

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

OP(C).No. 559 of 2015 (O)

PETITIONER(S):

K.K.NANU
SECRETARY, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670561.

BY ADVS.SRI.GEORGE POONTHOTTAM
SRI.T.R.RAVI
SRI.ARUN CHANDRAN

RESPONDENT(S):

1. PROF.E.KUNHIRAMAN
FORMER DIRECTOR, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670 561.
2. M.V.KANNAN,
FORMER DIRECTOR, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670 561.
3. M.V.GIRIJA,
W/O.PROF.E.KUNHIRAMAN, MELETH VEEDU, BHARNASSERY
CANTONMENT PO, KANNUR DISTRICT.
4. C.V.JANAKY,
W/O.LATE M.V.RAGHAVAN, DIRECTOR
PAPPINISSERI VISHA CHIKILSA SOCIETY, REG.NO.S47/73
PAPPINISSERI PO, KANNUR-670 561.

5. M.V.RAJESH,
DIRECTOR, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670 561.
6. PATTIYAM RAJAN,
S/O.KUNJAMBU, PATTIYAM, KOTTIYOOR
THALASSERY, KANNUR DISTRICT..
7. M.V.NIKESH KUMAR,
S/O.LATE M.V.RAGHAVAN, MELETH VEEDU, BHARNASSERY
CANTONMENT PO, KANNUR DISTRICT.
8. C.A.AJEER,
DIRECTOR, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670 561.
9. DR.P.P.BHASKARAN,
PRINCIPAL, PARASSINIKKADAVU AYURVEDA MEDICAL COLLEGE
PARASSINIKKADAVU-670 563.
10. M.V.PRAKASAN,
DIRECTOR, PAPPINISSERI VISHA CHIKILSA SOCIETY
REG.NO.S47/73, PAPPINISSERI PO, KANNUR-670 561.
11. M.V.GIRISHKUMAR
S/O.M.V.RAGHAVAN, PRESIDENT
PAPPINISSERI VISHA CHIKILSA SOCIETY, REG.NO.S47/73
PAPPINISSERI PO, KANNUR-670 561.
12. PAPPINISSERI PANCHAYAT CHIKILSA SOCIETY,
S.NO.47/73, PAPPINISSERI, PAPPINISSERI PO
KANNUR-670 561 REP. BY ITS PRESIDENT M.V.GIRISH KUMAR.

R1 -R 5 BY ADV. SRI.P.SATHISAN
R8-R10 BY ADV. SRI.P.B.KRISHNAN
R8-R10 BY ADV. SRI.SABU GEORGE
R8-R10 BY ADV. SRI.P.K.BALAKRISHNAN
R11&2 BY ADV. SRI.T.KRISHNAN UNNI (SR.)
R11&12 BY ADV. SRI.VINOD RAVINDRANATH
R11&12 BY ADV. SRI.SAJU.S.A
R11&12 BY ADV. SMT.MEENA.A.
R11&12 BY ADV. SRI.K.C.KIRAN
R11&12 BY ADV. SRI.M.DEVESH
R6 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R6 BY ADV. SRI.P.GOPINATH

R6 BY ADV. SRI.P.BENNY THOMAS
R6 BY ADV. SRI.K.JOHN MATHAI
R6 BY ADV. SRI.JOSON MANAVALAN
R6 BY ADV. SRI.KURRYAN THOMAS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 31.3.2015, , THE COURT ON
8.4.2015 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 ; TRUE COPY OF THE PLAINT IN OS.NO.169/2014 FILED BEFORE THE MUNSIFF COURT, THALIPARAMBA.

EXT P2 : TRUE COPY OF THE PLAINT IN OS.NO.116/2014 FILED BEFORE THE MUNSIFF COURT KANNUR.

EXT P3 : TRUE COPY OF THE PLAINT IN OS.NO.395/2014 AND THE INTERIM APPLICATION ALONG WITH THE PLAINT AS IA.NO.1272/2014.

EXT P4 : TRUE COPY OF THE NOTICE DATED 04-04-2014 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

EXT P5 : TRUE COPY OF THE INTERIM ORDER IN IA.NO.1272/2014 IN OS.NO.395/2014 PASSED BY THE MUNSIFF COURT, TALIPARAMBA APPOINTING THE ADVOCATE COMMISSIONER.

EXT P6 : TRUE COPY OF THE PLAINT IN OS.NO.500/2014 FILED BEFORE THE VACATION COURT (DISTRICT COURT), THALASSERY.

