

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 14497 of 2015 (J)

PETITIONER :

**A.P.ABBAS
S/O.RAYIN, AGED 34 YEARS, SECRETARY
MASJID - UL – NOORIYA MUSLIM NAMASKARA PALLY COMMITTEE
(REGN. NO.508/2010), AR NAGAR, P.O.THIRURANGADI,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.T.V.GEORGE
SRI.JIMMY GEORGE (THADATHIL)**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO REGISTRATION DEPARTMENT
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. INSPECTOR GENERAL
OFFICE OF THE INSPECTOR GENERAL REGISTRAR
THIRUVANANTHAPURAM.**
- 3. DISTRICT REGISTRAR (GENERAL)
OFFICE OF THE REGISTRAR OF SOCIETIES, MALAPPURAM
PIN - 676 505.**
- 4. ABOOBAKKER MOOZHICKAL
MOOZHICKAL HOUSE, A.R.NAGAR, TIRURANGADI
MALAPPURAM, PIN - 679 324.**

**R1 TO R3 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R4 BY ADV. SRI.R.RAMADAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

WP(C).No. 14497 of 2015 (J)

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE OF SOCIETY NO:508/10.**
- EXHIBIT P2. TRUE COPY OF MEMORANDUM OF ASSOCIATION OF THE PETITIONER COMMITTEE.**
- EXHIBIT P3. TRUE COPY OF THE BYE LAWS OF THE PETITIONER SOCIETY.**
- EXHIBIT P4. TRUE COPY OF ORDER DATED 21.01.2015 OF THE 3RD RESPONDENT.**
- EXHIBIT P5. TRUE COPY OF THE APPLICATION BEFORE THE 3RD RESPONDENT.**
- EXHIBIT P6. TRUE COPY OF THE ORDER DATED 25.03.2015 CANCELLING THE RECOGNITION.**

RESPONDENT(S)' EXHIBITS :

- EXHIBIT R4(a) COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED 5.7.2011.**
- EXHIBIT R4(b) COPY OF THE DECREE DATED 29.6.2015 IN OS NO. 44/2012, WAKF TRIBUNAL, KOZHIKODE.**
- EXHIBIT R4(c) COPY OF THE JUDGMENT DATED 29.6.2015 IN OS NO. 44/2012, WAKF TRIBUNAL, KOZHIKODE.**

//TRUE COPY//

P.S. TO JUDGE

Mn

K. Vinod Chandran, J

W.P.(C).No.14497 of 2015-J

Dated this the 16th day of July, 2015

JUDGMENT

The petitioner is aggrieved by Exhibit P6 order, which, the petitioner submits, is passed without hearing the petitioner. Primarily the question of violation of principles of natural justice is raised and it is submitted that the petitioner may be heard again and orders passed.

2. The controversy in the writ petition is with respect to the cancellation of Exhibit P4 order by Exhibit P6 order passed by the District Registrar. Exhibit P4 is an order passed accepting the list of Managing Committee members of the petitioner society, registered as 508/2010 for the years 2011-12 to 2014-15. Exhibit P4 also indicates that, by the second cited communication in Exhibit P4 the President, of the Society having registration No.508 of 2010, filed a declaration that the Society having registration No.262 of

1987, viz., Masjidul Nooriya Nusrathul Islam Society, is not connected with the Society having registration No.508 of 2010. It was in such circumstance that the said list of members of Managing Committee were accepted. The same stood cancelled by Exhibit P6.

3. The 4th respondent, who is the Secretary of the other Society having registration No.262 of 1987, has filed a detailed counter affidavit and relies on Exhibit R4(a) passed as early as on 05.07.2011, to contend that the petitioner had moved an application before a new incumbent, in the office of the District Registrar and obtained Exhibit P4 by fraud. The officer having been apprised of the order passed earlier by the earlier incumbent, has cancelled the same and there is no question of violation of principles of natural justice, is the argument.

4. The learned Government Pleader, based on the counter affidavit filed by the officer himself, submits specifically that Exhibit P4 order was obtained only on the petitioner having misled the District Registrar.

5. Admittedly there are disputes pending between the two societies and there are also said to be writ petitions pending in this Court. Exhibit R4(a) was an order passed by the District Registrar, which is also said to be pending consideration in W.P.(C). No.22721 of 2011, in which there is no stay order. The dispute between the petitioner and the 4th respondent was with respect to the wakf property, a mosque. The petitioner-Society is a rival society claiming to be conducting the affairs of the mosque. The 4th respondent-Society was registered in the year 1987 and had been continuing as such. The petitioner was the Vice-President of the Society; who, along with some other members, formed a new society and registered it as 508 of 2010. Both claimed control over the affairs of the wakf, the mosque. A suit was filed by the petitioner-society for perpetual injunction restraining the 4th respondent-Society (Regn.No.262 of 1987) from interfering with the peaceful management of the mosque, Masjidul Nuriya Muslim Namaskara Palli and the properties. But, the same was dismissed for default, for reason of the plaintiff having not appeared.

6. Exhibit R4(a) considered the rival disputes of the two Societies. In fact the Society having registration No.508 of 2010 specifically raised an objection that the other society was not functioning and they have been carrying on the affairs of the mosque. Exhibit R4(a) specifically found so:

"പരാതിക്കാരനായ ശ്രീ.കുഞ്ഞിപ്പോക്കർ ഹാജി പ്രസിഡണ്ടായി രജിസ്റ്റർ ചെയ്ത പ്രവർത്തിച്ചു വരുന്ന മസ്ജിദുൽ നൂരിയ മുസ്ലീം നമസ്കാരപള്ളി ((Reg.No.508/2010) 262/87 നമ്പരായി രജിസ്റ്റർ ചെയ്യപ്പെട്ട മസ്ജിദു നൂരിയ നുസ്ത്തുൽ ഇസ്ലാം സംഘത്തിന്റെ ഭാഗമാണെന്നോ ടി സംഘം പിരിച്ചു വിട്ടശേഷം ആയതിനു പകരമായി രജിസ്റ്റർ ചെയ്തതാണെന്നോ നിയമവലിയിലോ മറ്റ് രേഖകളിലോ രേഖപ്പെടുത്തിയിട്ടുള്ളതായി കാണുന്നില്ല. 508/2010-ാം നമ്പർ സംഘം രജിസ്റ്റർ ചെയ്യുന്നതിനായി സമർപ്പിച്ച അപേക്ഷയിൽ ഇതേ ഉദ്ദേശ്യലക്ഷ്യങ്ങളോടെ ഇതിന്റെ പ്രവർത്തന പരിധിയിൽ വേറെ ഒരു സംഘം രജിസ്റ്റർ ചെയ്ത പ്രവർത്തിക്കുന്നില്ല എന്ന് തെറ്റായി സത്യബോധപ്പെടുത്തിയതായി കാണുന്നു."

Hence, it was found that the Society having registration No.262 of 1987 is in office and is also conducting the affairs of the wakf, the mosque. The list of Managing Committee members of the society, having registration No.262 of 1987 found to be in office of the mosque for the years 1987-88 to 2009-10, was accepted. In such circumstance, there was no warrant for Exhibit P4 order to be passed. Though

Exhibit P6 has been passed without notice to the petitioner, a re-consideration would be a useless formality, insofar as Exhibit R4(a) would govern the issue as of now and the challenge against it is said to be pending in a writ petition.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]