

Sali Samuel Vs. Manorama

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Court : Kerala

Decided On : Sep-30-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Sali Samuel

Respondent : Manorama

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE HONOURABLE MR. JUSTICE B.KEMAL PASHA MONDAY,THE30H DAY OF SEPTEMBER20138TH ASWINA, 1935 WP(C).No. 13072 of 2013 (H)

----- PETITIONER(S): -----

A.MURALIDHARAN, 42 YEARS, S/O. LATE N.BALAKRISHNAN MENON, HEREDITARY TRUSTEE SREE THEKKENIYEDATH VISHNU TEMPLE PUDUPARIYARAM RESIDING AT ALLATH HOUSE PUDUPARIYARAM, PALAKKAD. BY ADV. SRI.U.BALAGANGADHARAN RESPONDENT(S):

----- 1. THE COMMISSIONER, MALABAR DEVASWOM BOARD, KOZHIKODE-673 001.

2. THE ASSISTANT COMISSIONER (ADMN), MALABAR DEVASWOM BOARD, CIVIL LINES, PALAKKAD- 678 001.

3. THE STATE OF KERALA, REPRESENTED BY SECRETARY, DEVASWOM DEPARTMENT, THIRUVANANTHAPURAM 695001. R1, R2 BY ADV. SRI.V.KRISHNA MENON, SC, MALABAR DEVASWOM BOARD R3 BY GOVERNMENT PLEADER SRI.A.RANJITH THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/09/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: tss WP(C).No. 13072 of 2013 (H)

----- APPENDIX PETITIONER(S)' EXHIBITS -----
P1:- A TRUE COPY OF THE RECEIPT NO.003004 DATED 22/9/2012 ISSUED BY 2D RESPONDENT TO THE PETITIONER. P2:- A TRUE COPY OF THE RECEIPT NO.003048 DATED 20/5/2013 ISSUED BY 2D RESPONDENT TO THE PETITIONER. P3:- A TRUE COPY OF THE

JUDGMENT

IN OP NO. 7610/1990 E DATED 12/6/1997 OF THIS HON'BLE COURT. P4:- A TRUE COPY OF NOTICE ISSUED BY THE NON-HEREDITARY TRUSTEE BOARD DATED NIL WITH POSTAL ENCRYPTION. P5:- A TRUE COPY OF THE REPORT NO.L.DIS. 28E/08 DTD. 28.10.2009 ISSUED BY THE INSPECTOR, MALABAR DEVASWOM BOARD AS PRODUCED BY THE RESPONDENT IN COUNTER AFFIDAVIT DTD. 5.7.2013. P6:- A TRUE COPY OF THE REPLY ALLEGED TO HAVE SENT BY THE PETITIONER TO THE ASST. COMMISSIONER DTD. 20.1.2010 AS PRODUCED BY THE RESPONDENT IN THE COUNTER AFFIDAVIT DTD. 5.7.2013. P7:- A TRUE COPY OF THE

ORDER

A1/4172/2008 MDB DTD. 12.3.2013 ISSUED BY THE 2D RESPONDENT AS PRODUCED BY THE RESPONDENT IN THE COUNTER AFFIDAVIT DTD. 5.7.2013. P8:- A TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY A.C./MENON ON 20/4/1993 IN FAVOUR OF THE PETITIONER. P9:- A TRUE COPY OF THE LETTER OF CONSENT DTD. 1.8.2013 EXECUTED BY THE LRS OF LATE A.C.MENON. P10:- A TRUE COPY OF THE NOTICE NIL DTD. RECEIVED BY THE PETITIONER FROM THE RESPONDENT. RESPONDENT(S)' EXHIBITS ----- R1(a):- COPY OF THE REPORT OF THE INSPECTOR. R1(b):- COPY OF THE NOTICE DTD. 11.12.2009 TO THE PETITIONER. R1(c):- COPY OF THE REPLY DTD.

20.1.2010 OF THE PETITIONER. R1(d):- COPY OF THE DECISION DTD.
26.3.2010. R1(e):- COPY OF THE

ORDER

DTD. 12.3.2013. TRUE COPY P.A. TO JUDGE tss T.R. RAMACHANDRAN NAIR
& B. KEMAL PASHA, JJ.

----- W.P.(C) No.13072
OF2013----- Dated this the 30th day of
September, 2013

JUDGMENT

Ramachandran Nair, J.

Petitioner's case is that he is the hereditary trustee of Sree Thekkiniyedath Vishnu Temple, Palakkad. The apparent grievance in the writ petition is against the appointment of non-hereditary Trustees for the above mentioned temple. The petitioner has sought for a direction to the second respondent to permit him to continue as Hereditary Trustee of the Temple.

2. In the counter affidavit filed by respondents 1 and 2, it is stated that the claim of the petitioner that he is the sole Hereditary Trustee is not correct and so W.P.(C) No.13072 OF2013-:2:- far the the petitioner had not sworn in as Hereditary Trustee and the other formalities for taking charge as Hereditary Trustee of the Temple have also not been complied with.

3. Heard the learned counsel for the petitioner Sri. Balagangadharan and the learned Standing Counsel Sri.V.Krishna Menon. Sri.Balagangadharan submitted that consequent to the death of the sole Hereditary Trustee namely Allath Chandrasekara Menon, the other legal heirs have granted consent to the petitioner for functioning as Hereditary Trustee and he has produced Ext.P9 to that effect.

4. The learned Standing Counsel Sri.Krishna Menon submitted that as per the formalities provided under the Act and Rules the petitioner cannot style himself as Hereditary Trustee and assume charge and conduct all affairs of the Temple.

Herein there is W.P.(C) No.13072 OF2013-:3:- already a Committee appointed by him which is not permissible.

5. It is clear from the affidavit filed by the respondents that steps for appointment of non- hereditary trustees have been taken and the non- hereditary trustees were appointed.

6. Clearly it will be a moot question whether the petitioner is a Hereditary Trustee approved by the Board. Since it is submitted by the learned Standing Counsel that so far the petitioner has not approached the Board, as sought for by the learned counsel for the petitioner, we permit the petitioner to approach the Malabar Devaswom Board with all necessary documents including consent letters from the legal heirs. All the required documents will be furnished by the petitioner within a period of two weeks from today. Thereafter, the Board will take a further decision within a period of W.P.(C) No.13072 OF2013-:4:- one month. Till such proceedings are finalized, the interim order passed by this Court will continue. Sd/- T.R. RAMACHANDRAN NAIR, JUDGE Sd/- B. KEMAL PASHA, JUDGE ul/- [True copy] P.S. to Judge

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