

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 17666 of 2013 (G)

PETITIONER(S)/PETITIONER:

S.RAMA WARRIER, AGED 79 YEARS
S/O.LATE SANKARA WARRIER, SHOOLITHOTTOM,
KALLIKADU VILLAGE, MYLAKKARA.P.O, KATTAKKADA,
THIRUVANANTHAPURAM.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT(S)/RESPONDENTS:

1. THE TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS COMMISSIONER, NANTHENCODE
THIRUVANANTHAPURAM-695033.

2. THE SECRETARY,
TRAVANCORE DEVASWOM BOARD, NANTHENCODE
THIRUVANANTHAPURAM-695033.

3. THE ASSISTANT COMMISSIONER OF DEVASWOM,
ULLOOR, THIRUVANANTHAPURAM-695011.

4. SUB GROUP OFFICER,
THONNAL DEVASWOM, PALLIPPURAM, KANIYAPURAM
THIRUVANANTHAPURAM-695301.

5. VARIJAKSHAN NAIR,
S/O NEELAKANDA WARRIER, SREEDHARAMANGALATHU VEEDU,
PALLIPPURAM.P.O, THIRUVANANTHAPURAM-695316.

6. VIMAL RAJ,
S/O.RAJENDRAN NAIR, CHAIPURATHU VEEDU, PALLIPPURAM.P.O
THIRUVANANTHAPURAM-695316.

R5,R6 BY ADV. SRI.R.GOPAN

R5,R6 BY ADV. SRI.SHAJIN S.HAMEED

R BY SRI.A.N.RAJAN BABU, SC, TRAVANCORE DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 17666 of 2013 (G)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 TRUE COPY OF THE RELEVANT PAGES OF THE SETTLEMENT DEED NO.3099
DATED 20TH MEENAM 1116 ME

P2 TRUE COPY OF THE CONSENT LETTER DATED 27/6/2006 EXECUTED BY THE
MEMBERS OF THE SREEDHARAMANGALATHU VARIYAM THARAVAD

P3 TRUE COPY OF THE LETTER DATD 17-11-2006 ISSUED BY THE LAW OFFICER
OF THE 1ST RESPONDENT

P4 TRUE COPY OF THE AGREEMENT NO.15/2007 DATED 19.2.2007

P5 TRUE COPY OF THE CERTIFICATE DATED 14.9.2007 ISSUED BY THE
TAHSILDAR, NEYYATTINKARA.

P6 TRUE COPY OF THE CERTIFICATE NO.646/2008 DATED 19.8.2006 ISSUED BY
VILLAGE OFFICER, PALLIPPURAM

P7 TRUE COPY OF THE CERTIFICATE NO.4662/08 DATED 24-9-20008 ISSUED BY
THE VILLAGE OFFICER, PALLIPPURAM

P8 TRUE COPY OF THE CERTIFICATE NO.29687/10/K.DIS.25-10-2010 ISSUED
BY THE TAHSILDAR, THIRUVANANTHAPURAM

P9 TRUE COPY OF THE LETTER NO.2-2011/2356012 DATED 31/8/2011 ISSUED
BY THE DEPUTY COLLECTOR (GENERAL), WAYANAD

P10 TRUE COPY OF THE JUDGMENT DATED 10/8/2011 IN WP(C)21276/2011

P11 TRUE COPY OF THE PROCEEDINGS DATED 30-3-2011 ISSUED BY THE 2ND
RESPONDENT

P12 TRUE COPY OF THE LETTER ISSUED BY THE HEADMISTRESS, MUSLIM GIRLS
HIGHER SECONDARY SCHOOL, KANIYAPURAM STATING THE SERVICE DETAILS OF 5TH
RESPONDENT

P13 TRUE PHOTOCOPY OF THE LETTER DATED 18.11.1116 ME INVITING SREE
CHAKRAPANI VARIYAR FOR PERFORMING THE CEREMONY

RESPONDENT(S) ' EXHIBITS

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NIL

/TRUE COPY/

P.S. TO JUDGE.

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

W.P.(C). No. 17666 OF 2013

Dated this the 27th day of May, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard the learned counsel for the parties.

2. The petitioner claims that he is the Kudumba Mooppan of Sreedharamangalath Variyam Tharavad. According to him, the 5th respondent Varijakshan Nair cannot be treated as a person entitled to nominate Karanma Kazhakam for the temple in question. He, therefore, impeaches Ext.P11 by which Devaswom Board has approved appointment of the 6th respondent as Karanma Kazhakam.

2. On hearing the learned counsel for the parties, we came to know that the dispute is as to whether it is the petitioner or the 5th respondent who can be treated as a person eligible to be nominated as Karanma Kazhakam. We may make immediate reference to the judgment of the Hon'ble Supreme Court in **Balakrishna Warriar v. Santha Varassiar**

(1997 KHC 179), wherein it has been laid down as law that by virtue of the Joint Hindu Family System (Abolition) Act, 1975 (Kerala), the joint family system was abolished and Tarwad has become extinct and no declaration can be given in favour of a non-existing entity. However, their Lordships have clarified that the question as to whether the Karaima right(or hereditary right) will devolve on the members of the erstwhile tarwad as tenants in common does not arise for consideration in the present appeal before Their Lordships. To say so, Their Lordships quoted from the judgment in S.A. No.669 of 1976 of this Court, which was appealed against, but, noticed that such judgment related only to declaration of property and not to karanma right.

3. It is submitted on behalf of the Travancore Devaswom Board that the Board has decided to continue with the Karanma service. It was pursuant to Ext.P10 judgment that Ext.P11 order has been issued.

4. We see that Ext.P11 is rendered giving reason based on materials that were presented before the Board and also taking into consideration remarks of the Devaswom Advocate and the law officer. Therefore, we are not inclined to upset Ext.P11 solely on the ground referable to the rule of hearing. However, we

think that the petitioner is eligible to opportunity of post decision hearing in relation to Ext.P11.

5. In the result, without expressing anything on the merits, we direct that the petitioner will be given due opportunity of post decision hearing as regards the finding in Ext.P11 and the Board will take a decision in the matter. Unless the Board decides to vary Ext.P11, that order will stand. If the Board decides that Ext.P11 is not sustainable on facts and in law, it will be open to the Board to order afresh. It is clarified that the petitioner, respondents 5 and 6 and any other person, who were heard in connection with Ext.P11 proceedings, will be given an opportunity of hearing. Let needful be done within an outer limit of four months from the date of receipt of a copy of this Judgment.

The writ petition is ordered accordingly.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ P.S to Judge.

