

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

FAO.No. 102 of 2015 ()

AGAINST THE ORDER IN I.A.NO.429/2015 IN OS 2/2015 of DISTRICT
COURT, THIRUVANANTHAPURAM

APPELLANTS/DEFENDANTS/RESPONDENTS

1. SREE NARAYANA CHARITABLE TRUST
GURUDEVAPURAM, CHENKOTTUKONAM
THIRUVANANTHAPURAM
(REP. BY K.JYOTHIS, SECRETARY IN CHARGE)
2. SUJITH KUMAR R.
S/O RAMACHANDRAN
MADHOM, 8, ULLOOR GARDENS
ULLOOR, THIRUVANANTHAPURAM - 695 011
3. K.K.KUNJUMAKAN
CRA - 106, CHAYAKKUDI ROAD
PETTAH, TVPM 695 024
4. M.S.RAVI
S/O LATE K.SUKUMARAN
PLAMOODU HOUSE
KAUMUDI BUILDINGS
PETTAH, TVPM 695 024
5. ER.K.JYOTHIS
MELAPURAM, MRA 170
OTTUKAL STREET, KAITHAMUKKU
TVPM 695 024
6. ER.G.SAMPATH
RAGAM, MANNANTHALA
TVPM 695 015
7. R.JAYAPRAKASH
ADVOCATE, ANANDA BHAVAN
VEERALAM ROAD, ATTINGAL 695 101

8. LT.COL.S.R.BABU (RTD)
KRISHNANJALI
VARAMBASSERI ROAD
KUNNUKUZHI
TVPM 695 035
9. D.ARAVIND
S/O LATE DIVAKARAN
BHADRADEEPAM
KALLAMPALLI, TVPM 695 011
10. B.GOPI
POURNAMI, THUNDATHIL
TVPM 695 581
11. P.P.CHELLAPPAN
SAUMYA, OOLANKUZHI
ANAYARA, TVPM 695 029
12. DR.A.G.RAJENDRAN
DARSANA, POOJAPURA
TVPM 695 012
13. AMRITHA LAL ROY
S/O SUKUMARAN, ADVOCATE
BABA NIVAS, PEROORKONAM LANE
SREEKARYAM, TVPM
14. ER.SUNEETH NATARAJAN
S/O NATARAJAN
GURU VIHAR, CHILAMBIL LANE
GANDHIPURAM, SREEKARYAM, TVPM 695 017

BY ADV. SRI.M.BALAGOVINDAN

RESPONDENTS/PLAINTIFFS/PETITIONERS

1. M.RADHAKRISHNAN
S/O T.K.MADHAVA PANICKER
AGED 69 YEARS
RETIRED CHIEF ENGINEER, ALUMMOOTIL
POTHUJANAM ROAD
KUMARAPURAM, THIRUVANANTHAPURAM
AND CONVENOR OF THE AD-HOC COMMITTEE IN
CHARGE OF THE AFFAIRS OF THE 1ST PLAINTIFF TRUST

2. K.PREMAN, S/O LATE KESAVA PANICKER, AGED 77 YEARS
KAILAS, HOUSE NO.32
PANACHAMOODU LANE
PATTOM, THIRUVANANTHAPURAM
AND JOINT CONVENOR OF THE AD-HOC COMMITTEE
IN CHARGE OF THE AFFAIRS OF THE FIRST PLAINTIFF
TRUST

3. RETURNING OFFICER
SRI.N.KARUNAKARAN
ADVOCATE, VANCHIYOOR
THIRUVANANTHAPURAM - 695 035
(SOUGHT TO BE IMPEADED)

* RETURNING OFFICER, SRI.N.KARUNAKARAN,ADVOCATE, VANCHIYOOR
THIRUVANANTHAPURAM - 695 035 IS IMPEADED AS R3 VIDE ORDER
DATED 25/6/2015 IN I.A.NO.532/15.

R1 & 2 BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

R1 & 2 BY ADV. SRI.S.SUJIN

BY ADV. PIRAPPANCODE V.S. SUDHEER (OBSERVER)

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

F.A.O.No.102 OF 2015

Dated this the 25th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the appellants who are respondents in I.A.No.429/2015 in O.S.No.2/2015, aggrieved by the order dated 21.02.2015, whereby the learned Judge directed to defer the holding of the meeting as per notice dated 13.02.2015. The meeting was proposed to be convened on 22.02.2015.

2. The appellants mainly contend for the position that the Executive Committee can continue in office in spite of resignation of some of the members.

3. We heard the learned counsel for the appellants Sri.M.Balagovindan and the learned Senior Counsel for the first respondent Sri.N.N.Sugunapalan.

4. As of now, the Adhoc Committee is in charge. In view of the order proposed to be passed by us, we need not go into the

controversies between the various parties. The appellants had impleaded the third respondent, the Returning Officer, in the light of Annexure C produced along with I.A.No.530/2015.

5. The Trust going by the averments in the appeal is having an Executive Committee of 13 members consisting of the President, Vice President, Secretary, Joint Secretary, Treasurer and eight members elected by the Board of Trustees, which is in tune with Clause 10 of the Trust Deed.

6. After the admission of the appeal by this Court, in I.A.No.530/2015, an order was passed for the smooth conduct of the election on 17.06.2015 and we had appointed Sri.Pirappancode V.S.Sudhir, a learned counsel of this Court as the Observer also. The Observer has filed a report showing the deliberations in the meeting including the polling, completion of counting process and the votes polled by each of the candidates. The learned counsel for the appellants submits that the appellants' plea is that the election to the office of the Vice President, Secretary and Joint Secretary alone can be declared now in view of the fact that disputes are pending before the

District Court. Apart from O.S.No.2/2015, which is pending before the Additional District Court, Thiruvananthapuram, O.S.No.9/2015 has been filed by the appellants. It is also stated that various interim orders have been sought.

7. As far as the appeal herein is concerned, as of now, since the date on which the meeting was earlier convened is over, there may not be any scope for deciding all the contentious issues herein. Now that two suits are pending before the Additional District Court, it is only appropriate that the matters are heard together and the interlocutory applications pending, if any, will also be given precedence. It is also submitted that publication under Order 1 Rule 8 C.P.C. has also been undertaken.

8. As rightly pointed out by the learned Senior Counsel Sri.N.N.Sugunapalan, as regards partial declaration of election now sought, if any of the candidates wants to be heard and since all of them are not parties in this appeal, it may not be proper for this Court to direct declaration of election. We find much force in the above submission. Therefore, we leave open all those issues to be decided by

the District Court, where two suits are pending. We permit the appellants or respondents herein or any of the parties who are parties before the District Court to file appropriate application seeking for interim orders in the matter and we also direct that appropriate orders will be passed in such an application in respect of declaration of election within one month from the date of filing of the application.

The appeal is accordingly disposed of. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.