IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE T.R.RAVI

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

WP(C).No.27657 OF 2020(F)

PETITIONER:

ABDULLA MEKKARUMBAN
AGED 64 YEARS
S/O. HASSAN, MEKKARUMBAN HOUSE, KOORIYAD,
INDIANOOR P.O, PIN-676 503,
KOTTAKKAL VIA THIROOR TALUK, MALAPPURAM(DT)

BY ADV. SRI.K.MUHAMMED SALAHUDHEEN

RESPONDENTS:

1 **THE KERALA STATE WAKF BOARD**
REP. BY ITS CHIEF EXECUTIVE OFFICER,
V.I.P. ROAD, KALOOR,
ERNAKULAM, KOCHI-682 017

2 **THE CHIEF EXECUTIVE OFFICER,**
THE KERALA STATE WAKF BOARD, V.I.P. ROAD, KALOOR,
ERNAKULAM KOCHI-682 017

3 **THE DIVISIONAL OFFICER,**
THE KERALA STATE WAKF BOARD, DIVISIONAL OFFICE,
KSEB BUILDING, KOZHIKODE ROAD,
MANJERI-676 121

4 **THE DISTRICT COLLECTOR,**
CIVIL STATION, MALAPPURAM DIST., PIN-676 505

5 **THE TAHASILDAR**
TIROOR, MALAPPURAM DISTRICT, PIN-676 101

6 **THE EXECUTIVE ENGINEER,**
PWD (ROADS AND BRIDGES), MANJERI P.O, MANJERI,
MALAPPURAM DIST., PIN-676 121

7 THE PONMALA GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, CHAPPANANGADI P.O,
MALAPPURAM DIST., PIN-676 503

8 THE SECRETARY,
PONMALA GRAMA PANCHAYATH, CHAPPANANGADI P.O,
MALAPPURAM DIST., PIN-676 503.

9 THE PRESIDENT,
KOORIYAD MUNEERUL ISLAM SANGAM
KOORIYAD INDIANOOR P.O, KOTTAKKAL VIA,
MALAPPURAM(DT.), PIN-676 503

10 THE SECRETARY,
KOORIYAD MUNEERUL ISLAM SANGAM, KOORIYAD
INDIANOOR P.O, KOTTAKKAL VIA, MALAPPURAM
(DT),PIN-676 503

R1 TO R3 BY SRI T.K.SAIDALIKUTTY, SC, WAQF BOARD
R4 TO R6 BY SENIOR GOVERNMENT PLEADER SRI.T.K.SHAJAHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.VINOD CHANDRAN & T.R. RAVI,JJ.

W.P.(C)No.27657 of 2020

Dated this the 11th day of December, 2020

JUDGMENT

T.R.RAVI, J.

The writ petition has been filed praying for the issuance of directions to survey and demarcate the properties of the Kooriyad Juma Masjid and to direct the Chief Executive Officer to initiate action under Section 54 of the Waqf Act to remove the alleged encroachments in the properties of the Kooriyad Juma Masjid.

2. Heard Sri Mohammad Salahudheen on behalf of the petitioner, Sri T.K.Saidalikutty on behalf of respondents 1 to 3 and the learned Senior Government Pleader for respondents 4 to 6.

3. According to the writ petitioner, he along with his mother, father and brother had jointly executed Ext.P1 waqf deed in favour of the Kooriyad Juma Masjid which was being managed by the Kooriyad Muneerul Islam Sangham. The waqf

was created in 1981. According to the petitioner, the present office bearers of the Sangham are not taking good care of the waqf property and the property has been encroached upon by the 7th respondent Panchayat and the 6th respondent PWD. The petitioners state that despite complaints being made to the 3rd respondent, no action is forthcoming to remove the encroachments. By Ext.P9, the Chief Executive Officer, who had looked into the matter, has closed the files saying that no further action can be taken without conducting a survey of the waqf property and ascertaining the encroachment.

4. The manner in which a survey has to be undertaken is clearly spelt out in Chapter 2 of the Waqf Act. The remedy of the petitioner can only be to initiate steps in accordance with the statutory provisions. Even without approaching the authorities under the Act for initiating a survey, the petitioner is not entitled to rush to this Court with a petition under Article 226 of the Constitution. We hence dismiss this writ petition, without prejudice to the right of the petitioner to approach the appropriate authorities under the Waqf Act for conducting a

survey of the waqf properties. If the survey reveals any illegal encroachments, the petitioner may approach Chief Executive Officer, for appropriate reliefs.

Parties will bear their respective costs.

Sd/-
K. VINOD CHANDRAN
JUDGE

Sd/-
T.R. RAVI
JUDGE

dsn

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**A TRUE COPY OF THE WAKF DEED AS DOCUMENT NO.836/1 OF 1981 OF SRO, MALAPPURAM DATED 20.04.1981.**
EXHIBIT P2	**A TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 26.07.2014.**
EXHIBIT P3	**A TRUE COPY OF THE REGISTERED NOTICE SENT BY THE 3RD RESPONDENT TO THE 9TH AND 10TH RESPONDENTS DATED 06.02.2017.**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION FILED BEFORE THE R5 DATED 18.07.2017 FILED BY SECRETARY, MUNEERUL ISLAM SANGHAM.**
EXHIBIT P4 A	**TRUE CHALLAN REMITTANCE OF NECESSARY FEES DATED 18.07.2017.**
EXHIBIT P5	**A TRUE COPY OF THE COMMUNICATION ISSUED BY R5 TO THE 10TH RESPONDENT DATED 20.12.2017.**
EXHIBIT P6	**A TRUE COPY OF THE REPORT OF THE WAKF INSPECTOR DATED 14.02.2015.**
EXHIBIT P7	**A TRUE COPY OF THE REPORT OF THE DIVISIONAL OFFICER, MANJERI SUBMITTED BEFORE THE 1ST RESPONDENT WAKF BOARD DATED 19.09.2018.**
EXHIBIT P8	**A TRUE COPY OF THE CONSENT GIVEN BY THE SECRETARY MUNEERUL ISLAM SANGAM DATED 21.06.2014 TO THE SECRETARY, PONMALA GRAMA PANCHAYATH.**
EXHIBIT P9	**A TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 06.01.2020 IN PROCEEDINGS NO. E.C. NO. 85/2019 (NO.A10 2032/19.)**