

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

OP(C).No. 885 of 2014 (O)

**ORDER DATED 21-03-2014 IN I.A NO.421/2014 IN O.P NO.433/2011 BEFORE THE IIND
ADDITIONAL DISTRICT COURT, KOLLAM.**

PETITIONER(S)/PETITIONER:

- 1. NAVABHARAT VIGNAN TRUST,
A TRUST CONSTITUTED AND REGISTERED UNDER
TRAVANCORE COCHIN LITERACY,
SCIENTIFIC AND CHARITABLE SOCIETIES REGISTRATION ACT, 1955,
HAVING ITS REGISTERED OFFICE AT MAMOM, ATTINGAL
REPRESENTED THROUGH PETITIONERS 2 AND 3**
- 2. GOPAKUMAR, S/O.LATE KUTTAPPAN NAIR,
CHARIMAN OF IST PETITIONER HAVING RESIDENCE
AT PLAVILA PUTHEN VEEDU ,
B T S ROAD, ATTINGAL, THIRUVANANTHAPURAM DISTRICT
PIN-695101**
- 3. BAHSEER, S/O.LATE MOHAMMED KASIM,
SECRETARY OF THE IST PETITIONER HAVING
RESIDENCE SABI MANSION, MAMOM,
KIZUVILAM P O, ATTINGAL, THIRUVANANTHAPURAM-PIN-695 104**

**BY ADVS.SRI.M.R.RAJESH
SMT.E.S.SANDHYA.**

RESPONDENT(S)/RESPONDENTS :

- 1. KOLAMMAL,
W/O.LATE PONNAYYAN ACHARI, RUGMINI VILASOM,
PALACE ROAD, ATTINGAL, THIRUVANANTHAPURAM,
PIN-695101.**
- 2. NASIHUDEEN,
S/O.LATE MOHAMMED KASIM, CHINNU MANZIL,
KIZHUVILAM VILLAGE, ATTINGAL, THIRUVANANTHAPURAM,
PIN-695104.**

3. M LUBINA,
W/O.NASIHUDEEN, CHINNU MANZIL, KIZHUVILAM VILLAGE,
ATTINGAL, THIRUVANANTHAPURAM, PIN-695 104.
 4. DR.S GOPALAKRISHNAN,
HOUSE NO 12, VEERABHADRA GARDEN, PATTOM PALACE P .O.,
THIRUVANANTHAPURAM-695 102.
 5. SULAIKA BEEVI,
SABI MANSION, MAMOM, KIZHUVILAM P .O.,
ATTINGAL, THIRUVANANTHAPURAM-PIN-695 104.
 6. RAJU,
S/O.PONNAYYAN ACHARI, 'RUGMINI NIVAS', PALACE ROAD,
ATTINGAL, THIRUVANANTHAPURAM, PIN-695 101.
 7. SABIR,
S/O.BASHEER, SABI MANSION, MAMOM,
KIZHUVILAM P. O., ATTINGAL-695 104.
 8. MUHAMMED,
S/O.BASHEER, SABI MANSION, MAMOM,
KIZHUVILAM P. O., ATTINGAL-695 104.
- R5 to R8 BY ADV. SMT.A.K.PREETHA
R1 to R4 BY ADV. SRI.R.S.KALKURA.
R2 BY ADVS. SRI.M.S.KALESH.
SMT.A.V.PRIYA.
SRI.HARISH GOPINATH.
SMT.R.BINDU.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: A TRUE COPY OF THE PLAINT IN OS NO 242/2011 IN MUNSIFF'S COURT OF
ATTINGAL.
- P2: A TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND
RESPONDENT IN EXT P1 BY RESPONDENTS 1 TO 4 HEREIN.
- P3: A TRUE COPY OF THE PETITION IN OP NO 433/2011 BEFORE THE DISTRICT
COURT, KOLLAM.
- P4: A TRUE COPY OF THE OBJECTION FILED TO EXT P3 BY THE RESPONDENTS.
- P5: A TRUE COPY OF THE WITNESS SCHEDULE FILED BY THE PETITIONERS IN
EXT P3 PETITION.
- P6: A TRUE COPY OF THE IA NO 421/2014 IN OP NO 433/2011 BEFORE THE IIND
ADDL.DISTRICT COURT, KOLLAM.
- P7: A TRUE COPY OF THE ORDER DATED 21/3/2014 BY DISMISSING IA NO
421/2014 IN OP NO 433/2011 BEFORE THE 2ND ADDL.DISTRICT COURT,
KOLLAM.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A TO JUDGE

A.HARIPRASAD, J.

O.P (C) No.885 of 2014

Dated this the 21st day of January, 2015.

J U D G M E N T

Original petition filed under Article 227 of the Constitution of India.

2. The petitioners are aggrieved by Ext.P7 order passed by the learned IInd Additional District Judge, Kollam on I.A No.421/2014 in O.P No.433/2011, which reads as follows :

“ Heard both sides. Learned counsel for the respondent submitted that the copy of the documents sought to be produced are marked as Ext.B 25 series and there is no dispute as to its genuineness i.e., the document is produced before the registrar and what is disputed is the contents. Recording that submission, and on a finding that the party could have obtained certificate copy even otherwise, this petition at this belated state, is dismissed.”

2. Heard the learned counsel for the petitioners and the

learned counsel for the respondents.

3. Learned counsel for the petitioners submitted that the court below seriously erred in dismissing the application finding that the documents sought to be produced have already been produced and marked as Ext.B 25 series in this case. In the application, two sets of documents were sought to be produced. Apart from the balance sheet for the year 1993-94 to 2011, list of members of the governing body during the period 1994-95 to 2012 was also sought to be produced. That fact was not considered by the court below is the grievance of the petitioners. It is submitted that the trust has filed two sets of documents before the Registrar of Societies on the same day. According to the learned counsel for the petitioners production of these documents are essential for proper adjudication of the case.

4. Learned counsel for the respondents opposed the application submitting that this is a tactic to prolong the

litigation. Learned counsel further submitted that the documents were already produced in this case. That apart, the petitioners would have obtained certified copy of the documents and produced it.

5. On considering the rival submissions, I am of the view that the impugned order is not legally justifiable. First of all, let me make it clear that the petition is not in a proper form as it is not in conformity with the provisions under Rule 120 of the Civil Rules of Practice. It should have been a verified petition. The averments in the petition should have shown the relevancy of the documents sought to be produced, whether a certified copy of it could be obtained and whether it would answer the purpose sought to be achieved by production. Therefore, the petitioners shall file a proper application before the court below. In that event, the court below shall consider the matters on merit. If the documents sought to be produced are

available in the records, the court below may reject the request for production of the documents. If not, the court below will consider whether certified copies could be obtained. If certified copies of the documents sought to be produced could not be obtained, the court below shall allow the petitioners to cause produce the documents as required under Rule 120 of the Civil Rules of Practice within a specified time frame. The original petition itself shall be disposed of within a period of six months from the date of production of this judgment.

All pending interlocutory applications will stand dismissed.

**Sd/-
A.HARIPRASAD,
JUDGE.**

//True Copy//

P.A to Judge