

Rajalekshmi Vs. M.Narayanankutty

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Court : Kerala

Decided On : Oct-17-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Rajalekshmi

Respondent : M.Narayanankutty

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN THURSDAY, THE 17TH DAY OF OCTOBER 2013 25TH ASWINA, 1935 OP(C).NO. 3175 OF 2013(O) ----- I.A. NO.5194/2012 AND I.A. NO.5195/2012 AND I.A. NO.362/2013 IN O.S. NO.1131/1986 OF PRINCIPAL MUNSIF'S COURT, ERNAKULAM. PETITIONER: ----- RAJALEKSHMI, AGED 63 YEARS, W/O.M.RAVIKUMAR, RETIRED TEACHER, AMIBILI NIVAS, EROOR DESOM, NADAMA VILLAGE, KANAYANNUR TALUK. BY ADV. SRI.C.K.GOVINDAN. RESPONDENTS: ----- 1. M.NARAYANANKUTTY, S/O.GOVINDA MENON, AGED 67 YEARS, SOWPARNIKA, MARANA GATE, EROOR DESOM, NADAMA VILLAGE, KANAYANNUR TALUK, PIN-682 306.

2. M. SEKHARA MENON, S/O.GOVINDA MENON, MULLAPPILLIL, EROOR, THRIPUNITHURA, PIN-682 306. (DIED) 3. JAYA M.P., D/O.K.K. PARAMESWARAN, AGED 42 YEARS, KOPPARAMBIL HOUSE, UDAYA ROAD,

THYKOODAM-682 317.

4. SUBHADRA, W/O.K.K.PARAMESWARAN, AGED70YEARS, KOPPARAMBIL HOUSE, UDAYA ROAD, THYKOODAM-682 317.

5. NANDAKUMAR M, S/O.KRISHNANKUTTY MENON, AGED46YEARS, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306.

6. M.LAKSHMIKUTTY AMMA, D/O.MEENAKSHI AMMA, AGED80YEARS, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306.

7. MADHU. M., D/O.LAKSHMIKUTTY AMMA, MULLAPPILLILL HOUSE, EROOR THRIPIUNITHURA-682 306.

8. GEETHA VINOD, D/O.LAKSHMIKUTTY AMMA, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306. OP(C).NO. 3175 OF2013(O) 9. M.ACHUTHA MENON, S/O.GOVINDA MENON, AGED84YEARS, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306.

10. M.RAMACHANDRAN, S/O.PANKAJAKSHA MENON, AGED43YEARS, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306.

11. DEVAKI .M., D/O.MEENAKSHI AMMA, AGED65YEARS, MULLAPPILLILL HOUSE, EROOR, THRIPIUNITHURA-682 306.

12. RADHA, D/O.MEENAKSHI AMMA, AGED75YEARS, MULLAPPILLIL HOUSE, EROOR, THRIPIUNITHURA-682 306.

13. MEENA KUMARI, D/O.RADHA, AGED44YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306.

14. M.PADMANABHA MENON, S/O.RAMAN MENON, AGED80YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306.

15. M. NARAYANANKUTTY, D/O.MADHAVI AMMA, AGED75YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306 16. ANIL KUMAR. M., S/O.DEVAKI, AGED37YEARS, MULLAPPILLILL HOUSE,

PISHARIKOVIL ROAD, EROOR-682 306.

17. ARUN KUMAR. M., S/O.DEVAKI, AGED39YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306.

18. GEETHA K.D., D/O.RAMAN MENON, AGED44YEARS, MULLAPPILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306.

19. JAYAKUMARI. K., D/O.RAMAN MENON, AGED46YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR-682 306.

20. INDIRA, D/O.RAMAN MENON, AGED50YEARS, MULLAPPILLILL HOUSE, PISHARIKOVIL ROAD, EROOR- 682 306.

21. SUDHAKUMARI .M., D/O.LEELA VENUGOPAL, AGED46YEARS, MULLAPPILLILL HOUSE, EROOR, THRIIPPUNITHURA-682 306. OP(C).NO. 3175 OF2013(O) 22. RAJESH KUMAR. M.P., S/O.PADMANABHA MENON, AGED39YEARS, MULLAPPILL HOUSE, EROOR, THRIIPPUNITHURA-682 306.

23. SHAJU, S/O.PARAMESWARA MENON, AGED48YEARS, MULLAPPILLILL HOUSE, NEAR TRACCO CABLE, IRUMPANAM-682 309.

24. AJAYA KUMAR, S/O.RAMAN MENON, AGED51YEARS, MULLAPPILLILL HOUSE, EROOR, THRIIPUNITHURA-682 306.

25. NANDAKUMAR, S/O.GOINDANKUTTY MENON, AGED46YEARS, MULLAPPILLILL HOUSE, CHAITHANYA NAGAR, EROOR WEST, 682 306.

26. DR.M.A. SANKAR, S/O.AMMUKKUTTY AMMA, AGED72YEARS, CHAITHRAM, CANAL ROAD, THRIIPUNITHURA-682 301. (DIED), 27. K. RAJEEV, S/O.PARAMESWARA MENON, AGED46YEARS, MULLAPPILLILL HOUSE, NEAR TRACCO CABLE , IRUMPANAM-682 309.

28. LATHA. M., D/O.LEELA VENUGOPAL, AGED44YEARS, LEELA VIHAR, EROOR, THRIIPUNITHURA-682 306.

29. M. RAVIKUMAR, ADVOCATE, AGED 75 YEARS, S/O. AMMUKUTTY AMMA, MULLAPPILLIL HOUSE, EROOR SOUTH P.O., THRIPIUNITHURA-682 306.

