

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

OP(C).No. 2900 of 2014 (O)

IA.NOS.824/2014 AND 825/2014 IN IA.NO.1275/1973 IN OS.NO.65/1956 OF
SUB COURT, OTTAPALAM

PETITIONER(S):

K.M.KRISHNANUNNI NAIR, AGED 82 YEARS
S/O.ARYAN BHATTATHIRPAD, RESIDING AT PRAVDA
VINAYAKA NAGAR, THAREKKAD, PALAKKAD DISTRICT.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.ARUN MATHEW VADAKKAN

RESPONDENT(S):

1. RAVEENDRANUNNI NAIR
S/O.SAVITHRI NETHYAR
NOW RESIDING AT PADMA SAROVARAM, MULLAKKAL NAGAR
AMBIKA ARTS ROAD, EROOR WEST, TRIPUNITHURUA-682 306.
2. BALACHANDERANUNNI
S/O.SAVITHRI NETHYAR, DHIRONA, RAJAS COLONY
MANNARKKAD-678 582.
3. SOUDAMANI NETHIAR
D/O.SAVITHRI NETHYAR, TRIPADAM, NEAR KALIKOTTA
TRIPUNITHURA-682 301.
4. SASEENDRANUNNI
S/O.SAVITHRI NETHYAR, RESIDING AT KRISHNA KRIPA
RAJAS COONY, MANNARKKAD-678 582.
5. SREEKUMARANUNNI
S/O.SAVITHRI NETHYAR, RESIDING AT 41, 2ND MAIN ROAD
KAVAL BYRASANDRA, M.M.ZAYANA, R.T.NAGAR
BANGLORE-560 032.
6. KUNNATHATTU MADAMBIL BHARATHI NETHIAR
ARAKURISSI, MANNARKKAD-678 582.

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7. VINODINI NETHIAR
POST NO.1770, ISWARASREE, BHARATHIAR ROAD
COIMBATORE-6.
8. PADMINI NETHYAR
20/14, SILVER SAND CHS LTD, OSHNIVARA
OPP.KAMATCLUB, KAKHANDWALA, MUMBAI.
9. INDIRA NETHIAR
ACHAT, VINAYAKA E & A COLONY, THAREKKAD
PALAKKAD.
10. KUNHIMALU NETHIAR
11/525, SILVER WEST, ARAKURUSSI
MANNARKKAD-678 582.
11. JAYASREEKKAVU
POST NO.1770, BHARATHIAR ROAD, GANAPATHI
COIMBATORE-6.
12. CHANDRAMOHOANUNNI
S/O.VINODINI NETHIAR, POST NO.1770, ISWARASREE
BHARATHIAR ROAD, COIMBATORE-6.
13. MALATHY NETHIAR
ARCHANA, ARAKURUSSI, MANNARKKAD-678 582.
14. KESAVANUNNI
KARNA, HOUSE NO.9, MEERA COLONY
VIKAS NAGAR, KIWALE, ROHU ROAD
PUNE-412101.
15. BHAVADASAUNNI
ARCHANA, ARAKURISSI, MANNARKKAD-678 582.
16. LATHIKAKKAVU
ARCHANA, ARAKURISSI, MANNARKKAD-678 582.
17. AMMINI NETHIAR
ARCHANA, ARAKURISSI, MANNARKKAD-678 582.
18. M.T.BALAKRISHNA MENON
PAROKKOTTU PUTHAN VEETIL, ARAKURISSI
MANNARKKAD-678 582.
19. SANKARANARAYANAN
S/O.PAROKKOTTU PUTHEN VEETIL PARUKUTTY AMMA
ARAKURISSI, MANNARKKAD-678 582.
20. DR.SREEKUMARAN
CHOTHI, CHAKKARATHUKULAM ROAD, VANDIPETTA, CALICUT.

