

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 7TH DAY OF FEBRUARY 2023 / 18TH MAGHA, 1944

WP(C) NO. 3964 OF 2023

PETITIONER:

HAMEEDALI.K.P, AGED 50 YEARS
S/O AMMEDKUTTY, KAIPANKANDIYIL HOUSE,
KIZHAKKOTH, KODUVALLY, PANNUR,
KOZHIKODE DISTRICT, PIN - 673572
BY ADVS.
SRI. JAYESH MOHAN KUMAR, SC, STATE BANK OF TRAVANCORE
K.JAYESH MOHANKUMAR
PUSHPARAJAN KODOTH
VANDANA MENON
VIMAL VIJAY
P.SHAMSUDDEEN

RESPONDENTS:

- 1 CHIEF EXECUTIVE OFFICER
THE KERALA STATE WAKF BOARD,
V.I.P. ROAD, KALOOR, KOCHI, PIN - 682017
- 2 DIVISIONAL OFFICER
KERALA STATE WAKF BOARD,
DIVISIONAL OFFICE, KOZHIKODE, PIN - 673001
- 3 PANNUR KARANDOMTHOOK JUMA-ATH PALLI COMMITTEE
REPRESENTED BY ITS PRESIDENT
R.K.KALANTHANKUTTY HAJI, S/O. USSAIN HAJI, AGED 73,
KIZHKKOTH, KODUVALLY,
PANNUR, KOZHIKODE DISTRICT, PIN - 673572
- 4 K. ALI MASTER
S/O. AHAMMED KUTTY,
KODUVATTA HOUSE, PANNOOR P.O.,
KIZHAKKOTH, KOZHIKODE, PIN - 673572
- 5 K. AHAMMED KUTTY
S/O. MUHAMMED HAJI, KOLLORUTHODIKAYIL,
PANNOOR, KIZHAKKOTH P.O.,
KOZHIKODE, PIN - 673572
- 6 R.K. ABDUL KHADER
S/O. MOHAMMED HAJI, RAYINKANDIYIL HOUSE, PANNOOR P.O.,
KIZHAKKOTH, KOZHIKODE, PIN - 673572
BY SHRI.JAMSHEED HAFIZ, SC, WAQF BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.02.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

“C.R.”

A.K.JAYASANKARAN NAMBIAR & MOHAMMED NIAS C. P., JJ

WP(C)No. 3964 of 2023

Dated this the 7th day of February, 2023

JUDGMENT

Mohammed Nias.C.P. J.

This writ petition is filed by the petitioner claiming to be the present hereditary Muthavalli of the third respondent wakf challenging Ext.P1 order by which the Wakf Board appointed a returning officer to conduct an election to the Juma-ath Committee. The petitioner essentially challenges the election on the ground that his right as Muthavalli is affected and that he was not heard before Ext.P1 order was passed. We are not inclined to interfere with Ext.P1 order for the reasons to follow.

Any dispute, question, or other matters whatsoever and whatever manner which arises relating to a wakf property can be decided by the wakf Tribunal. No doubt, alternate remedy is not an absolute bar for filing of the writ petition, but at the same time, it is well settled that writ jurisdiction is a discretionary jurisdiction, and when there is an efficacious alternate remedy, ordinarily, a party must resort to that remedy first before approaching this Court. Entertaining a writ petition straight away without insisting that a

party should avail alternate remedy is an over-liberal approach that is causing immense difficulties to the high court, adding to the huge arrears. That apart, these are disputed questions of facts to be decided by the bodies created under the Wakf Act and time has come for this Court to stop entertaining writ petitions seeking directions relating to a wakf and to insist that the party should first approach the authorities under the Act. When the legislature has provided for a statutory mechanism, the high court ought, under normal circumstances to refer to such statutory scheme. We do not find any reason at all for entertaining this writ petition, more so when nothing is pleaded or shown as to why the alternate remedy available is not efficacious.

We are not inclined to go into the contentions raised by the writ petitioner on merits. Going by the provisions of the Wakf Act, 1995, the order impugned is appealable before the Wakf Tribunal. Since the petitioner claims the status of Muthavalli, it is for him to establish the same or to challenge Ext.P1 order. The petitioner will also be free to seek impleadment in the proceedings before the Wakf Board as well if so advised. Subject to the above, this writ petition is dismissed.

**sd/- A.K.JAYASANKARAN NAMBIAR,
JUDGE**

**sd/- MOHAMMED NIAS C.P.,
JUDGE**

APPENDIX OF WP(C) 3964/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER DATED 28.12.2022 PASSED BY THE 1ST RESPONDENT
Exhibit P2	TRUE COPY OF THE NOTICE PUBLISHED BY THE RETURNING OFFICER DATED 23.01.2023
Exhibit P3	TRUE COPY OF THE REGISTER OF WAKF
Exhibit P4	TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT