

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 32762 of 2014 (U)

PETITIONER(S) :

K.T.NIZAMUDHEEN,
S/O.ABDURAHIMAN, KARIMARATHODIKA HOUSE, WANDOOD,
GENERAL SECRETARY, WANDOOD JAMIYYATHUL MUJAHIDHEEN,
MALAPPURAM DISTRICT.

BY ADVS.SRI.K.ANAND
SRI.K.V.RAJENDRAN (WANDOOD)

RESPONDENT(S) :

1. THE GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT REGISTRAR SOCIETIES (GENERAL) ,
OFFICE OF THE DISTRICT REGISTRAR SOCIETIES,
MALAPPURAM - 676 505.
3. K.T. MUHAMMEDALI,
S/O.ABDUL KHADER, KARALIKKATTIL THANDUPARAKKAL HOUSE,
WANDOOD P.O., MALAPPURAM DISTRICT - 679 328.
4. E.P. ABDUL LATHEEF,
S/O.VEEERANKUTTY, ELATTUPARAMBIL HOUSE, WANDOOD P.O.,
MALAPPURAM DISTRICT 679 328

R1-R2 BY ADV. GOVERNMENT PLEADER SRI.S.JAMAL,
R3&4 BY ADV. SRI.A.A.ZIYAD RAHMAN,
R3&4 BY ADV. SRI.LAL K.JOSEPH,
R3&4 BY ADV. SRI.P.M.ZAFARULLAH,
R3&4 BY ADV. SRI.V.S.SHIRAZ BAVA &
R3&4 BY ADV. SRI.JOSEPH KURIAN VALLAMATTAM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE AMENDED BYELAW DATED 6-12-2006.

EXHIBIT P2 TRUE COPY OF THE ORDER NO OR 1.2645/07 DATED
28-05-2007 OF THE 2ND RESPONDENT.

EXHIBIT P3 TRUE COPY OF THE ORDER NO R1.4479/08 DATE
04-12-2008.

EXHIBIT P4 TRUE COPY OF THE RELEVANT PAGES OF THE REPORT OF
DEPUTY INSPECTOR GENERAL OF REGISTRATION.

EXHIBIT P5 TRUE COPY OF THE ORDER NO 11582/E2/11/T.D DATED
18-5-2012.

EXHIBIT P6 TRUE COPY OF THE ORDER NO R1.4479/08 DATED
24-2-2014.

EXHIBIT P7 TRUE COPY OF THE OFFICE BEARERS LIST FOR THE YEAR
2014-15 DATED 4-4-2014.

EXHIBIT P8 TRUE COPY OF THE ORDER NO R1.4479/2008 DATED
6-11-2014.

RESPONDENT(S) ' EXHIBITS :

EXHIBIT R3(A) TRUE COPY OF THE CERTIFICATE ISSUED BY THE KERALA
STATE WAKF BOARD DATED 13/10/2008.

EXHIBIT R3(B) TRUE COPY OF THE GOVERNMENT ORDER DATED 10/01/2012
IN FAVOUR OF THE RESPONDENTS 3&4.

EXHIBIT R3(C) TRUE COPY OF THE PROCEEDINGS OF THE TAHASILDAR,
NILAMBUR TALUK DATED 24/05/2013.

EXHIBIT R3(D) TRUE COPY OF THE WRITTEN STATEMENT SUBMITTED BY THE
RESPONDENTS 3&4 HEREIN IN OS NO.28/14 PENDING
BEFORE THE WAKF TRIBUNAL, KOZHIKODE.

EXHIBIT R3(E) TRUE COPY OF THE ORDER DATED 05/07/2011 PASSED BY
THE 2ND RESPONDENT.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P(C). No.32762 of 2014

Dated this the 4th day of June, 2015.

JUDGMENT

The petitioner claims that he is the General Secretary of a Society registered under the Societies Act, 1860. The list of working committee members elected at the General Body Meeting held at the premises of the Society on 02.04.2014, was presented before the Registrar as per Ext.P7. Without passing any orders on the same, the Registrar has now passed Ext.P8 dated 06.11.2014, accepting the list of committee members given by the 3rd respondent, as the properly elected committee for the year 2013-2014 to 2014-2015, is the grievance.

2. The petitioner's allegation is that, the said order is bad for reason of the petitioner's committee elected as on 2008-2011; in which the petitioner was the General Secretary, which election has been ratified by Ext.P11 order. The Government now

speaks in another voice in Ext.P5 and the Registrar has accepted the rival factions' contentions without notice to the petitioner, is the argument.

3. The learned counsel for the respondents 3 and 4 would primarily contend that the Society is a Waqf, the certificate of which is issued at Ext.R3(a) and that there had been disputes pending for long and even now the committee, in which the respondents 3 and 4 are members, are validly holding Office.

4. There are two factions vying for the management of the Society. At the outset, it is to be noticed that neither the Society nor the Waqf Board is made a party in the above writ petition. Even going by the averments in the writ petition, the petitioner's committee was in office from 2008-2011. The learned counsel for the respondents 3 and 4 submits that the ratification of such election was overturned by the Government in Ext.R3(b).

5. In any event, that is not the dispute now raised and the specific dispute raised in the writ petition is as to who is in Office for the year 2013-2014, which alone would enable the continuance in the subsequent three years, as provided by the

bye-laws. Obviously, the committee in Office for the year 2013-2014 would have to conduct a valid election. Hence, despite the prayers made in the writ petition, the attempt of the petitioner is to establish that the petitioner's committee was in Office in the year 2013-2014 as per the list said to have been given to the Registrar by Ext.P7.

6. Admittedly, civil disputes are pending between the parties, which is being agitated before the Waqf Tribunal, Kozhikkode. The plaint filed before the Munsiff's Court, Manjeri as O.S. No.209 of 2012, later transferred to the Tribunal, is handed over to this Court across the bar by the respondents' counsel. The learned counsel for the petitioner though affirms the pendency of such a suit asserts that the issue raised herein is totally different.

7. The relief sought for in the above suit filed by the petitioner herein; as General Secretary of the Society, is a declaration against Ext.R3(e) dated 05.07.2011, which order was in favour of respondents 3 and 4. There is also a further relief in so far as a declaration sought with respect to the committee in

office, between 2011-2014, which is the claim here too. Unless that is established there could definitely not be a consideration of the new committee holding office from 2014-2015. The attempt of the petitioner is to establish status quo by setting aside Ext.P8, which this Court is not inclined to accept in view of the fact that the factual disputes are to be thrashed out in a Civil Court. No invocation of Article 226 of the Constitution of India is warranted in the facts and circumstances stated herein above.

Leaving the parties to raise their respective contentions before the Civil Court, the writ petition is dismissed without any observation on the merits as to which faction is validly in office. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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