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21. NARAYANAN UNNI
103, NETTA RESIDENCY, KALIAN NAGAR
KANARA HALLY
BANGLORE-560 047.(KUNNATHATTU MADAMBIL BHARATHI
NETHIAR'S CHILDREN)
22. K.V.SANKARAN NAIR
103, NETTA RESIDENCY, KALIAN NAGAR
KANARA HALLY
BANGLORE-560 047.(KUNNATHATTU MADAMBIL BHARATHI
NETHIAR'S CHILDREN)
23. LAKSHMIDEVIKKAVU
ARCHANA, ARAKURUSI
MANNARKKAD-678 582.(LEGAL HEIRS OF 10TH DEFENDANT).
24. MANOMOHANUNNI
ARCHANA, ARAKURUSI
MANNARKKAD-678 582.(LEGAL HEIRS OF 10TH DEFENDANT).
25. MADANAMOHANUNNI
ARCHANA, ARAKURUSI
MANNARKKAD-678 582.(LEGAL HEIRS OF 10TH DEFENDANT).
26. GOPALANUNNI VATSAKUMAR
ARCHANA, KARELLAKULANGARA, FORT ROAD
THRISSUR-5.
27. GOPALANUNNI SATHEESAN
ARCHANA, KARELLAKULANGARA, FORT ROAD
THRISSUR-5.
28. GOPALANUNNI MURALEEDHARAN
VEENA, NEAR NSS KARAYOGAM OFFICE, CRD MENON COLONY
AMBALAKKADU, KALLEKKADU, PALAKKAD.
29. GOPALANUNNI SINDHU
ANJANA, KEERANKULANGRA EAST FORT ROAD, THRISSUR.
30. AMBATTU SUKUMARI AMMA
ARCHANA, KEERANKULANGRA EAST FORT ROAD, THRISSUR.
31. CHANDRIKA AMMA
37, MALAPARANTH HOUSING COLONY, KOZHIKODE-673 001.
32. SANTHA AMMA
37, MALAPARANTH HOUSING COLONY, KOZHIKODE-673 001.
33. HEMALATHA
ARCHANA, KEERANKULANGRA EAST FORT ROAD, THRISSUR.

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34. AMBATTU NARAYANANUNNI
KALYAN, SULTHANPETTA, PALAKKAD-678 001.
35. C.UMADEVI
UMA MANDIRAM, CALICUT ROAD, MANJERI-673 017.
36. C.VENUGOPALAN
SHREE GOPAL, INDUSTRIAL ESTATE ROAD, MANJERI-673 017.
37. C.RAGHU
UMA MANDIRAM, CLICUT ROAD, MANJERI-673 017.
38. C.GEETHA
MELE PATHAYAPPURA, ARAKURUSSI, MANNARKKAD-678 582.
39. HARIGOVINDAN
UMA MANDIRAM, CLICUT ROAD, MANJERI-673 017.
40. SAROJANI NETHIAR
UMA MANDIRAM, CLICUT ROAD, MANJERI-673 017.
41. P.SETHUMADHAVAN
PUTHANVEEDU, PERUMBIDARI, MANNARKKAD.
42. P.BALACHANDRAN
LAKSHMI KARUNA, POOJA NAGAR, PATHUR
PALAKKAD.
43. P.KRISHNAKUMAR
NOW RESIDING AT PEARL PARK, A BLOCK, FLAT NO.F2
NEW BHAGAVATHY TEMPLE, ODUMBHA, THIRUVANNUR
CALICUT-673 029.
44. P.REMANI
ASOKAM, KUNNATHUR HOUSE, PUNNAYURKUAM
THRISSUR-679 561.
45. SAROJINIAMMA
PONNIKAVIL HOUSE, VELLILA, MALAPURAM DISTRICT-679 324.
46. SOUMINI AMMA
C/O.MR.JAIPAL.M, MANAGER, SIB
THIRUVAMBADI, KOZHAIKODE-670 603.
47. SOMAN
PONNIKAVIL HOUSE, VELLILA
MALAPPURAM DISTRICT-679 324.
48. SOUDHAKRISHNA
W/O.GOPINATHA MENON, PANCHAMI, ARAKURISSI
MANNARKKAD-678 582.

