012 ON THE FILE OF THE WAKF TRIBUNAL, KOZHIKODE.

PETITIONERS:

1.VAVUR MAHALLU KOLOTHUMKUNNU JUMA ATH PALLI PARIPALANA
COMMITTEE
REPRESENTED BY SECRETARY,AGED 53 YEARS,
T.K.ABDUL KAREEM MUSLIYAR
S/O. MUHAMAMED, CHEKKODE AMSOM, VAVUR DESOM
ERANAD TALUK, MALAPPURAM DISTRICT.

2.MUHAMMED BAKAVIVI AGED 45 YEARS
S/O. MAMMU MUSALIYAR, PRESIDENT
VAVUR MAHALLU KOLOTHUM KUNNU JUMA ATH PALLI PARIPALANA
COMMITTEE
CHEKKODE AMSOM, VAVUR DESOM, ERANAD TALUK
MALAPPURAM DISTRICT.

3.ANNAMBADAN MUHAMMEDKUTTY AGED 66 YEARS
S/O. ALAVI, KOLOTHILA POYIL, CHEKKOD AMSOM
VAVUR DESOM, ERANAD TALUK, MALAPPURAM DISTRICT.

4. THEKKUM KOYIL ABDURAHIMAN AGED 43 YEARS
S/O. KUNHAHAMMED, CHEKKOD AMSOM, VAVUR DESOM
MALAPPURAM DISTRICT.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN
SMT.UMMUL FIDA

RESPONDENT(S)/RESPONDENTS/DEFENDANTS :

1. VAVUR JUMATH PALLI PARIPALANA COMMITTEE, AGED 61 YEARS
REPRESENTED BY GENERAL SECRETARY, K.T.VEERAN KUTTY
S/O. MUHAMMED HAJI, CHEKKODI AMSOM DESOM, ERANAD TALUK
MALAPPURAM DISTRICT-676 505.

OP (WAKF).No. 34 of 2015 (R)

2. K.T.VEERANKUTTY , AGED 61 YEARS
S/O. MUHAMMED HAJI, MANATHANATH HOUSE
CHEEKKOD AMSOM DESOM, MALAPPURAM DISTRICT-676 505.
3. PUTHUVEETUCHALIL ABDUL KAREEM MUSLIYAR , AGED 57 YEARS
S/O. MUHAMMEDALI, CHEEKKOD AMSOM DESOM
MALAPPURAM DISTRICT-676 505.
4. THE KERALA STATE WAKF BOARD,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, KALOOR
ERNAKULAM-682 018.

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

THIS OP (WAKF) HAVING COME UP FOR ADMISSION ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (WAKF).No. 34 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : A COPY OF THE PLAINT IN OS NO.17 OF 2012 SUBMITTED BEFORE THE WAQF TRIBUNAL, KOZHIKODE.
- P2 : A COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS 1 TO 3 IN OS NO.17 OF 2012 PENDING BEFORE THE WAQF TRIBUNAL, KOZHIKODE.
- P3 : A COPY OF THE AFFIDAVIT IN SUPPORT OF IA NO.569 OF 2015 IN OS 17 OF 2012 BEFORE THE WAQF TRIBUNAL PRAYING FOR AMENDMENT OF THE SUIT.
- P4 : COPY OF THE AFFIDAVIT IN SUPPORT OF IA NO.568 OF 2015 IN OS 17 OF 2012 BEFORE THE WAQF TRIBUNAL PRAYING FOR AMENDMENT OF THE SUIT.
- P5 : COPY OF THE COUNTER STATEMENT IN IA NO.569 OF 2015 DTD.5.9.2015 FILED BY DEFENDANTS 1 TO 3.
- P6 : COPY OF THE COUNTER STATEMENT IN IA NO.568 OF 2015 DTD.20.8.2015 FILED BY DEFENDANTS 1 TO 3.
- P7 : A COPY OF THE ORDER DTD.9.9.2015 IN IA NO.569 OF 2015 PASSED BY THE HON'BLE WAKF TRIBUNAL, KOZHIKODE.
- P8 : A COPY OF THE ORDER DTD.10.9.2015 IN IA NO.568 OF 2015 PASSED BY THE HON'BLE WAKF TRIBUNAL, KOZHIKODE.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A.TO JUDGE

**P.N.RAVINDRAN &
ANU SIVARAMAN, JJ.**

= = = = =

O.P. (Wakf) No.34 of 2015

= = = = =

Dated this the 6th day of November, 2015

JUDGMENT

P.N.Ravindran, J.

The petitioners are the plaintiffs in O.S.No.17 of 2012 on the file of the Wakf Tribunal Kozhikode. The respondents are the defendants therein. Nearly eight years after the suit was instituted, the plaintiffs filed I.A.Nos.568 and 569 of 2015, the former for leave to serve the interrogatories on the defendants and the latter to amend the plaint by incorporating in the plaint, a schedule containing the description of 12 items of immovable properties belonging to the Wakf. The court below dismissed I.A.No.568 of 2015 by Ext.P8 order passed on 10.09.2015 and I.A.No.569 of 2015 by Ext.P7 order passed on 09.09.2015 on the ground that having regard to the nature of the reliefs prayed for in the plaint, which essentially centres around the dispute as to who is the muthawalli of the Wakf, the answers sought to be elicited by serving the interrogatories and the incorporation of the properties of the Wakf in the schedule to the plaint are really not necessary. The

said orders are under challenge in this original petition filed under Article 227 of the Constitution of India.

2. The dispute involved in the suit is whether the first plaintiff committee is the mutawalli of Vavoor Jumaath Mosque and its properties or whether the first defendant committee is the mutawalli. The plaintiffs have no case that the defendants are claiming right over any of the properties of the Wakf. The plaintiff's only contention is that the first plaintiff committee being the mutawalli of the mosque, they are entitled to manage and administer the mosque and its properties. There is no averment in the plaint that the defendants have claimed any right over the properties of the Wakf. The only dispute is about the right to administer and manage the Wakf. Apart from incorporating a schedule containing the description of 12 items of immovable properties, the plaintiffs have not prayed for a declaration that the properties are Wakf properties. The interrogatories sought to be answered are also in relation to the properties of the Wakf. In such circumstances, we are in agreement with the Wakf Tribunal that the proposed amendment is really not necessary for a proper adjudication of the dispute involved in the suit. The applications

were, in our opinion, rightly dismissed.

For the reasons stated above, we hold that there is no merit in the instant original petition. It fails and is accordingly dismissed, with a direction to the Wakf Tribunal, Kozhikode to try and dispose of O.S.No.17 of 2012, expeditiously and in any event before 31.03.2016.

sd/-

P.N.Ravindran, Judge

sd/-

Anu Sivaraman, Judge

sj