EXT P7: TRUE COPY OF THE ORDER IN IA.NO.781/2014 DATED 09-5-2014 PASSED BY THE VACATION COURT.

EXT P8 : TRUE COPY OF THE OBJECTION FILED IN IA.NO.1272/2014 IN OS.NO.169/2014

EXT P9 : TRUE COPY OF THE OS NO.525/2014 FILED BEFORE THE MUNSIFF COURT, THALIPARAMBA.

EXT P10 : TRUE COPY OF THE OS NO.535/2014 FILED BEFORE THE MUNSIFF COURT, THALIPARAMBA.

EXT P11 : TRUE COPY OF THE ORDER IN IA.1272 OF 2014 IN OS.NO.395 OF 2014 DATED 30-08-2014 PASSED BY THE MUNSIFF COURT THALIPARAMBA.

EXT P12 : TRUE COPY OF THE IA.NO.1919/2014 FILED BEFORE THE DISTRICT COURT, THALASSERY.

EXT P13 : TRUE COPY OF THE NOTICE NO.DB/01/2015 DATED 16-02-2015.

EXT6.P14 : TRUE COPY OF THE APPLICATION FILED IN O.S.NO.394/2014 BEFORE THE MUNSIFF COURT, THALIPARAMBA ON 13.3.2015.

RESPONDENT(S)' EXHIBITS

EXT.R5A : TRUE COPY OF THE JUDGMENT IN W.PC NO.33920/2014 OF HIGH COURT OF KERALA DT. 6.1.2015.

EXT.R5B: TRUE COPY OF THE ORDER IN CRLMC 7111/2014 O HIGH COURT OF KERALA DATED 26.2.2015.

OP(C).No. 559 of 2015 (O)

EXT.R5C : TRUE COPY OF COMMUNICATION DT. 7.3.2015 TO REGISTRAR OF SOCIETY.

EXT.R5D : TRUE COPY OF THE POLICE COMPLAINT DT. NIL.

EXT.R5E : TRUE COPY OF THE ORDER IN RP NO.1052/2014 IN WPC 32425/2014 DT. 20.12.2014.

EXT.R7A : TRUE COPY OF LIST OF MEMBERS IN THE GENERAL BODY.

(TRUE COPY)

P.B.SURESH KUMAR, J.

O.P.(C) No.559 of 2015

Dated 8th April, 2015.

J U D G M E N T

This original petition is filed invoking the jurisdiction of this Court under Article 227 of the Constitution of India seeking among others, a declaration that the meeting of the Pappinissery Panchayat Vishachikilsa Society convened as per Ext.P13 notice is not in accordance with law. The Pappinissery Panchayath Vishachikilsa Society (hereinafter referred to as 'the Society' for short) is a Society registered under the Societies Registration Act, 1860. The petitioner claims to be the Secretary of the Society. The petitioner also seeks a direction to appoint an Advocate Commissioner to conduct the election to the Board of Trustees of the Society in accordance with its bye-laws. The petitioner further seeks a direction for the disposal of the various suits pending in relation to the administration of the Society.

2. The Society is running a snake park, an Ayurveda Hospital, an Ayurveda medicine manufacturing unit and an

Ayurveda Medical College. The establishments and the institutions of the Society are functioning in the properties assigned to the Society by the Government and the Pappinissery Grama Panchayat. It is alleged in the original petition that the Society was established by late M.V.Raghavan and when he became indisposed, several suits have been filed by persons claiming interests in the affairs of the Society. O.S.No.169 of 2014 before the Munsiff Court, Taliparamba is a suit filed by the first respondent seeking a decree and injunction preventing the eleventh respondent from functioning as the President of the Society. O.S.No.116 of 2014 before the Munsiff Court, Kannur is a suit filed by the eleventh respondent seeking a decree and injunction restraining the first respondent and others from trespassing into the office of the Society and for other reliefs. O.S.No.395 of 2014 before the Munsiff Court, Taliparamba is a suit filed by respondents 3 to 6 for a mandatory injunction directing the Society to convene the General Body of the members of the Society for electing its office bearers. In O.S.No.395 of 2014, an Advocate