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49. P.BHASKARA MENON
BASURI, ARAKURISSI, MANNARKKAD-678 582.
50. P.INDUMATHY
DERE VILAS, ARAKURISSI, MANNARKKAD-678 582.
51. P.R.HARIDAS
NANDANAM, KSRA 121, RC JUNCTION
KUNNUKUZHI, THIRUVANANTHAPURAM-695 035.
52. P.R.SURENDRAN
NANDANAM, KSRA 121, RC JUNCTION
KUNNUKUZHI, THIRUVANANTHAPURAM-695 035.
53. P.R.SASIDHARAN
S/O.KIZHAKKEKARA VEETIL K.M.RAMANUNNI NAIR
EDATHUPURAM TEMPLE ROAD, ANGADIPURAM-679 321.
54. K.P.PRADHA
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582.
55. K.P.RAJENDRAN
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582.
56. K.P.VASANTHA
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582.
57. K.P.SUNANTHA
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582
58. K.P.MADONA MOHAN
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582
59. K.P.SOBHANA
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582
60. K.P.KRISHNAUNNI
KARUMATHIL PUTHIYA VEETIL, ARAKURISSI
MANNARKKAD-678 582
61. ANKARATH RAMANI NETHIAR
2E, RAMA NIKETAM APARTMENTS, BEHIND SREERAM TEMPLE
PUSHPAGIRI AGRAHARAM, PUNKUNNAM, THRISSUR-680 002.

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62. ANKARATH RAJEEV

2E, RAMA NIKETAM APARTMENTS, BEHIND SREERAM TEMPLE
PUSHPAGIRI AGRAHARAM, PUNKUNNAM, THRISSUR-680 002.

63. REENU NETHIAR

2E, RAMA NIKETAM APARTMENTS, BEHIND SREERAM TEMPLE
PUSHPAGIRI AGRAHARAM, PUNKUNNAM, THRISSUR-680 002.

R2,R16 & 53,R58 BY ADVS. SRI.P.B.SAHASRANAMAN

SRI.T.S.HARIKUMAR

SRI.K.JAGADEESH

SRI.RAAJESH S.SUBRAHMANIAN

R4 BY ADV. SRI.T.A.RAJAN

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 30-03-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE SCHEME PREPARED IN ACCORDANCE WITH THE PRELIMINARY DECREE AND DATED 27/11/1991.
- EXT.P2. TRUE COPY OF THE PETITION DATED 5/4/2013 IN IA NO.941/2013 IN IA 1275/1973 IN OS NO.65/1956 ON THE FILE OF THE SUB COURT, OTTAPALAM.
- EXT.P3. TRUE COPY OF THE COMMISSION REPORT DATED 26/10/2013 IN EXT.P2.
- EXT.P4. TRUE COPY OF THE PETITION DATED 19/11/2013 IN IA NO.941/2013 IN IA 1275/1973 IN OS NO.65/1956 PASSED BY SUB COURT, OTTAPALAM.
- EXT.P5. TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 31/3/2014 IN IA 824/2014 FILED BY THE PETITIONER HEREIN IN IA NO.941/2013 IN IA 1275/1973 IN OS NO.65/1956 BEFORE THE SUB COURT, OTTAPALAM.
- EXT.P6. TRUE COPY OF IA DATED 31/3/2014 FILED BY THE PETITIONER HEREIN FOR REVIEW OF THE ORDER IN IA NO.941/2013 IN IA 1275/1973 IN OS NO.65/1956 BEFORE THE SUB COURT, OTTAPALAM.
- EXT.P7. TRUE COPY OF THE ORDER DATED 25/9/2014 IN IA 824/2014 IN IA 1275/1973 IN OS NO.65/1956 PASSED BY THE THE SUBORDINATE JUDGE'S COURT, OTTAPALAM.
- EXT.P8. TRUE COPY OF THE ORDER DATED 25/9/2014 IN IA 825/2014 IN IA 1275/1973 IN OS NO.65/1956 PASSED BY THE THE SUBORDINATE JUDGE'S COURT, OTTAPALAM.
- ANNEXURE A1: TRUE PHOTOSTAT COPY OF THE MUNUTES OF THE SAID GENERAL BODY MEETING DATED 22/2/15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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P.BHAVADASAN, J.

