

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C) .No. 4973 of 2015 (V)

PETITIONER(S) :

V.M.KRISHNAN NAMBOOTHIRI,
AGED 77 YEARS, S/O.VASUDEVAN NAMBOOTHIRI,
VENGASSERY MANA, ANGADI POST, (VIA) ALANALLOOR,
PALAKKAD DISTRICT.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.Y.JAFAR KHAN.

RESPONDENT(S) :

1. THE MALABAR DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY,
ERANHIPALAM, KOZHIKODE, PIN - 673 006.
2. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, KOZHIKODE - 673 006.
3. THE ASSISTANT COMMISSIONER,
MALABAR DEVASWOM BOARD, MINI CIVIL STATION,
TIRUR, MALAPPURAM DISTRICT, PIN - 676 101.
4. M.M.SETHUMADHAVAN,
S/O.NARAYANAN NAIR, MANGALATH HOUSE,
THANNEERKKOD P.O., CHALISSERY,
PALAKKAD DISTRICT, PIN - 679 536.
5. P.K.GOPINATHAN,
S/O.V.NARAYANA MENON, "REVATHY" (THERAMPATT),
THALAKKASSERY POST, THRITHALA, PALAKKAD DISTRICT,
PIN - 679 534.
6. THANKAM K.,
W/O.BHASKARAN NAIR, KOOTTAKKIL HOUSE,
THALAKKASSERY POST, THRITHALA, PALAKKAD DISTRICT,
PIN - 679 534.

7. RAVI KOKKATTIL,
S/O.CHENNAN, SURYA NIVAS, THALAKKASSERY POST,
THRITHALA, PALAKKAD DISTRICT, PIN - 679 534.
8. EXECUTIVE OFFICER,
SREE VENGASSERI KAVU DEVASWOM,
POST THALAKKASSERY, VIA THRITHALA,
PALAKKAD DISTRICT, PIN - 679 534.

BY SRI.PARTHASARATHY B., SC, MALABAR DEVASWOM BOARD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1. TRUE COPY OF ORDER NO.A3-737/2012/MDB DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P2. TRUE COPY OF NOTICE DATED 23.04.2012 PREPARED BY THE THIRD RESPONDENT TO BE ISSUED TO THE PETITIONER.
- EXHIBIT P3. TRUE COPY OF NOTIFICATION NO.A3-737/2012 (1) (MDB) DATED 23.04.2012 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P4. TRUE COPY OF ORDER NO.J5/3480/2013/M.D.B. DATED 29.07.2014 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5. TRUE COPY OF FIRST INFORMATION REPORT DATED 28.06.2013 IN CRIME NO.652 OF 2013 OF THRITHALA POLICE STATION.
- EXHIBIT P6. TRUE COPY OF THE PETITION DATED 01.01.2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 1 TO 3 AND OTHER AUTHORITIES UNDER THE MALABAR DEVASWOM BOARD.
- EXHIBIT P7. TRUE COPY OF THE MINUTES OF THE MEETING OF THE AREA COMMITTEE HELD ON 29.12.2014.
- EXHIBIT P8. TRUE COPY OF THE MINUTES OF THE MEETING OF THE AREA COMMITTEE HELD ON 19.11.2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 4973 of 2015

Dated this the 18th day of February, 2015

J U D G M E N T

Grievance of the petitioner is mainly with regard to the appointment of 'non-hereditary trustees' by the 3rd respondent as per Ext.P1 proceedings dated 29.01.2015. As a matter of fact, the said order has been passed pursuant to the resolution taken by the Area Committee on 29.12.2014 as disclosed from Ext.P7. Being aggrieved of the said resolution, the petitioner has already moved the 2nd respondent by way of Ext.P6 petition under Section 18 of the Hindu Religious & Charitable Endowments Act. The case of the petitioner is that, without considering the grievance projected by the petitioner, steps are being taken to cause and enable the respondents 4 to 7 to take charge as the 'non-hereditary trustees'.

2. Heard the learned standing counsel appearing for the respondent Devaswom as well.

3. The learned counsel for the petitioner points out that, as per the scheme of the statue, no appointment of the 'non-hereditary trustee' can be effected without issuing any notice and granting an opportunity of hearing to the hereditary trustee. The said version is sought to be rebutted by the learned standing

counsel appearing for the Devaswom, pointing out that, such an enquiry with notice is necessary and contemplated only in respect of the first appointment of 'non-hereditary trustees'. However, the fact remains that, the petitioner has already moved the 2nd respondent by way of Ext.P6 and the matter requires to be considered and finalized by the 2nd respondent in this regard.

4. In the said circumstances, this Court does not find it necessary to go in to the merits of the case or issue notice to the respondents 4 to 7. The writ petition is disposed of, directing the 2nd respondent to consider and pass appropriate orders on Ext.P6, in accordance with law, after affording an opportunity of hearing to the petitioner and also to the party respondents 4 to 7. The proceedings as above, shall be finalized, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment. All further proceedings, pursuant to Exts.P1 and P7 shall be subject to the outcome of the order to be passed by the 2nd respondent on Ext.P6.

The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the 2nd respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.