

T.K.Ramachandran Vs. The District Educational officer

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Court : Kerala

Decided On : Jun-15-2015

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : T.K.Ramachandran

Respondent : The District Educational officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR MONDAY, THE 15TH DAY OF JUNE 2015 25TH JYAISHTA, 1937 WP(C).No.16471 of 2015 (H)

----- PETITIONER'S: ----- 1.
T.K.RAMACHANDRAN, AGED 48 YEARS, S/O. BALAN, SECRETARY, SANTI NIKETHAN SECONDARY SCHOOL SOCIETY, TIRUVALLUR, REGN.NO.82/1962, A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT 1860 THAZHEKELOTH, POST THIRUVALLUR, VADAKARA TALUK, THIRUVALLUR AMSOM, DESOM, KOZHIKODE-673541.

2. MANIKOTH RAGHAVAN, AGED 68 YEARS, S/O. CHATHU, VICE PRESIDENT, SANTI NIKETHAN SECONDARY SCHOOL SOCIETY, TIRUVALLUR, REGN.NO.82/1962, A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT 1860 MANIKOTH HOUSE, PARAVANTHALA, NUT STREET POST, VADAKARA AMSOM DESOM, VADAKARA-673104.

3. N.GIRISH,AGED38YEARS,S/O.KRISHNAN, GOVERNING COUNCIL MEMBER,SANTI NIKETHAN SECONDARY SCHOOL SOCIETY,TIRUVALLUR,REN.NO.82/1962, A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT 1860 NOLATHA HOUSE, POST THIRUALLUR, VADAKARA TALUK,THIRUVALLUR AMSOM DESOM, KOZHIKODE-673541.

4. NARAYANAN P.M,AGED59YEARS,S/O.POKKAN, MUCHILOTTHAZHEKUNNI,PARAVANTHALA, P.O.NUTSTREET,VADAKARA AMSOM DESOM, KOZHIKODE-673104.

5. PRAJITH KUMAR.C,AGED42YEARS,S/O.POKKU, THODUVAYAIL,POST THIRUVALLUR,VADAKARA TALUK, THIRUVALLUR AMSOM,DESOM,KOZHIKODE-673541. BY ADVS.SRI.SHYAM PADMAN SRI.A.RANJITH NARAYANAN SRI.S.K.SAJU SRI.JOHN THITHEEMOS pto ...2... WP(C).No.16471 of 2015 (H) ----- RESPONDENT'S: ----- 1. THE DISTRICT EDUCATIONAL OFFICER, VADAKARA P.O.,VADAKARA-673101.

2. C.H.KUNHIKRISHNA KURUP,S/O.KANARA KURUP, MANAGER,SANTI NIKETHAN SECONDARY SCHOOL SOCIETY, TIRUVALLUR,REGN.NO.82/1962,A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT1860 RESIDING AT 'SIVOHAM HOUSE',MALAPARAMBA HOUSING COLONY, CHEVAYUR P.O,CHEVAYUR AMSOM,DESOM, KOZHIKODE TALUK-673017.

3. MOIDU HAJI CHUNDAYIL,AGED56YEARS, S/O.MOOSSA HAJI,'CHUNDAYIL',KOTTAPPALLY P.O, VILLYAPALLY,KOTTAPPALLY AMSOM DESOM, VADAKARA TALUK,KOZHIKODE-673542.

4. SANTI NIKETHAN SECONDARY SCHOOL SOCIETY, TIRUVALLUR,REGN.NO.82/1962, A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION ACT 1860 REP. BY ITS MANAGER C.H.KUNHIKRISHNA KURUP.S/O.KANARA KURUP, RESIDING AT 'SIVOHAM HOUSE',MALAPARAMBA HOUSING COLONY, CHEVAYUR P.O,CHEVAYUR

AMSOM DESOM,KOZHIKODE TALUK-673017.

5. THE DIRECTOR OF PUBLIC INSTRUCTIONS, STATE OF KERALA,THIRUVANANTHAPURAM-1.

6. THE STATE OF KERALA,REP.BY THE SECRETARY, EDUCATION DEPARTMENT,SECRETARIAT, THIRUVANANTHAPURAM-1. R1,R5 & R6 BY GOVT. PLEADER SMT.LOWSY.A R2 -R4 BY ADVS.SRI.BIJU ABRAHAM SRI.B.G.BHASKAR THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON1506-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: pk W.P(C) NO.16471/2015 APPENDIX PETITIONER'S EXHIBITS: EXT.P1 SERIES:TRUE COPY OF THE NOTICES (4 NOS) DATED172.2014 ISSUED BY THE2D RESPONDENT TO THE PETITIONER NOS. 1 TO4 EXT.P2 SERIES:TRUE COPY OF RECEIPTS DATED262.2014 (3 NOS) ISSUED BY THE2D RESPONDENT. EXT.P3: TRUE COPY OF THE PERSONAL NOTE DATED2010.2014 ISSUED BY THE2D RESPONDENT TO THE PETITIONER NO.1. EXT.P4: TRUE COPY OF THE REGISTERED LETTER DATED411.2014 ISSUED BY THE PETITIONER NO.1 TO THE2D RESPONDENT WITH THE POSTAL ACKNOWLEDGMENT. EXT.P5 SEREIES:TRUE COPY OF THE REPLY DATED113.2015 ALONG WITH THE COPY OF DOCUMENTS ISSUED BY THE P10 ATTACHED TO THE OFFICE OF THE1T RESPONDENT. EXT.P6: TRUE COPY OF THE PLAINT DATED14.2015 IN O.S NO.12/2015. EXT.P7: TRUE COPY OF THE WRITTEN STATEMENT FILED BY D6 (R3) DATED145.2015 IN O.S NO.12/2015. EXT.P8: TRUE COPY OF I.A. NO.231/2015 IN O.S. NO.12/2015 DATED14.2015. EXT.P9: TRUE COPY OF THE COUNTER AFFIDAVIT DATED54.2015 FILED BY D6 (R3) TO I.A. NO.231/2115 IN O.S. NO.12/2015. EXT.P10: TRUE COPY OF

