

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

In the matter of an application for readers in a
Nature of Writs of Certiorari and Prohibition
under and in terms of Article 140 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka

CA-LTA/06/21

Wakfs Tribunal Case No:
WT/273/2020

1. M.R.M. Malik
The Director
Mosques and Muslim Charitable Trusts of
Wakfs
No. 180, T.B. Jaya Mawatha,
Colombo 10.

Applicant

1. Mohamed Alavi Navaz Caffoor
No-57 Green Path
Colombo-03

2. Abdul Majeed Mohamed Abdul Cader
No-85, Barnes Place,
Colombo-07

3. Mohamed Riyaz Mohamed Hamza
No-11, Ruhunukala Mawatha
Colombo-08

And presently of
Puisne Judge- High Court of Fiji Registrar of
the High Court of Fiji
Fiji

By his Attorney
Mohamed Uvais Mohamed Hamza
No-26/9, Sir Marcus Fernando
Mawatha, Colombo-04

4. Ahmamed Jazeem Mohamed Ariff
No- 171/7A, Baudhaloka Mawatha,
Colombo-04

5. M. Zuhaira Cafoor
10/16A Lake Drive Enclave
Lake Drive, Colombo 08

6. Mohamed Iqbal Faiz Abdul Caffoor
No-31, W.A.D. Ramanayake
Mawatha, Colombo-02

7. Farzad Hussain Caffoor
No-05, Flower Road, Colombo-07

8. Mohamed Azmeth Hussain Caffoor
No 114B, Horton Place,
Colombo-07

9. Mohamed Thalib Hassan Caffoor
No-81 Horton Place,
Colombo 07

10. Mohamed Uvais Mohamed Hamza
No-26/9, Sir Marcus Fernando Mawatha
Colombo-07

11. Sithy Sihara Caffoor
No-114B, Horton Place
Colombo-07

12. Mohamed Hejazi Thahir
No 117, Hampden Lane
Wellawattte
Colombo 06

Persons I charge

N/D/H/ Abdul Ghafoor Trust and Arabic
College Maharagama
No.57, Greenpath, Colombo 07

Respondents

13. Mohamed Hanifa Mohamed Azhar
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

14. Mohamed Saly Mohamed Arshad
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

15. Mohamed Farook Mohamed

Ghafooriya Arabic College
Pamunuwa Road
Maharagama

16 Abdul Cader Rishad Ahmed
11 RO Marikkar Hardware
Kunumull North
Madurangkull

17.. Nahoor Gani Mohamed Hanan
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

Members of the Management Committee
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

Intervenient Petitioners

Vs.

18. Mohamed Mohamed Asharaff
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

19. Mohamed Ibrahim Mohamed Mafaz,
Ghafooriya Arabic College, Pamunuwa Road,
Maharagama

20. Pakeerdeen Sahib

Ghaffooriya Arabic College, Pamunuwa Road,
Maharagama

21. Mohamed Kabir Mohamed Maznavi
Ghaffooriya Arabic College
Pamunuwa Road, Maharagama

22. Abdul Raseedu Muhammadu Manas
Ghaffooriya Arabic College
Pamunuwa Road,
Maharagama

Respondents

AND BETWEEN

In the matter of an application for Lave to Appeal under and in terms of Section 754(2) read with Section 757 of the Civil Procedure Code and section 55A of the Muslim Mosques and Charitable Trusts or Wakfs Act No 51 of 1956 as amended against the Order of the Wakfs Yribunal dated 04.12.2021

1. Mohamed Alavi Navaz Caffoor,
No 57, Green Path, Colombo 03.

2. Abdul Majid Mohamed Abdul Cader,
No 85, Barnes Place, Colombo 07

3. Mohamed Riyaz Mohamed Hamza
No 11, Ruhunukala, Mawatha, Colombo 08.

And presently of-

Pusine Judge - High Court of Fiji,

Registrar of the High Court of Fiji,

Fiji.

