

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 30904 of 2015 (K)

PETITIONER:

**WAYANAD MUSLIM ORPHANAGE,
REPRESENTED BY ITS PRESIDENT/
MUTAWALLI K.AHMAD HAJI, AGED 64 YEARS,
S/O.KUNHABDULLA, WAYANAD MUSLIM ORPHANAGE,
MUTTIL, MANDAD.P.O., KALPETTA(VIA), WAYANAD - 673 122.**

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT(S):

- 1. KERALA STATE WAKF BOARD DIVISIONAL OFFICE,
EROTH CENTRE, BANK ROAD, KOZHIKODE - 673 001.**
- 2. KERALA STATE WAKF BOARD, V.I.P.ROAD,
KALOOR, KOCHI - 682 017.**
- 3. DEPUTY TAHSILDAR, REVENUE RECOVERY,
VYTHIRI, WAYANAD DISTRICT, PIN - 673 576.**

**R1 & R2 BY SRI.K.SHIBILI NAHA, SC
R3 BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE PETITIONER DATED 11.2.1996.
- EXT. P2 : TRUE COPY OF THE CERTIFICATE OF RECOGNITION FROM THE BOARD OF CONTROL FOR ORPHANAGES AND OTHER CHARITABLE HOMES, KERALA.
- EXT. P3 : TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE PETITIONER.
- EXT. P4 : TRUE COPY OF THE LIST OF PROPERTIES OWNED BY THE PETITIONER UNDER THE WAQF DEEDS AND PURCHASE DEEDS SEPARATELY.
- EXT. P5 : TRUE COPY OF THE LETTER DATED 30.11.2010 FROM THE 1ST RESPONDENT.
- EXT. P6 : TRUE COPY OF THE INCOME-EXPENDITURE STATEMENT OF THE PETITIONER DATED 15.12.2010.
- EXT. P7 : TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED 18.2.2011.
- EXT. P8 : TRUE COPY OF THE ORDER IN A.A.73/2011 DATED 21.1.2013.
- EXT. P9 : TRUE COPY OF THE NOTICE DATED 6.6.2011.
- EXT. P10 : TRUE COPY OF THE ORDER DATED 2.7.2011.
- EXT. P11 : TRUE COPY OF THE ORDER IN A.A.51/2012 DATED 29.4.2013.
- EXT. P12 : TRUE COPY OF THE LETTER DATED 13.6.2013.
- EXT. P13 : TRUE COPY OF THE SHOW CAUSE NOTICE DATED 25.11.2014.
- EXT. P14 : TRUE COPY OF THE LETTER DATED 5.2.2015.
- EXT. P15 : TRUE COPY OF THE DEMAND NOTICE DATED 7.5.2015.
- EXT. P16 : TRUE COPY OF THE INCOME AND EXPENDITURE ACCOUNT DATED 1.8.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30904 of 2015

Dated this the 12th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P14 order passed by the 1st respondent and Ext.P15 consequential demand notice issued under the Kerala Revenue Recovery Act. The grievance of the petitioner against Ext.P14 order is essentially that, by Ext.P14 order, the 1st respondent has returned appeals preferred by the petitioner against the consequential orders passed by the 2nd respondent pursuant to appeals, that were earlier filed by the petitioner challenging the decision of the 2nd respondent. The 1st respondent in Ext.P14 takes the stand that, inasmuch as the orders impugned in the appeals preferred by the petitioner, were passed pursuant to earlier orders in appeals rendered by the 1st respondent, there was no scope for entertaining the fresh appeals submitted by the petitioner.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing for the respondent Board.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the

grievance of the petitioner in the appeals preferred before the 1st respondent is essentially that, while passing consequential orders pursuant to the earlier orders in appeals, the petitioner was not heard as mandated under Section 72(6) of the Act. It is the further contention of the learned counsel for the petitioner that Ext.P12 order, that is produced in the writ petition, was not served on the petitioner. Taking note of the said submission, I quash Ext.P14 and Ext.P15 consequential demand notice and direct the 1st respondent to consider the appeals preferred by the petitioner on 06.01.2015 afresh, after first serving a copy of Ext.P12 order on the petitioner. The 1st respondent, while disposing the appeals afresh on merits, shall also afford the petitioner an opportunity of hearing. The 1st respondent shall pass fresh orders as directed, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE