

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 1851 of 2015 (F)

PETITIONER :

K.P.CHANDRANGADHAN, AGED 73 YEARS,
RESIDING NEAR RAILWAY STATION, P.O.PAYAGNADI RS,
KANNUR DISTRICT.

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENTS :

1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
EMPLOYMENT AND TRAINING DEPARTMENT,
THIRUVANANTHAPURAM.
2. THE DIRECTOR,
EMPLOYMENT AND TRAINING, THYCAUD, THIRUVANANTHAPURAM.
3. THE MALABAR DEVASWOM BOARD,
REPRESENTED BY ITS COMMISSIONER, HOUSEFED COMPLEX,
ERANHIPALAM P.O., KOZHIKODE.
4. THE THIRUVARKATTUKAVU DEVASWOM MADAI,
REPRESENTED BY ITS EXECUTIVE OFFICER,
CHIRAKKAL KOVILAKAM DEVASWOMS, P.O.CHIRAKKAL,
KANNUR DISTRICT.
5. THE DIRECTOR,
ARCHEOLOGICAL SURVEY OF INDIA, GOVT. OF INDIA,
NEW DELHI - 110 011.
6. THE SECRETARY,
MINISTRY OF ENVIRONMENT AND FOREST,
PARYAVARAN BHAVAN, NEW DELHI - 110 011.

R6 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R1 BY ADV. SRI.M.SASINDRAN
R2 BY ADV. SRI.MAHESH V RAMAKRISHNAN
R1 & 2 SR. GOVERNMENT PLEADER SRI.C.S.MANILAL
BY SRI.K.R.SUNIL, SC, MALABAR DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1851 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1: A TRUE COPY OF THE JUDGMENT DATED 24/07/2014 IN AS NO. 101 OF 2013 ADDITIONAL DISTRICT JUDGE-I, THALASSERY.

EXT.P2: A TRUE COPY OF THE REPRESENTATION ON 03/07/2014 SUBMITTED BY THE PETITIONER TO 5TH RESPONDENT.

EXT.P3: A TRUE COPY OF THE REPRESENTATION DATED 03/07/2014 SUBMITTED TO 6TH RESPONDENT.

RESPONDENTS' EXHIBITS :- NIL.

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

W.P.(C).No.1851 of 2015

Dated this the 04th day of February, 2015

JUDGMENT

P.N.Ravindran, J.

The prayer in this writ petition filed by a devotee of Madai Thiruvarkattu Kavu Bhagavathi Devaswom is for a writ in the nature of mandamus directing respondents 1 and 2 not to house and run an Industrial Training Institute in the building constructed in the lands situated in R.S.No.23/1A2 of Madayi Village, Kannur Taluk. The petitioners have also prayed for various other reliefs. Such a relief is sought on the averment that the Government have put up an Industrial Training Institute in the lands belonging to Madai Thiruvarkattu Kavu Bhagavathi Devaswom.

2. The records disclose that the Executive Officer of the Chirakkal Kovilakam Devaswom as plaintiff had instituted O.S.No.54 of 2011 in the Court of the Subordinate Judge of Payyannur for a decree declaring the plaintiff's title over the plaint schedule property and for declaring that the plaint schedule property never belonged to defendants 3 to 7 or their predecessor, that the plaint schedule

property is not excess land surrendered to the Government under the Kerala Land Reforms Act and also for recovery of possession of the plaint schedule property on the strength of title. In that suit he had also prayed for a decree of injunction restraining defendants 1 and 2, namely, the State of Kerala, represented by the District Collector, Kannur and the Director of Employment and Training, Thaikkad, Thiruvananthapuram from trespassing into the plaint schedule property and a mandatory injunction to restore it to its original position. The suit was dismissed after trial holding that the plaintiff has not succeeded in proving the identity of the plaint schedule property and in proving his title and possession over the disputed property. Aggrieved thereby the plaintiff filed A.S.No.101 of 2013 in the Court of the Additional District Judge of Thalassery. The appeal was allowed by Ext.P1 judgment delivered on 24.7.2014 and the decree and judgment passed by the trial court were set aside and the suit was remanded to the trial court for fresh disposal. The appellate court also directed the parties to take steps to get the 300 acres of land claimed by the plaintiff identified and to get the property covered by Exts.B1 and B2 documents demarcated with

reference to available documents. Aggrieved by the order of remand the plaintiff had filed F.A.O.(RO)No.280 of 2014 before this Court. The said appeal was heard and disposed of by judgment delivered on 10.12.2014. By that judgment this Court clarified that the trial court may decide whether the 300 acres claimed by the plaintiff should be measured and identified before the identity of the property claimed in the suit is established. The parties were directed to appear before the trial court on 20.1.2015. It is not in dispute that in that suit the plaintiff has filed I.A.No.79 of 2015 seeking an interim order of injunction restraining the defendants from putting up buildings in the plaint schedule property and from occupying the building already constructed. The interests of the Devaswom and the devotees have been adequately safe guarded by the Executive Officer of the temple by instituting a suit. Though the suit was dismissed he had filed an appeal which was allowed and the decree of the trial court was set aside and the suit remanded to the trial court for fresh disposal. In such circumstances we find no reason to entertain the writ petition filed by a devotee.

The writ petition fails and it is accordingly dismissed. We however clarify that we have not expressed any opinion on the merits of the contentions put forward in the writ petition. Having regard to the fact that the plaintiff has in O.S.No.54 of 2011 filed I.A.No.79 of 2015 for an interim order of injunction restraining the defendants from putting up buildings or from occupying the building already constructed, we direct the Court of the Subordinate Judge of Payyannur, to dispose of the said application expeditiously and in any event within one month from today.

Registry to communicate a copy of this judgment to the court below.

P.N.RAVINDRAN, JUDGE

ANIL K.NARENDRA, JUDGE

skj