30. M. MURALEEDHARAN, S/O. KESAVA MENON, AGED 63 YEARS, MULLAPPILLIL HOUSE, EROOR, THRIPIUNITHURA-682 306. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 17/10/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. OP(C).NO. 3175 OF 2013(O) APPENDIX PETITIONER'S EXHIBITS:- EXT.P1 COPY OF THE RELEVANT PORTION OF THE BYE LAWS. EXT.P2 COPY OF THE LIST OF TRUST MEMBERS. EXT.P3 COPY OF THE NOTICE RECEIVED BY THE PETITIONER IN WP(C).NO. 7783/2010. EXT.P4 COPY OF THE

JUDGMENT

DATED 17/08/2012 IN WP(C).NO. 7783/2010 OF THE HON'BLE HIGH COURT OF KERALA. EXT.P5 COPY OF THE I.A. NO.5194/2012 IN I.A. NO.3289/2008 IN O.S. NO.1131/1986 OF THE PRINCIPAL MUNSIF'S COURT, ERNAKULAM FILED BY THE PETITIONER. EXT.P6 COPY OF THE COUNTER AFFIDAVIT IN I.A. NO.5194/2012 IN I.A. NO.3289/2008 IN O.S. NO.1131/1986 OF THE PRINCIPAL MUNSIF'S COURT, ERNAKULAM. EXT.P7 COPY OF THE I.A. NO.5195/2012 IN I.A. NO.3289/2008 IN O.S. NO.1131/1986 OF THE PRINCIPAL MUNSIF COURT, ERNAKULAM FILED BY THE PETITIONER. EXT.P8 COPY OF THE COUNTER AFFIDAVIT IN I.A. NO.5195/2012 IN I.A. NO.3289/2008 IN O.S. NO.1131/1986 OF THE PRINCIPAL MUNSIF'S COURT, ERNAKULAM. EXT.P9 COPY OF THE COMMON

ORDER

DATED 03/06/2013 IN I.A. NO.5194/2012 AND I.A. NO.5195/2012 AND I.A. NO.362/2013 IN O.S. NO.1131/1986 OF THE PRINCIPAL MUNSIF'S COURT, ERNAKULAM. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. P.N.RAVINDRAN, J.

----- O.P.(C).No.3175 of 2013 ----- Dated
this the 17th day of October, 2013

JUDGMENT

Ext.P9 order passed by the Court of the Principal Munsiff of Ernakulam dismissing I.A.No.5194 of 2012 and 5195 of 2012 in O.S.No.1131 of 1986 is under challenge in this original petition. The petitioner is the applicant in the aforesaid applications. She had in I.A.No.5194 of 2012 prayed for setting aside the election held on 26.10.2009 to the administrative committee of Mullappillill Bhagavathy Seva Trust. In I.A.No.5195 of 2012 she had sought to get herself impleaded as the additional respondent in I.A.No.3289 of 2008 in O.S.No.1131 of 1986, wherein, the court below had passed an order appointing an Advocate Commissioner to convene a general body meeting to hold elections to the administrative committee of the aforesaid trust.

2. In the affidavit filed in support of I.A.No.5194 of 2012 and 5195 of 2012, the petitioner had contended that her husband is the Managing Trustee of the trust and that she and other persons similarly placed who are spouses of members of the trust are entitled to be members of the trust. The petitioners in I.A.No.3289 of 2008 opposed the application. They contended that only children born to male and female members of Mullappillill Taravadu are O.P.(C).No.3175 of 2013 ..2.. entitled to be members of the trust. The trial court accepted the said contention and dismissed I.A.Nos.1594 and 1595 of 2012. Hence this original petition.

3. I heard Sri.C.K.Govindan, learned counsel appearing for the petitioner. I have also gone through the pleadings and the materials on record. Clause 4(i) of Ext.P1 scheme which deals with membership of the trust reads as follows:

4. d?Xmx_f\ %"7BZ:_ DcMbC_Jay x_Xmd?_W1115f\ 360_ ^" HOV M^7^G^xJ_W lyOaK Na\oM_U_W DyU^G_f\ dXq`laxaWz^xa" %UVAm H^OV XNaF^O^"7B{aN^OaU U_U^YLtJ_W)I^O_GaUDa")I^5aKDaN^O I_zayA^xa" (d?Xmx_f\ 7aCgM^5q^A{^O_x_AaKDa" %Ux_W18UOTm D_5EUV d?Xmxm %"7B{^O_x_OmAaKDaN^5aKa. The court below held, interpreting the aforesaid stipulation that the petitioner who is the spouse of a male member of Mullappillill Taravadu is not entitled to be a member of the trust. It was held that only children born to male and female members of Mullappillill Taravadu are entitled to be members of the trust. On the terms of clause 4(i) of Ext.P1 scheme, I am of the considered opinion that no exception can be taken to the finding entered by the

court below. The law relating to succession has no role to play in interpreting clause 4(i) of Ext.P1 scheme. It does not deal with succession, but with the right to membership. Therefore irrespective of the personal law of the petitioner who is admittedly not a member of Mullappillil O.P.(C).No.3175 of 2013 ..3.. Taravadu, but only the wife of a male member of the said Taravadu, she cannot in view of the stipulations in clause 4(i) claim a right to be admitted as member of the trust. The applications were in my opinion rightly rejected by the court below. The original petition fails and is accordingly dismissed. Sd/- P.N.RAVINDRAN, JUDGE. rkc.

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