By his Attorney-

Mohamed Uvais Mohamed Hamza,
No. 26/9, Sir Marcus Fernando Mawatha,
Colombo 07

4. Ahmed Jazeem Mohamed Arift,
No 17/74, Baudhaloka Mawatha,
Colombo 04

5. Mohamed Iqbal Faiz Abdul Caffoor,
No 31, W.A.D Ramanayake Mawatha,
Colombo 02.

6. Farzard Hussein Caffoor,
No. 5, Flower Road,
Colombo 07.

7. Mohamed Azmeth Hussain Caffoor,
No 114B, Horton Place,
Colombo 07

8. Mohamed Thalib Hassan Caffoor,
No 81, Horton Place
Colombo 07.

9. Mohamed Uvais Mohamed Hamza,
No 26/9, Sir marcus Fernando Mawatha,
Colombo 07

10. Sithy Shihara Caffoor
No 114B, Horton Place,
Colombo 07.

11. Mohamed Hejazi Thahir,
No. 117, Hampden Lane,
Wellawate, Colombo 06

Persons in charge

*N/D/H Abdul Ghaffoor Trust & Arabic College
Maharagama*

No. 57, Greenpath, Colombo 07

Respondent- Petitioners

1. M.R.M Malik
The Director
Mosques and Muslim Charitable Trusts or
Wakfs

1A. Mr Ibrahim Ansar,
The Director,
Mosques and Muslim Charitable trusts or
Wakfs,
No 180, T.B. Jayah Mawatha
Colombo 10

Applicant-Respondents

2. M. Zuhair Caffoor:
10/16A Lake Drive Enclave,
Lake Drive
Colombo 08

Respondent- Respondent

3. Mohamed Hanifa Mohamed Azhar
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

4. Mohemed Saly Mohamed Arshad
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

5. Mohemed Farook Mohamed
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

6. Abdul Cader Rishad Ahmed
11 RO Marikkar Hardware
Kunumull North
Madurangkull

7. Nahoor Gani Mohamed Hanan
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

Members of the Management Committee
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

Intervenient-Petitioners-respondents

v.

8. Mohamed Mohamed Asharaff
Ghafooriya Arabic College
Pamunuwa Road
Maharagama

9. Mohamed Ibrahim Mohamed Mafaz,
Ghaffooriya Arabic College, Pamunuwa Road,
Maharagama

10. Pakeerdeen Sahib
Ghaffooriya Arabic College, Pamunuwa Road,
Maharagama

11. Mohamed Kabir Mohamed Maznavi
Ghaffooriya Arabic College
Pamunuwa Road, Maharagama

12. Abdul Raseedu Muhammadu Manas
Ghaffooriya Arabic College
Pamunuwa Road,
Maharagama

Respondents -Respondents

Before : R. Gurusinghe, J
B. Sasi Mahendran, J.
R.P. Hettiarachchi J.

Counsel: Suren Gnanaraj with Shamalie De Silva and Sandun Batagoda for the
Petitioners
P. Jayasekara, SC for the 1st Respondent
Hejaaz Hizbullah for the 5th to 15th Respondents

Written

Submissions 16.05.2025 (by the Defendant-Petitioner)

On: 23.06.2025 .(by the 1st to 5th Plaintiff Respondents))

Argued On : 18.03.2025 and 01.04.2025

Judgment On: 28.08.2025

JUDGEMENT

B. Sasi Mahendran, J.

The Petitioners, serving as Respondents in Wakfs Tribunal Case No. WT/273/2020 and acting in their capacity as Trustees of the N.D.H. Abdul Gaffoor Trust (hereinafter referred to as "the Trust"), have submitted this application for leave to appeal. Through this application, they seek permission to set aside the order issued by the Wakfs Tribunal dated 04.12.2021, wherein the following reliefs were sought in the original petition.

- a. Issue Notice of this application to the Respondents;
- b. Call for and examine the entire case record in WT 273/2020 in the Wakfs Tribunal;
- c. Call for and examine the recording of the proceedings dated 04.12.2021 in WT 273/2020 in Wakfs Tribunal (if any);
- d. Grant Leave to Appeal against the Interim Order made by the Wakfs Tribunal dated 04.12.2021 and marked P9;
- e. Set aside and/or vacate the Interim Order made by the Wakfs Tribunal dated 04.12.2021 and marked P9;
- f. issue an interim order staying the operation of the Order made by the Wakfs Tribunal dated 04.12.2021 and marked P9 until the final hearing and determination of this case;
- g. issue an interim order staying the proceedings of the Wakfs Tribunal in case No. WT 273/2020 until the final hearing and determination of this case;
- h. Dismiss case No. WT/273/2020 which is pending before the Wakfs Tribunal instituted against the Respondent-Petitioners;
- i. grant a Stay Order restraining the Intervient Petitioner Respondents and the 8th -12th Respondent-Respondents including their agents, servants and authorised representatives from doing any act pursuant to and in furtherance of the Order dated 04.12.2021 P9) until the final hearing and determination of this case;
- j. grant a stay Order restraining or preventing the Intervient Petitioner Respondents and the 8th -12th Respondent-Respondents including their agents, servants and authorised representatives from entering in to and/or taking

possession of and/or taking any decision in relation to and/or in entering into any transactions whatsoever for and/ or on behalf of the Ghaffooriya Arabic College and hostel and surrounding environs until the final hearing and determination of this application;

