



W.M.P.No.20438 of 2022
in W.P.No.25077 of 2015

N.ANAND VENKATESH,J.,

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This miscellaneous petition has been filed seeking for granting leave to the petitioner to recall the order dated 11.09.2015 made in W.P.No.25077 of 2015.

2.The case of the petitioner is that the 1st respondent/writ petitioner in W.P.No.25077 of 2015 without disclosing the custom and usage in the succession to the office of the Muthawalli and without impleading the petitioner as a respondent in the writ petition, managed to get a direction from this Court, whereby, this Court directed the Wakf Board to take a decision on the conduct of election, within a period of three months. Pursuant to the same, the Wakf Board started taking steps to conduct election through proceeding dated 17.07.2018 and this became a subject matter of challenge in W.P.No.23671 of 2018.

3.The writ petition was entertained by this Court on 26.09.2018 and this Court passed an interim order to the effect that the election that is scheduled to be conducted on 03.10.2018, must be kept in abeyance.

4.The above writ petition came up for hearing on 01.08.2022 before this Court and this Court passed the following order:



Prima facie, it appears that the impugned order dated 17.07.2018 has been passed pursuant to the order dated 11.09.2015 in W.P.No.25077 of 2015 by the first respondent directing the second respondent to conduct elections which is contrary to the proforma report dated 28.09.1955.

2. The order of this Court in W.P.No.25077 of 2015 dated 11.09.2015 cannot be diluted unless the same stands set-aside in an appellate order or recalled by filing suitable applications before this Court.

3. Considering the above, I am adjourning this case by 16.08.2022.

5.Pursuant to the above order, the petitioner has filed the present petition seeking for leave to recall the order dated 11.09.2015 made in W.P.No.25077 of 2015 and the petitioner has filed yet another petition in W.M.P.No.20441 of 2022 to recall the order passed in the writ petition.

6.A *prima facie* case has been made out and this Court is inclined to grant leave to the petitioner to move the petition to recall the order dated 11.09.2015 made in W.P.No.25077 of 2015.

7.It is brought to the notice of this Court that in spite of the interim orders passed by this Court in W.P.No.23671 of 2018, the Wakf Board proceeded to appoint an interim Committee for a period of one year from



25.08.2022 to 24.08.2023 and by virtue of the same, it indirectly against the right of the petitioner to hold the position of Muthawalli as per the custom and usage in the succession to the office. To impress upon this point, the learned counsel for the petitioner also brought to the notice of this Court the judgment of the Hon'ble Supreme Court in ***Aliyathamuda Beethathebiyyappura Pookoya and another vs. Pattakal Cheriyaakoya and Others*** reported in ***2019 16 SCC 1***, wherein, such hereditary succession of the office of Muthawalli was upheld by the Apex Court. In view of the same, there shall be a direction to the Wakf Board viz., the 2nd respondent in this petition to keep the proceedings dated 25.08.2022 in abeyance, until further orders are passed.

8.This miscellaneous petition is disposed of accordingly.

30.08.2022

ssr

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ssr

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