

(2011) 03 KL CK 0053

In the High Court Of Kerala

Case No : WP (C) No. 9412 of 2005 (U)

U. Beena Mohan, "Sarathma", Aswathi Mohan, "Sarathma"
and Anand Mohan, "Sarathma"

APPELLANT

Vs

The District Educational Officer and Others

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0053

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : M.P. Ashok Kumar, for the Appellant; A.K. Madhavan Unni, for the Respondent

Judgement

Antony Dominic, J.—First Petitioner's father-in-law and grant father of Petitioners' 2 and 3 established Vijaya Higher Secondary School, Pulpally and he was the manager of the said school. He expired on 6.12.1995 leaving his wife, first Petitioner's husband and three daughters (who are Respondents 3 to 5) as his legal representatives. On the death of the Manager, on the application of the legal heirs, his wife was appointed as the Manager, who continued in office till 28.11.2004 when she expired.

2. Thereupon the 5th Respondent, a daughter of the deceased made an application for appointment as the Manager relying on a Will stated to have been executed by her mother. Petitioners objected to the claim of the 5th Respondent by filing Exts.P1 and P2. Mean while she also filed a suit as O.S. No. 44/2003 before the Sub Court, Sulthan Bathery for partition of the properties including the school.

3. On the apprehension that without considering her objections, the 5th Respondent is going to be appointed as Manager of the school, she filed this writ petition. At the stage of admission, this Court passed an order on 23.3.2005 to the effect that any decision taken during the pendency of the writ petition will be subject to the result of the writ petition.

4. Subsequently on 9.5.2005 the first Respondent appointed the 5th Respondent as the Manager of the school and the 5th Respondent is continuing in office.

5. Grievance of the first Petitioner is that although being a legal heir of the deceased Manager, she too was interested in the appointment of the Manager of the school, in spite of having filed Exts.P1 and P2 objecting to the appointment of the 5th Respondent, the first Respondent appointed the 5th Respondent ignoring the objections.

6. A copy of the order dated 9.5.2005 was made available by the learned Counsel appearing for the 5th Respondent. This order does not make any reference to Exts.P1 and P2 objections stated to have been filed by the Petitioners. In spite of the above the fact remains that since 9.5.2005 the 5th Respondent is continuing in office and is managing the affairs of the school, Therefore, I do not think that it is necessary to interfere with the appointment of the 5th Respondent at this distance of time. Further, at present O.S. No. 44/2003 filed by the first Petitioner is pending before the Sub Court, Sulthan Bathery. Necessarily depending upon the decree passed in that suit, consequent changes in the office of the Manager also may have to be effected.

7. Therefore I dispose of this writ petition directing that the 5th Respondent will continue in office as Manager of the school but the same will be subject to the outcomes of O.S. No. 44/2003 now pending consideration before the Sub Court, Sulthan Bathery.

With this clarification, the writ petition is disposed of.