
(2010) 09 KL CK 0249

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25773 of 2010 (V)

Madhavan Nambiar, Trustee

APPELLANT

Vs

The Assistant Commissioner and Others

RESPONDENT

Date of Decision : 03-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0249

Hon'ble Judges : Thottathil B. Radhakrishnan, J;P. Bhavadasan, J

Bench : Division Bench

Advocate : M. Sasindran, for the Appellant; K. Mohanakannan, SC for Malabar Devaswom, for the Respondent

Judgement

1. The petitioner challenges Ext.P9, which is a decision of the Assistant Commissioner under the HR & CE Act. A suit lies against that decision. It is submitted by the learned Counsel for the Malabar Devaswom Board that a proceedings as O.P.1/10 has been filed before the Sub Court, Payyannur by four among the hereditary trustees and that they were not successful in getting any interim order as of now. We are also told by the learned Counsel for the Board that as on 16.8.2010, the date on which the first interim order was issued by this Court, a Chairman was elected following the impugned Ext.P9 order. Though learned Counsel for the petitioner says that his client was not aware of that election, we are not prepared to consider that contention because the petitioner had a right to sue by filing a statutory proceedings as done by the other hereditary trustees, but has not done it. We, therefore, maintain the interim order issued on 16.8.2010 and extended on 28.10.2010 for a period of 10 days from now, enabling the petitioner also to move the Sub Court, Payyannur, provided he has a right to sue and file suit in accordance with law, including as to time limit. It is clarified that the Sub Court, Payyannur would not be guided by the fact that this Court had issued an order of status quo but would decide any application for interim relief untrammelled by any observations contained in this judgment. All issues on merits are left open. The writ petition is ordered

accordingly.