

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937H

WP(C).No. 24360 of 2015 (T)

PETITIONERS :

1. M.P.UNNIKRISHNAN NAMBISAN AGED 73 YEARS
S/O.PARVATHI BRAHMANI AMMA, KRIPA, THRIKKUTTISSERI
VIA. NADUVANNOOR, VAKAYAD P.O.
KOZHIKODE DISTRICT -673 614.
2. P.SREEDHARAN NAMBISAN
S/O.DEVAKI BRAHMANI AMMA, SREESADAN, NAMBISAN COLONY
DOWN HILL P.O., MALAPPURAM, PIN - 676 519.

BY ADVS.SMT.SREEDEVI KYLASANATH
SRI.M.JAYAKRISHNAN
SRI.ACHUTH KYLAS
SMT.SHALEENA RAJAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEVASWOM DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION, KOZHIKODE
PIN - 673 001.
3. THE DEPUTY COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION
KOZHIKODE.PIN - 673 001.
4. THE ASSISTANT COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION, KOZHIKODE
PIN - 673 001.

R2-R4 BY ADV. SRI.PARTHASARATHY.B, SC, MALABAR DEVASWOM BOARD
BY SR.GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS :-

EXT.P-1: TRUE COPY OF THE ORDER NO.K.DIS. A2-1471/2000 DATED 21.8.2000 OF 3RD RESPONDENT APPOINTING M.P.NARAYANAN NAMBISAN AS FIT PERSON OF M.P.S.NAMBISAN

EXT.P-2: TRUE COPY OF THE INTERIM ORDER DATED 11.4.2014. IN WPC 10691/2014

EXT.P-3: TRUE COPY OF THE ORDER DATED 3RD SEPTEMBER, 2014 IN WPC 10691/2014

EXT.P-4: TRUE COPY OF THE ORDER DTD 30.9.14 THE APPOINTMENT OF HEREDITARY TRUSTEE

EXT.P-5: TRUE COPY OF THE APPLICATION SUBMITTED BY HEREDITARY TRUSTEE FOR THE APPOINTMENT OF FIT PERSON DTD 14.10.2014

EXT.P-5(A): TRUE COPY OF THE CONSENT LETTER OF FIT PERSON DATED 14.10.2014

EXT.P-6: TRUE COPY OF THE ORDER NO.A4-1154/2014/MDB (KPS) DATED 16.1.2015 OF 3RD RESPONDENT

EXT.P-7: TRUE COPY OF JUDGEMENT IN WPC 10691/2014

EXT.P-8: TRUE COPY OF THE JUDGEMENT DATED 30.3.2015 IN WPC 7484/2015

EXT.P-9: TRUE COPY OF THE SCHEME OF THE TRIPURANTHAKA DEVASWOM

EXT.P-10: TRUE COPY OF THE APPLICATION MADE BY THE 1ST PETITIONER ON 1.2.2015 FOR THE EXTENSION OF FIT PERSON.

EXT.P-10(A): TRUE COPY OF THE CONSENT LETTER OF 2ND PETITIONER

EXT.P-10(B): TRUE COPY OF THE ACKNOWLEDGEMENT CARD SHOWING THE RECEIPT OF

EXHIBIT P-10 APPLICATION.

RESPONDENT(S)' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.24360 of 2015

Dated this the 21st day of August, 2015

JUDGMENT

According to the petitioners, Sree Tripuranthaka Temple is a shrine of Lord Shiva in Malappuram district, occupying a prominent position among the Hindu devotees. It is a very old temple in Malappuram. The 1st petitioner is the Hereditary Trustee. The 2nd petitioner is the Fit person nominated by the hereditary trustee. The 1st petitioner, hereditary trustee is aged 87 years. He is permanently settled at Thrikkuttisseri, Koyilandi Taluk, Kozhikode district. Due to old age physical weakness and ill-health presently he is unable to discharge duties as hereditary trustee of Tripuranthaka Devaswom effectively. Because of his old age, physical infirmity, 1st petitioner requested respondents 2 to 4 to appoint 2nd petitioner herein as his Fit Person to discharge the functions of hereditary trustee of Tripuranthaka Devaswom on his behalf. 2nd respondent appointed 2nd petitioner as the Fit Person of 1st petitioner w.e.f. 1.5.2014 for a period of one year subject to certain terms and stipulations.

2. The Division Bench of this Court vide judgment dated 19.1.2015 in W.P.(C).No.10691/14(J) reserved petitioners' liberty to institute other appropriate proceedings if aggrieved by the terms and stipulations in the proceedings dated 16.1.2015 of the 2nd respondent appointing Fit Person. Subsequently as per the direction issued by this Court, an appeal was filed before the 2nd respondent. The term of Fit Person expired on 30.4.2015. Even though application for extension of term of Fit Person was submitted before 4th respondent, no orders are issued and administrative decisions are taken in the absence of Hereditary Trustee and Fit person in violation of the Statutory provisions. It was in such circumstances, the petitioners have approached this Court in this Writ Petition seeking various reliefs.

3. Heard the arguments of the learned counsel for the petitioners and also the learned Standing Counsel for the Malabar Devaswom Board.

4. Without going into the merits of the rival contentions, I deem it appropriate to dispose of this Writ Petition directing the 1st petitioner to submit an appropriate application before the 3rd

respondent seeking an order to permit the 2nd petitioner to function as Fit Person of 1st petitioner, in the light of Section 47(3) of the H.R. & C.E. Act. If such an application is received, within two weeks from today, the said respondent shall consider the same and pass appropriate orders thereon, within one month thereafter, with notice to the petitioners. It would be open to the 3rd respondent to consider whether the 2nd petitioner can be permitted to function as the Fit Person, provisionally during the pendency of that application.

The Writ Petition is disposed of as above.

ANIL K.NARENDRAN, JUDGE

skj