- k. grant a Stay Order restraining and preventing the Intervenant Petitioner Respondents and the 8th - 12th Respondent-Respondents from functioning as or holding themselves out as the Management Committee of the Ghaffooriya Arabic College and hostel until the final hearing and determination of this application;
- l. grant an interim order that the management of the Ghaffooriya Arabic College be carried out by the Trustees of the N.D.H. Abdul Ghaffoor Trust or their authorised representatives until the final hearing and determination of this application
- m. costs
- n. for such other and further relief as may seem fit

The Intervenant-Petitioner-Respondents, being former students of the Ghaffooriya Arabic College, sought permission from the Applicant-Respondent to appoint a management committee for the said college. In response, the Applicant submitted an application to the Wakf Tribunal under Case No. WT/273/2020.

Subsequently, on 22.01.2021, the Tribunal issued notice to the Petitioner, indicating that the “Director” had filed an application requesting the Tribunal to consider the proposal submitted by the All-Boys Association. As stated in the petition, when the matter was taken up on 13.02.2021, counsel for the Petitioner raised a preliminary objection regarding the jurisdiction of the Tribunal.

However, due to disruptions caused by the COVID-19 pandemic, the Tribunal did not convene for a period of time. According to the Petitioner, on 04.12.2021, the Intervenant-Petitioner-Respondents submitted an application seeking an interim order. The Tribunal subsequently issued the said interim order.

This application has been filed challenging that interim order. Meanwhile, the Petitioners have also initiated a writ application WRT-293/21 seeking the following reliefs.

- I. For notice of this Application to be issued on the Respondents;

- II. For an interim order staying the proceedings in the Wakf Tribunal in Case No. WT/273/2020 until the hearing and final determination of this application;
- III. For a Declaration that the N.D.H. Abdul Ghaffoor Trust is not a Wakf and/or not a Muslim Charitable Trust as contemplated by the Muslim Mosques and Charitable Trusts or Wakfs Act No 51 of 1956 (as amended), and/or not subject to the jurisdiction of the 1st Respondent and or the 2nd to 4th " Respondents;
- IV. For a mandate in the nature of a Writ of Certiorari quashing the purported "reference" dated 19/08/2020 of the 15th Respondent marked 'X21';
- V. For a mandate in the nature of a Writ of Certiorari quashing the purported "Notice" dated 22/01/2021 and marked 'X20' issued by and or upon the direction of the 2d to 4th Respondents on the Petitioners and/or directing pursuant to the same;
- VI. For a mandate in the nature of a Writ of Prohibition, restraining/prohibiting the 1st Respondent and/or the 2nd to 4th Respondents from taking any steps in pursuance of the purported reference dated 19/08/2020 and marked 'X21' tendered by the 5th to 15th Respondents;
- VII. For a mandate in the nature of a Writ of Prohibition prohibiting and or restraining the 1st Respondent and or the 2nd to 4th Respondents from taking cognizance of and or referring to the Wakf Board and or to the Wakf Tribunal and or the 2nd to 4th Respondents, any application whatsoever made by any persons whomsoever in respect of and or relating to the Ghaffooriya Arabic College and or the N.D.H. Abdul Ghaffoor Trust.

VIII. For a mandate in the nature of a Writ of Mandamus directing the 1st Respondent to reject and or dismiss any application received by any persons whatsoever in respect of and or relating to the Ghaffooriya Arabic College and or the N.D.H. Abdul Ghaffoor Trust and or the properties of the said N.D.H. Abdul Ghaffoor Trust;

IX. For costs;

X. For such other and further relief as to Your Lordships' Court may seem

In the aforementioned writ application, the Court has determined that the proceedings in WT 273/20 are void ab initio. Furthermore, it has been declared that Deed No. 2125 does not establish a Muslim Charitable Trust.

Accordingly, both judicial determinations apply to the present matter.

In light of the above, this application is hereby allowed.

JUDGE OF THE COURT OF APPEAL

R. Gurusinghe, J

JUDGE OF THE COURT OF APPEAL

I Agree,

R.P. Hettiarachchi J.

JUDGE OF THE COURT OF APPEAL

I Agree,