

Asharaf vs Ayatt Ammed Haji

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Court : Kerala

Decided On : Apr-30-2024

Judge : Honourable Mr. Justice Devan Ramachandran, Honourable Mr. Justice Easwaran S.

Appeal No. : OP (WAKF)/13/2024

Appellant : Asharaf

Respondent : Ayatt Ammed Haji

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN & THE HONOURABLE MR. JUSTICE EASWARAN S. TUESDAY, THE 30TH DAY OF APRIL 2024 / 10TH VAISAKHA, 1946 AGAINST THE ORDER/JUDGMENT DATED 06.03.2024 IN OA NO.80 OF 2022 OF WAQF TRIBUNAL, KOZHIKODE PETITIONER/2nd RESPONDENT: ASHARAF, AGED 50 YEARS S/O. ORATTU IBRAHIM, ORATTU HOUSE, ORKATTERI AMSOM AND DESOM, P.O. ORAKKATTERI, VADAKARA TALUK, KOZHIKODE DISTRICT, PIN - 673501 BY ADV K.M.FIROZ RESPONDENTS/APPLICANT AND RESPONDENTS 1 AND 3:

1 AYATT AMMED HAJI, AGED 83 YEARS S/O. CHEKEN ALIAS MOIDEEN, KOCHERI HOUSE, MUTAWALLI, ORKATTERI JUMA-ATH PALLI, ORKATTERI AMSOM DEOSM, P.O. ORKATTERI, VADAKARA TALUK, KOZHIKODE DISTRICT (STATUS OF MUTAWALLI DISPUTED BY THE PETITIONER), PIN - 673501 2 KERALA STATE WAQF BOARD REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, VIP ROAD, KALOOR, KOCHI, PIN - 682017 3 K.M.KUNHIMOOSA HAJI, AGED 73 YEARS S/O. AMMAD HAJI, ORKATTERI P.O., VADAKARA TALUK, KOZHIKODE DISTRICT, PRESIDENT ORKATTERI MAHAL MUSLIM JAMAYATH COMMITTEE., PIN - 673501 SRI.JAMSHEED HAFIZ, SC, WAQF BOARD THIS OP (WAKF) HAVING COME UP FOR ADMISSION ON

30.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: DEVAN RAMACHANDRAN & EASWARAN S., JJ.
----- OP (WAKF) No.13 of 2024
----- Dated this the 30th day of April, 2024

JUDGMENT

Devan Ramachandran, J.

The petitioner impugns Ext.P6 order of the Wakf Tribunal, Kozhikkode, under the apprehension that the witness summoned by him will be obligated to file affidavit in lieu of chief examination, at the time of his evidence.

2. We, however, do not see from Ext.P6 that the learned

Tribunal has insisted the witness summoned to file an affidavit; though it is affirmatively stated by Sri.Firoz K.M. - learned counsel for the petitioner, that this is the modus normally adopted by the said Forum.

3. Sri.Jamsheed Hafiz, learned Standing Counsel for the Wakf Board, however, submitted that the learned Tribunal acts as per law and that it is up to the witness to depose in the manner that he or she choses.

4. We find ourselves in approval of the afore stand of

Sri.Jamsheed Hafiz because, when a witness is summoned by the learned Tribunal, it is up to the said person to depose in the manner as is statutorily required or permitted. This may be on the basis of an affidavit in lieu of chief examination, if he volunteers to do so; or oral examination, if that is the course preferred. With the aforesaid clarification, this original petition is closed. DEVAN RAMACHANDRAN EASWARAN S. ns APPENDIX OF OP (WAKF) 13/2024 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE OA NO 80 OF 2022 ON THE FILES OF WAQF TRIBUNAL, KOZHIKODE DATED 7.12.2022 Exhibit P2 A TRUE COPY OF THE IMPEADING APPLICATION, IA NO.498 OF 2023 FOR IMPEADING THE 3RD RESPONDENT IN OA NO. 80 OF 2022 DATED 17.6.2023 Exhibit P3 A TRUE COPY OF THE CHIEF AFFIDAVIT DATED 25.10.2023 ALONG WITH DOCUMENT LIST DATED 27.10.2023 FILED BY THE PETITIONER HEREIN Exhibit P3(a) A TRUE COPY OF THE COMMISSION REPORT DATED 22.2.2024 IN OA NO. 80 OF 2022 FILED BY THE ADVOCATE COMMISSIONER Exhibit P4 A TRUE COPY OF THE WITNESS LIST DATED 25.10.2023 IN OA NO. 80 OF 2022 FILED BY THE PETITIONER HEREIN Exhibit P5 A TRUE COPY OF THE IA NO. 881 OF 2023 IN OA NO. 80 OF 2022 DATED 25.10.2023 FILED BY THE PETITIONER Exhibit P6 A TRUE COPY OF THE PROCEEDINGS FROM 24.1.2023 TO 22.03.2024 IN OA NO. 80 OF 2022 OF WAQF TRIBUNAL, KOZHIKODE

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