

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(C) .No. 13359 of 2014 (T)

PETITIONER(S) :

1. M.GANGADHARAN NAIR
MANJULAVIL HOUSE, KUNDLIYOOR P.O.
THRISSUR DISTRICT.
REP.BY HIS POWER OF ATTORNEY HOLDER
M.JANARDHANAN, MANJULAVIL HOUSE,
KUNDALIYOOR P.O., ENGANDIYOOR
THRISSUR DISTRICT.

2. M.JANARDHANAN NAIR
MANJULAVIL HOUSE, KUNDALIYOOR P.O.,
ENGANDIYOOR, THRISSUR DISTRICT.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENT(S) :

1. THE DEPUTY COMMISSIONER
H.R.& C.E. (ADMINISTRATION),
KOZHIKODE- 673 001.

2. SRI.PANAYANKULANGARA BHAGAVATHY KSHETHRA
SAMRAKSHNA SAMITHY,
ENGANDIYOOR, THRISSUR DISTRICT, PIN - 680 615,
REP.BY ITS SECRETARY P.HARIHARAN.

3. SRI.PANAYANKULANGARA BHAGAVATHY TEMPLE
UTSAVA COMMITTEE,
ENGANDIYOOR, THRISSUR DISTRICT, PIN - 680615,
REP.BY ITS SECRETARY C.NARAYANA MENON.

4. SRI.PANAYANKULANGARA BHAGAVATHY TEMPLE
KSHETHRA KSEMA SAMITHY
ENGANDIYOOR, THRISSUR DISTRICT, PIN - 680 615,
REP.BY ITS SECRETARY E.SANKARA NARAYANAN.

5. AYINIPPULLY RAGHAVAN
S/O.KITTAPPAN, AYINIPPULLY HOUSE,
KUNDALIYOOR P.O., CHAVAKKAD TALUK,
THRISSUR DISTRICT, PIN - 680 616.
6. PANDARATHIL HARIHARAN
S/O.KITTUNNI, ENGANDIYOOR AMSOM,
KUNDALIYOOR DESAM, CHAVAKKAD TALUK,
THRISSUR DISTRICT, PIN -680616.
7. SURESH
S/O.MADHAVAN MASTER, UNNIKOCHAN HOUSE
ENGANDIYOOR AMSOM, KUNDALIYOOR DESAM,
CHAVAKKAD TALUK
THRISSUR DISTRICT-680 616.
8. AYYAPPAN
S/O.KARIMULLI RAMAN, KARIMULLY HOUSE
ENGANDIYOOR AMSOM, KUNDALIYOOR DESAM,
CHAVAKKAD TALUK, THRISSUR DISTRICT-680616.

R1 BY ADV. SRI.KRISHNAKUMAR.S, SC,
MALABAR DEVASWOM BOARD
R1 BY ADV. SRI.PARTHASARATHY.B, SC,
MALABAR DEVASWOM BOARD
R6 BY ADV. SRI.P.B.SAHASRANAMAN
R6 BY ADV. SRI.T.S.HARIKUMAR
R6 BY ADV. SRI.K.JAGADEESH
R6 BY ADV. SRI.RAAJESH S.SUBRAHMANIAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1: COPY OF THE JUDGMENT IN WP(C) 22507/11 DATED 22.07.2013.

EXHIBIT-P2: COPY OF THE JUDGMENT IN SPECIAL LEAVE TO APPEAL (CIVIL) CC 1926/14 DATED 14.02.2014.

EXHIBIT-P3: COPY OF THE I.A.18/14 FILED BY THE PETITIONER IN OA 19/03.

EXHIBIT-P4: COPY OF THE ORDER DATED 02.05.2014 PASSED BY THE DEPUTY COMMISSIONER IN IA 18/14 IN OA 19/03.

EXHIBIT-P5: COPY OF THE I.A.15/14 FILED BY THE PETITIONER IN OA 19/03.

EXHIBIT-P6: COPY OF THE ORDER DATED 02.05.2014 PASSED BY THE DEPUTY COMMISSIONER IN IA 15/14 IN OA 19/03.

EXHIBIT-P7: COPY OF THE I.A.16/14 FILED BY THE PETITIONER IN OA 19/03.

EXHIBIT-P8: COPY OF THE ORDER DATED 02.05.2014 PASSED BY THE DEPUTY COMMISSIONER IN IA 16/14 IN OA 19/03.

EXHIBIT-P9: COPY OF THE I.A.17/14 FILED BY THE PETITIONER IN OA 19/03.

EXHIBIT-P10: COPY OF THE ORDER DATED 02.05.2014 PASSED BY THE DEPUTY COMMISSIONER IN IA 17/14 IN OA 19/03.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGED.

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

.....
WP(C) No.13359 of 2014
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Dated this the 31st day of August, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. This writ petition is by two persons, who obtained Ext.P1 judgment impeaching the result of proceedings initiated under Section 57 of the Madras Hindu Religious and Charitable Endowments Act, 1951, “Act”, for short, in relation to Sree Panayankulangara Bhagavathy temple. Following Ext.P1 judgment, it is the bounden duty of the statutory authorities to complete the proceedings under Section 57 of the Act, in accordance with law.
2. Having heard the learned counsel for the petitioners and the learned counsel for the contesting respondents, as also the learned standing counsel for the Malabar Devaswom Board, we see that the issue now in hand is as to whether the statutory authority acted appropriately and in accordance with law in

refusing to entertain and grant the applications filed by the petitioners during the course of the proceedings under Section 57 of the Act. The petitioners filed applications for impleading the Assistant Commissioner, summoning documents and for production of documents. While those applications have been dismissed for different reasons, the fact of the matter remains that the adjudication of the issues raised under Section 57 of the Act cannot be concluded by the statutory authority without answering the disputes raised. In the case in hand, the disputes raised include the question as to whether the notification in which the temple is stated to have been covered, was issued appropriately after due statutory notices as enjoined by the Act. So much so, the materials leading to the issuance and the publication of that notification and the factum of publication of such notices are matters which are in dispute. That position notwithstanding, if the statutory authorities are to rely on any material to indicate that the temple in question is a temple which would fall as a public temple, going by the definition clauses of

various terms in the Act, all the relevant facts and factors that would be put by the Department as against the petitioners will have to be shown to the petitioners before they are relied on against their interest. Similarly, the petitioners and the contesting private respondents will also be at liberty to place on record such materials as may be required to establish their rival contentions before the authority. Under such circumstances, all that is required now is to declare that the orders impugned in this writ petition will not stand in the way of the procedures indicated above, which will give a full fledged adjudication of the disputes raised as regards the question whether the temple mentioned above is a temple as defined under Section 6(17) of the Act, which means a place used as a place of public religious worship and dedicated to, or for the benefit of or used as of rights by the Hindu community or any section thereof, as a place of public religious worship. It is so declared. The further questions as to whether there was any notification issued declaring the temple as one such and whether any such notification was issued with due

prior notice will also be issues that would be adjudicated upon in the proceedings pending before the Deputy Commissioner under Section 57 of the Act, which stands remitted by the force of the contents of Ext.P1 judgment of this Court. All issues on merits are left open. This writ petition is ordered accordingly.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(ANU SIVARAMAN, JUDGE)

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