

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

&

THE HONOURABLE SMT.JUSTICE P.V. ASHA

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

RPNo. 1178 of 2015 IN WP(C).14735/2014

AGAINST THE JUDGMENT IN WP(C) 14735/2014 of HIGH COURT OF KERALA DATED 11-11-2015

REVIEW PETITIONER/PETITIONER:

R.MURALEEDHARAN, AGED 58 YEARS
S/O.GOVINDAN NAIR, RESIDING AT SUDHARMA, THIRUTHIYAD
P.O.PUTHIYARA, KOZHIKODE.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY
REVENUE (DEVASWOM) DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.
2. THE MALABAR DEVASWOM BOARD
REPRESENTED BY ITS PRESIDENT, HOUSE FED COMPLEX
P.O.ERANHIPALAM, KOZHIKODE-673 006.
3. THE COMMISSIONER
MALABAR DEVASWOM BOARD, HOUSE FED COMPLEX
P.O.ERANHIPALAM, KOZHIKODE-673 006.
4. THE EXECUTIVE OFFICER
SREE AZHAKODI DEVI MAHA TEMPLE, THIRUTHIYAD
P.O.PUTHIYARA, KOZHIKODE-673 004.
5. T.PRADHAKRISHNAN
S/O.KUNHIKRISHNAN NAIR, POOZHAKOTH HOUSE
THIRUTHIYAD P.O., KOZHIKODE-673 004.

R BY SRI.M.PASHOK KUMAR
R BY GOVERNMENT PLEADER SRI.PFAZIL
R BY SRI.K.VSOHAN
R BY SRI.MAHESH VRAMAKRISHNAN, SC, MALABAR DEVASWOM BOARD

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 17-12-2015 ALONG
WITH R.P.NO.1141/15 & 1182/15, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

**R.P.Nos.1141 & 1182 of 2015 in W.P.(C)No.23294 of 2014 &
R.P.No.1178 of 2015 in WP(C)No.14735 of 2014**

Dated this the 17th day of December, 2015

ORDER

Asha, J.

These review petitions are filed against the common judgment dated 11.11.2015 in W.P(C)Nos.2365, 14735 and 23294 of 2014. Respondents 4 and 5 in W.P.(C)No.23294/14 have filed R.P.1141/15 and the 6th respondent therein has filed R.P. 1182/15. Petitioner in W.P(C) No.14735/14 has filed R.P.1178/15 against the common judgment.

2. The contention raised by respondents 4 and 5 is that the amendment to Section 39 of the Madras Hindu Religious & Charitable Endowments Act (HR&CE), which reduced the tenure of appointment of non-hereditary trustees, will not affect them as they were appointed even prior the date of effect of the amendment. The contention of the 6th respondent is to the effect that certain points decided in the judgment are not in accordance with the provisions contained in HR&CE Act and hence erroneous.

3. As far as the contention raised by respondents 4 and 5 is concerned, it is to be noted that these respondents did not enter appearance in these cases and issues regarding the date of effect of the amendment or the applicability or non-applicability of the amendment in the case of the review petitioners were not raised in the writ petitions. Moreover, it is pointed out that the amendment has been upheld by this court in the judgment reported in *Hari Hara Krishnan v. State of Kerala (2014 (4) KLT 576)*. In view of these, the contentions raised by the review petitioners 4 and 5 do not merit any consideration.

4. As far as the contention raised by the 6th respondent in the Writ Petition 23294 /14, who was the petitioner in W.P.(C)No.14735/14 i.e petitioner in R.P.1182 and 1178/15, is concerned, all the contentions that are raised, are regarding the correctness of our judgment.

5. It is settled law that a judgment, even under Article 226 of the Constitution of India need be reviewed only if there exists the conditions stipulated under Order XLVII Rules 1 of Civil Procedure Code, 1908. (see ***Subramanian Swamy v. State of T.N.,(2014) 5 SCC 75, Haridas Das v.***

Usha Rani Banik, (2006) 4 SCC 78 , Meera Bhanja v. Nirmala Kumari

Choudhury (1995)1 SCC 170, etc). Order 47 Rule 1 reads as follows:

“(1) Any person considering himself aggrieved---

*(a) by a decree or order from which an appeal is allowed,
but from which no appeal has been preferred;*

*(b) by a decree or order from which no appeal is allowed,
or*

*(c) by a decision on a reference from a Court (exercising
small cause jurisdiction)*

*and who, from the discovery of new and important
matter or evidence which, after the exercise of due
diligence, was not within his knowledge or could not be
produced by him at the time when the decree was passed
or order made, or on account of some mistake or error
apparent on the face of the record, or for any other
sufficient reason, desires to obtain a review of the decree
passed or order made against him, may apply for a review
of judgment to the Court which passed the decree or made
the order.”*

6. Thus review of judgment is warranted only when it is found that there is an error apparent on the face of the record or such other circumstances as provided in the aforesaid provisions only and not on

any other grounds. But the review petitioners herein have not pointed out any such circumstances, so as to enable us to undertake a review of the judgment. What is contented before us is as to the correctness of our findings in the judgment. In case, the review petitioners feel aggrieved by the judgment under review, it is upto them to approach the appropriate court and challenge the same other than by filing a review petition.

These review petitions fail and are accordingly dismissed.

**ANTONY DOMINIC
JUDGE**

**P.V.ASHA
JUDGE**

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