ORDER

NO.KDS B3-1295/15 DATED243.2015 OF THE1T RESPONDENT APPROVING RESPONDENT NO.3 AS THE MANAGER. EXT.P11: TRUE COPY OF THE AFFIDAVIT AND PETITION DATED94.2015 IN I.A NO.243/2015 IN O.S. NO.12/2015. EXT.P12: TRUE COPY OF THE COUNTER AFFIDAVIT DATED104.2015 FILED BY D1 (R2) IN I.A NO.243/2015 IN O.S NO.12/2015.

EXT.P13: TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 9.4.2015 IN I.A NO.244/2015 IN O.S NO.12/2015. EXT.P14: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 10.4.2015 FILED BY D6 (R3) IN I.A. NO.244/2015 IN O.S. NO.12/2015. EXT.P15: TRUE COPY OF THE PETITION AND

ORDER

I.A NO.231/2015. EXT.P16: TRUE COPY OF THE PETITION DATED 14.5.2015 FILED BY D6 (R3) IN O.S NO.12/2015. Pto W.P(C) NO.16471/2015 EXT.P17: TRUE COPY OF THE APPEAL DATED 29.4.2015 FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT. EXT.P18: TRUE COPY OF THE STAY APPLICATION DATED 29.4.2015 FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT. EXT.P19: TRUE COPY OF THE REPLY DATED 12.5.2015 WITH THE COPY OF THE NOTE FILES ISSUED BY THE P10 ATTACHED TO THE OFFICE OF THE 1ST RESPONDENT. RESPONDENT'S EXHIBITS: EXT.R3(a): A TRUE COPY OF THE GOVERNMENT

ORDER

DATED 29.4.2015. //TRUE COPY// P.S.TO JUDGE pk A.K.JAYASANKARAN NAMBIAR, J.

..... W.P.(C).No.16471 of 2015
..... Dated this the 15th day of June, 2015

JUDGMENT

The petitioners in the writ petition are persons who claim to be members of a Society, which is the educational agency of the Santhi Nikethan Secondary School. The dispute raised in the writ petition is essentially against Ext.P10 order passed by the 1st respondent approving the appointment of the 3rd respondent as the Manager of the Santhi Nikethan Secondary School. The petitioners would contend that the said appointment of the 3rd respondent as Manager was effected in a meeting that was not properly constituted in accordance with the bye-laws of the Society, and by not issuing the necessary notices to the actual members of the Society including the petitioners. It is pointed out that, in connection with the civil dispute, there is a suit (Ext.P6) filed before the Sub Court, Koyilandy, and it is

during the pendency of the suit that Ext.P10 order has been passed by the 1st respondent approving the appointment of the 3rd respondent as Manager of the School. Against Ext.P10 order of the 1st respondent, the petitioners have preferred Ext.P17 appeal before the 5th respondent and the prayer in the writ petition is essentially for a direction to the 5th respondent to consider and pass orders in the appeal preferred by the petitioners within a specified time frame, and to stay the W.P.(C).No.16471 of 2015 2 operation of Ext.P10 to the extent it enables the 3rd respondent to function as the Manager of the School, in the meanwhile.

2. I have heard the learned counsel for the petitioners, the learned Government Pleader for the official respondents and the learned counsel for the 4th respondent School. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that, the Civil suit with regard to the membership of the Society, and the incidental right to appoint a Manager of the School, is pending consideration before the Sub Court, Koilandy in Ext.P6 suit. Under the circumstances, I do not think it will be appropriate for this Court to enter into any finding with regard to the rights of the petitioners vis-a-vis the 4th respondent Society, including the right to the appointment of a Manager. The adjudication in the civil dispute must necessarily be by the civil court before which is pending. The issue to be considered in the writ petition however, is whether the balance of convenience would lie in favour of the petitioners getting an injunction against the 3rd respondent from functioning as a Manager pending a decision by the 5th respondent, in the appeal preferred by the petitioners against Ext.P10 order of the 1st respondent. On a consideration of the submissions on either W.P.(C).No.16471 of 2015 3 side, I am of the view that the balance of convenience lies in favour of permitting the 3rd respondent to function in accordance with the orders of the civil court in Ext.P15 order, pending consideration of Ext.P17 appeal by the 1st respondent. Accordingly, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P17 appeal within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioners and respondents 2, 3, and 4.

A.K.JAYASANKARAN NAMBIAR JUDGE mns W.P.(C).No.16471 of 2015 4