O.P.(C) No. 2900 of 2014

Dated this the 30th day of March, 2015

J U D G M E N T

Under challenge is Exts.P7 and P8 orders passed by the Sub Court, Ottapalam.

2. The facts absolutely necessary for the disposal of this petition are as follows:

The suit was one for partition in which a preliminary decree was passed long ago. Among the items available for partition, there were two schools running under the aid of the Government. The schools were managed as per the terms in the preliminary decree. The preliminary decree held that the school need not be partitioned and a Council is to be formed from among the plaintiff and defendants 1 to 13 for management of the school with the eldest member as the President of the Committee. The petition makes mention of a scheme that was followed in that regard and preliminary decree is produced as Ext.P1. An application

was filed by one of the parties as I.A.No. 274 of 2000 for calling a General Body Meeting for electing the Committee. I.A.No. 1984 of 2000 was filed with a prayer to appoint a Returning Officer. I.A.s were allowed and Advocate Sri. M.V. Haridas was appointed as Returning Officer. It is claimed that the first respondent filed an interlocutory application as I.A. No. 941/2013 praying that the Returning Officer may be directed to call for the General Body Meeting for the purpose of electing Executive Committee.

3. It is claimed that as per Ext.P1 scheme, the quorum of meeting was 60% of the total members for the General Body Meeting. Returning Officer who convened the meeting submitted a report before the Hon'ble Court that the meeting could not be convened since there was no quorum. He also reported that only 7 members participated in the meeting. Copy of the report is produced as Ext.P3.

4. The court below, according to the petitioner, without any application of mind, passed an order declaring

that the persons present in the meeting and who had submitted nomination were elected. Copy of the order is produced as Ext.P4.

5. The petitioner claims that he is the eldest male member of the family and going by the preliminary decree, he is entitled to head the Council. The petitioner was not present for the meeting as he was aware of the non-availability of quorum for the meeting and he was also suffering from ill health. Coming to know about Ext.P4 order, the petitioner claims to have filed two I.A.s namely I.A.No. 824 and 825 of 2014 to review Ext.P4 order and to condone the delay in filing the review petition. The court below has dismissed both the petitions.

6. The petitioner points out that the court below was not justified in dismissing the petition as no reasons have been pointed out for not entertaining the petitions. The petitions have been dismissed by a non speaking order and that was unacceptable in law.

7. Sri. P.B. Sahasranaman, the learned counsel appearing for the second respondent on the other hand pointed out that due to the stay passed by this Court, the affairs of the school are in total mess and it is necessary to give a finality to the matter. The learned counsel went on to point out that the managing committee of the school is yet to be constituted properly and that affects the running of the school.

8. After having heard the learned counsel on both sides, it is felt that the review petition has not been considered properly by the court below and it has been dismissed by non speaking order.

9. It is trite that the court below while disposing of the matter, is bound to give reasons for its decision. Whether they are sufficient grounds for review etc. or not are matters for the lower court to consider. The petitioner has given reason as to why delay was caused in filing the review petition. The petition ought to have been considered

in accordance with law.

10. For the above reason, this petition is allowed and Exts. P7 and P8 are set aside and the delay in filing the review petition stands condoned and the court below is directed to take up the review petition on file and dispose it of on merits as expeditiously as possible, at any rate, within a period two months from the date of re-opening of the court, after summer vacation 2015.

The review petition, as far as possible, may be considered before the court closes for the summer vacation. The Registry may communicate the order to the court concerned. Both parties will be entitled to raise all their contentions before the court below.

Sd/-
P.BHAVADASAN
JUDGE

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//True copy//

P.A. to Judge