

Thahira Beevi vs Simla Beevi

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Court : Kerala

Decided On : Mar-04-2022

Judge : Honourable Mr.Justice S.V.Bhatti,Honourable Mr.Justice Basant Balaji

Appeal No. : CRP(WAKF)/3/2022

Appellant : Thahira Beevi

Respondent : Simla Beevi

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI FRIDAY, THE 4TH DAY OF MARCH 2022/13TH PHALGUNA, 1943 C.R.P.(WAKF) NO.3 OF 2022 (IN O.S.No.282/2019, WAKF TRIBUNAL, KOZHIKODE) REVISION PETITIONER/PLAINTIFFS 1 & 2: 1 THAHIRA BEEVI, AGED 54 YEARS, W/O.LATE ATTAKOYA THANGAL, KEEKOTT HOUSE, P.O.ORUMANAYUR, CHAVAKAD, THRISSUR-680 512. 2 MAHIRA BEEVI, AGED 26 YEARS, D/O.LATE ATTAKOYA THANGAL, KEEKOTT HOUSE, P.O.ORUMANAYUR, CHAVAKAD, THRISSUR-680 512. P.A.ABDUL JABBAR MUHAMMED SHAFFI EHLAS HALEEMA C.K. SHAHIM BIN AZIZ RESPONDENTS/DEFENDANTS 1 TO 6: 1 SIMLA

BEEVI, AGED 47 YEARS, THRISSUR DISTRICT, PIN - 680 512 2
SOUDA BEEVI, AGED 45 YEARS, 3 SYED ALI THANGAL, AGED 41
YEARS, S/O.SYED HUSSAIN KOYA THANGAL, KEEKOTT HOUSE,
P.O.ORUMANAYUR, CHAVAKAD, 4 SYED SALIH THANGAL, AGED 38
YEARS, S/O.SYED HUSSAIN KOYA THANGAL, 5 SHEHANA BEEVI,
AGED 32 YEARS, 6 KERALA STATE WAKF BOARD, REP. BY ITS
CHIEF EXECUTIVE OFFICER, KERALA STATE WAQF BOARD, V.I.P.
ROAD, ERNAKULAM, PIN - 680 017. BABU KARUKAPADATH
SHRI.JAMSHEED HAFIZ, SC, WAQF BOARD M.A.VAHEEDA BABU
P.U.VINOD KUMAR ARYA RAGHUNATH VAISAKHI V. MUHAMMED
MUSTHAQUE MOHAMED HISHAM P KARUKAPADATH WAZIM BABU
P.LAKSHMI AISWARYA ANN JACOB THIS CRP (WAKF ACT) HAVING
COME UP FOR ADMISSION ON 04.03.2022, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

ORDER

(Dated: 4th March, 2022) Basant Balaji, J The petitioners are the plaintiffs in O.S.No.282 of 2019 on the file of the Wakf Tribunal, Kozhikode.

2. The petitioners filed the suit for declaring that the Wakf Deed No.654 of 2001 of Chavakkadu S.R.O is null and void and consequential reliefs.

3. After filing of the written statement, PWs 1

to 3 were examined on the side of the plaintiff and the suit was posted for evidence of the defendant. The Tribunal, relying on the decision of the Apex Court in Punjab Wakf Board Vs. Sham Singh Harike and Another [(2019) 4 SCC 698], the plaint was returned as the suit is not maintainable.

4. The contention of the petitioner is that, the

return of the plaint is without understanding the scope of Section 83 of the Act and without any reason. He relied on a decision of the Apex Court in Rashid Wali Beg V. Farid Pindari [2021(6) KLT 482 (SC)] to contend that the Wakf Tribunal alone has jurisdiction to determine the issue raised in O.S.No.282 of 2019. He prayed

that the order passed by the Wakf Tribunal is bad in law and the same has to be set aside and direction to be issued to the Tribunal to accept the plaint. On going through the impugned order, it is seen that the Tribunal has only returned the plaint. In view of the settled position of law regarding the maintainability of petition under Section 83 of the Wakf Act before the Wakf Tribunal, we are of the opinion that the petitioner can re-present the plaint before the Wakf Tribunal after curing the defects, if any, within a period of three weeks from today. C.R.P.(Wakf) is allowed as above. S.V.BHATTI, JUDGE BASANT BALAJI, JUDGE ss

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