

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 30th DAY OF NOVEMBER 2016

THE HON'BLE MR. JUSTICE M.SUNDAR

A. No.6330 of 2016

in

C.S. No.117 of 1954

1. A.Zainullabideen
2. A.Fakir Mohideen ... Applicants/Plaintiffs

-Versus-

1. Fathima Bee (died) by L.R.
defendants - 29 to 32.
(Plaint amended as per order of court on 19.06.1956 made in
A.No.1325 of 1956)

2. Mahaboob bi

3. A.Ahmed Mohideen (died)

4. Kuthubdeen

5. Hawa Bwi (deceased)

6. Abdul Bari

7. Abdul Azeez

8. Fathima Bwi

9. Saliah Bwi

10. Amina Bwi

11. Zohra Bwi

12. Abdulla Saheb

13. K.A.Abdul Azeez

14. Zulaika Bwi

15. Nizamuddin

17. Shabddin
18. Khader
19. Farook
20. Mohamoodbi
21. Zubaidabi
22. Krushed
23. Mahamoodabi
24. Rabiabi
25. Khader Bi
26. Mahaboob bi
27. Abdul Hamid
28. Ahamed Bi
29. Mahamed Hussain
30. Abdul Khader
31. Shaik Dawood
32. Roshan Bi
33. Abdul Ghani
34. Abdul Rahaman
35. Gasi Bi

36. Hassana Bi

37. Roshan Bi

(Defendants 33 to 37 brought on record as legal representatives of the deceased 5th defendant as per order of court dated 06.01.1961, in Appln.No.1133 of 1960. Delay in carrying out of the amendment is condoned as per order of Court dated 24.01.1962 made in Appln.No.145 of 1962)

38. Fathima Bi

39. Rahamathullah

40. Habibullah

- 41. Khalifullah (Minor)
- 42. Mohamed Ali (Minor)
- 43. Zuleka Bi
- 44. Nizamuddin

(Defendants 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26 & 27 declared majors as per order of court of 11.04.1962 in Appln.No.146 of 1962.

Defendant 3 died and his legal representatives namely 38. Fathima Bi, 39. Rahamuthullah, 40. Habibullah, 41.Khalifullah (minor) 42. Mohamed Ali (Minor) 43.Zuleka Bi and 44. Nizamuddin brought on record and his legal representatives as per order of court of 19.04.1962 made in Appln.No.1761 of 1961. Nizamuddin, the 15th defendant is appointed the guardian of the minor defendants Khalifullah and Mohamed Ali as per order of Court dated 11/4/62 made in A.No.148 of 1962 Minor 22 defendant Krushed is represented by Farook the 19th defendant. Minor 28 defendant Ahmedbi is represented by Abdul Bari the 6th defendant. Minor 16th defendant Khader Jan is represented by Mr.S.Naseer Ahmed as per the order of court of 19.04.1962 made in Appln.No.147 of 1962).

A.No.6330 of 2016:-

Mr.F.A.Gafoor
Son of late Fakkir Mohideen
No.20, Muthu Naicken Street,
Chennai -600 001. ... Applicant/Not a party to C.S.

सत्यमेव जयते
-Vs.-

1.A.J.Dawood,Not a party to C.S.
52/36, Thiruvalluvar Street,
Saidapet, Chennai-15.

2.Mr.Syed Mohamed
S/o.late Fakkir Mohideen
No.17, Jeeva Street
Pozhichalur Pammal, Chennai-600 074.

3.Mr.Mohamed Haneefa
S/o.late Fakkir Mohideen
New No.25, Old No.10, Periyathambi Street,
1st Floor, Royapuram, Chennai-600 013.

4.Mrs.Sharfunnissa,
D/o.late Fakkir Mohideen
New No.84, Old No.83,
Shaik Maistry Street,
Royapuram, Chennai- 600 013

5.Mr.K.Nazeer Basha
S/o.late A.Kuthubudeen,
No.9, Thiripura Sundari Street,
Flat No.5, Balaji Nagar Extension,
Anagaputhur, Chennai

6.Mrs.Noorjahan,
D/o.late A.Kuthubudeen,
No.9, Thiripura Sundari Street,
Flat No.5, Balaji Nagar Extension,
Anagaputhur, Chennai

7.Mrs.Jameela Bi
D/o.late A.Kuthubudeen
No.9, Thiripura Sundari Street,
Flat No.5, Balaji Nagar Extension,
Anagaputhur, Chennai

...Respondents

Application praying that this Hon'ble Court be pleased to renew the term of trusteeship for the endowment of the year 1911 made by the late Pailwan Sahib from 23.11.2016.

This Application coming on this day before this court for hearing, the Court made the following Order:

1.The main suit is one under Section 92 of the Code of Civil Procedure 1908. It is a scheme suit pertaining to a public WAKF namely Pailwan Sahib Charities (herein after referred to as said WAKF' for the sake of brevity). In the main suit, wide a judgment dated 1.10.1963, a scheme was framed. The scheme dated 1.10.1963 is now opertaining for the said WAKF. Clause 3 of the scheme framed by this Court would be relevant for disposing off the instant application. Clause 3 reads as follows:

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that the parties herein shall be at liberty to apply well in advance of the

period of expiry of three years; for filling up the vacancies which will arise and in the event of any trustee resigning or dying, and that the WAKF Board also shall be at liberty to apply to this Court in this behalf;"

2.The instant application has been filed on 24.10.2016 by one F.A.Gafoor with a prayer to renew the term of trusteeship for the said WAKF for a further period of three years from 24.11.2016. It is seen from the earlier order of this Court dated 26.11.2013, made in Application No.5718 of 2013 in the instant suit, that the present term of Trusteeship expires on 23.11.2016. As stated supra, the instant application has been filed on 24.03.2016.

3.Therefore, the instant application is in accordance with and in compliance with Clause 3 of the above said scheme framed by this Court which is operating for the said WAKF.

4.The learned counsel for respondents in the instant application has filed separate counter affidavits. Learned counsel Mr.N.A.Kader Mohideen, present on behalf of the respondents points out that his clients have filed separate consent affidavit.

5.Therefore the instant application with prayer to renew the term of trusteeship of Mr.F.A.Gafoor, for the said WAKF for a further period of three years from 24.11.2016 is allowed.

6.The prayer is accepted to and application is allowed.

Sd./-M.S.J
30.11.2016

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 14/02/2020

COURT OFFICER(O.S.)

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