

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

RP.No. 785 of 2015 (T) IN WP(C).24360/2015

**AGAINST THE JUDGMENT IN WP(C) 24360/2015 of HIGH COURT OF KERALA DATED
21-08-2015**

REVIEW PETITIONER(S)/PETITIONERS:

- 1. M.P.UNNIKRISHNAN NAMBIAN
S/O.PARVATHI BRAHMANI AMMA, KRIPA, THRIKKUTTISSERI
VIA NADUVANNOOR, VAKAYAD PO
KOZHIKODE DISTRICT 673 614.**
- 2. P.SREEDHARAN NAMBIAN
S/O.DEVAKI BRAHMANI AMMA, SREEESADAN, NAMBIAN COLONY
DOWN HILL PO, MALAPPURAM , PIN 676 519.**

**BY ADVS.SMT.SREEDEVI KYLASANATH
SRI.ACHUTH KYLAS**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEVASWOM DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. THE COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION
KOZHIKODE PIN673 001.**
- 3. THE DEPUTY COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION
KOZHIKODE PIN 673 001.**
- 4. THE ASSISTANT COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION
KOZHIKODE PIN 673 001.**

**R1 BY SRI T.J.MICHAEL, SENIOR GOVERNMENT PLEADER
R2-R4 BY SRI.PARTHASARATHY.B, SC, MALABAR DEVASWOM BOARD**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 17-09-2015, ALONG
WITH WPC 24360/15, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' ANNEXURE:

- A1: COPY OF THE ORDER DATED 17.07.2015 OF THE 2ND RESPONDENT COMMISSIONER IN AP-7/2015**
- A2: COPY OF THE APPLICATION DATED 01.09.2015 FOR THE APPOINTMENT OF 2ND REVIEW PETITIONER AS TRUSTEE SUBMITTED BY THE 1ST REVIEW PETITIONER.**

RESPONDENTS' ANNEXURE: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

R.P. No.785 of 2015
and
W.P.(C) No.24360 of 2015

Dated this the 17th day of September, 2015

ORDER

This is a review petition filed by the petitioner seeking an order to review the judgment of this Court dated 21.08.2015 in W.P.(C). No.24360/2015 on the ground that there is an error apparent on the face of the record.

2. Relying on Annexure A1 order passed by the 2nd respondent dated 17.07.2015 in A.P.No.7/2015, the learned counsel for the petitioner would contend that, the direction contained in the operative portion of the judgment at page No.3 should be a direction to submit appropriate application to function as 'trustee representing the family', instead of 'fit person'.

3. Heard both sides and perused the documents produced as Annexures A1 and A2.

4. The prayer sought for in this review petition is not opposed by the learned Standing Counsel for the Malabar

Devaswom Board.

5. In Annexure A1 order dated 17.07.2015, the 2nd respondent found that the vacancy of trustee which has arisen due to the old age and ill health of the 1st petitioner herein, who is settled away permanently, and unlikely to cease is permanent in nature, and if the 2nd petitioner herein is the only able senior member settled at Malappuram, there is no legal impediment in the 2nd petitioner assuming the office of the trustee representing the family. It was based on Annexure A1 order, the 1st petitioner filed Annexure A2 application dated 01.09.2015 before the 3rd respondent to allow the 2nd petitioner to assume the office of the trustee representing the family.

In such circumstances, this review petition is allowed by recalling the judgment dated 21.08.2015 in W.P.(C). No.24360/2015 and the said writ petition is disposed of by directing the 3rd respondent to consider Annexure A2 application submitted by the 1st petitioner seeking an order to permit the 2nd petitioner to assume the office of the trustee representing the family, in terms of the provisions under the H.R. and C.E. Act. Necessary orders in this regard shall be passed as expeditiously as possible, at any rate, within a period of one month from the

date of receipt of a certified copy of this judgment, with notice to the petitioners. It would be open to the 3rd respondent to consider whether the 2nd petitioner can be permitted to function as fit person provisionally during the pendency of Annexure A2 application.

JV

SD/-
ANIL K. NARENDRA,
JUDGE