Commissioner was appointed to convene the Annual General Body meeting of the Society. O.S.No.500 of 2014 before the Munsiff Court, Taliparamba is a suit filed by the tenth respondent seeking a decree restraining the Advocate commissioner appointed in O.S.No.395 of 2014 from conducting the election to the Managing Committee of the Society. O.S.No.514 of 2014 before the Munsiff Court, Taliparamba is filed by the sixth respondent claiming himself as the President of the Society, seeking a decree restraining Dr.P.P.Bhaskaran, the Principal of the Ayurveda Medical College from entering the compound of the college. O.S.No.525 of 2014 before the Munsiff Court, Taliparamba is filed by the sixth respondent claiming to be the President of the Society and seeking a decree restraining the eleventh respondent from interfering with the affairs of the Society. O.S.No.535 of 2014 before the Munsiff Court, Taliparamba is filed by the eleventh respondent and the petitioner together seeking a decree of injunction restraining the sixth respondent from interfering with the affairs of the Society. All the said suits are pending. In addition, an

application seeking leave of the court to institute a suit in respect of the Society alleging that it is a public trust is also pending before the District court, Thalassery.

3. The pleadings in the aforesaid cases as available on record indicate that all the said suits are in relation to the administration of the Society. In view of the pendency of the aforesaid suits, I do not think it appropriate to decide the validity of the meeting held pursuant to Ext.P13 notice in this Original Petition, especially when the validity of the meeting held pursuant to Ext.P13 notice is not a matter to be decided solely on the basis of the affidavits of the parties. According to me, the validity of the meeting held pursuant to Ext.P13 is also a matter to be decided in the suits. Likewise, this Court is not expected to order an election to the Managing Committee of the Society invoking its jurisdiction under Article 227 of the Constitution of India when suits seeking identical reliefs are pending before the civil courts.

4. Coming to the direction sought in the Original Petition for disposal of the suits referred to above, as noticed earlier, all

the suits are in relation to the administration of the Society. In the light of the disputes pending adjudication among the persons interested in the affairs of the Society, nobody would dispute the fact that the administration of the Society and the various institutions under it are in doldrums. It is trite that the superintendence of this Court under Article 227 of the Constitution of India is both administrative and judicial. The object is to maintain the smooth and orderly functioning of the machinery of justice in such a way as it does not bring any disrepute to the institution. In the nature of the disputes pending adjudication in the suits referred to above, I am of the view that the delay in disposal of the said suits would adversely affect the interests of the various institutions under the Society. In the said circumstances, I deem it appropriate to direct the courts below to dispose of the suits within a time frame. It is seen that all the suits except O.S.No.116 of 2014 are pending before the Munsiff Court, Thalipparamba. Going by the relief sought in O.S.No.116 of 2014, the same is also a suit to be tried along with the remaining suits. The disposal of the suits

pending before the Munsiff Court, Thalipparamba without transferring O.S.No.116 of 2014 pending before Munsiff Court, Kannur would create prejudice to the parties. I am conscious of the fact that Section 24 of the Code of Civil Procedure which confers power on the High Court and the District Court to transfer a suit pending before one court to another has not been invoked by the parties to the suits for transfer of O.S.No.116 of 2014 before the Munsiff Court, Kannur to the Munsiff Court, Thalipparamba to be tried and disposed of along with the remaining suits. Nevertheless, since the power under Section 24 of the Code of Civil Procedure could be invoked even suo moto, I deem it appropriate to issue orders for transfer of O.S.No.116 of 2014 referred to above to the Munsiff Court, Thalipparamba to be tried along with the remaining suits.

In the result, the Original Petition is disposed of with the following directions:

i) O.S.No.116 of 2014 pending before the Munsiff Court, Kannur is transferred to the Munsiff Court, Thalipparamba to be tried and disposed of along with

O.S.Nos.169, 395, 500, 514, 525 and 535 of 2014 pending before the Munsiff Court, Thalipparamba.

ii) The suits O.S.Nos.169, 395, 500, 514, 525 and 535 of 2014 pending before the Munsiff Court, Thalipparamba and the suit O.S.No.116 of 2014 pending before the Munsiff Court, Kannur and ordered to be transferred to the Munsiff Court, Thalipparamba shall be disposed of finally, on or before 31st of August, 2015.

iii) The Munsiff Court, Thalipparamba will be free to pass appropriate interim orders for the management, protection and preservation of the subject matter of the suits. It is clarified that the said court is free to decide all questions including the question relating to the violation of the interim order passed by this Court in this Original Petition.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs/kvs

(true copy)