

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

RSA.No. 249 of 2015

JUDGMENT DATED 2.8.2012 IN AS 290/2005 OF ADDITIONAL DISTRICT COURT -III,
THIRUVANANTHAPURAM

JUDGMENT DATED 4.6.2005 IN OS 288/1997 OF ADDITIONAL SUB COURT-II,
THIRUVANANTHAPURAM

APPELLANT(S)/APPELLANTS 1 & 3 TO 5/PLAINTIFFS 1, 3 & 4:

1. SREE PALLIARA BHAGAVATHI AMMA, AGED 78 YEARS,
KOYIKKAL VEEDU, KUDUBAPARA DEVATHA, MADATHUVILAKOM,
REPRESENTED BY ITS SECRETARY.
2. S.PARAMESWARAN NAIR, AGED 71 YEARS,
S/O.P SANKARANARAYANA PILLAI, RESIDING AT KOYIKKAL VEEDU,
KUDUBAPARA DEVATHA, MADATHUVILAKOM VLLAGE,
THIRUVANANTHAPURAM-695 011.
3. GOPALAKRISHNAN NAIR, AGED 72 YEARS,
S/O.NARAYANA PILLAI, THEKKEKOYIKKAL VEEDU, MEKKEPATOM
THIRUVANANTHAPURAM-695 011.
4. NARAYANAN NAIR K., AGED 81 YEARS,
S/O.KUNJUKRISHNA PILLAI, RESIDING AT SUBHAYAN, BNR 223-A
PONGUMMODU, THIRUVANANTHAPURAM - 11,
REPRESENTED BY ITS AUTHORISED AGENT
P.N. GOPALAKRISHNAN NAIR, THEKKEKOYIKKAL VEEDU,
MEKKEPATOM, THIRUVANANTHAPURAM-695 011.

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.GENS GEORGE ELAVINAMANNIL

RESPONDENT(S)/RESPONDENTS 1 TO 4 & 7 TO 12/DEFENDANTS 1 TO 4 & 7 TO 12:

1. GOWRIKUTTY PILLAI LAKSHMI PILLAI, AGED 70 YEARS,
D/O.GOURIKUTTI PILLAI, RESIDING AT LATHAJ VIHAR,
OPP. G. G. HOSPITAL, MURINJAPALAM,
THIRUVANANTHAPURAM-695 011.
2. V. KRISHNA PILLAI, AGED 70 YEARS,
S/O.VELU PILLAI, RESIDING AT THOLIYARA VEEDU,
MADATHUVILAKOM VILLAGE, THIRUVANANTHAPURAM-695 011.

msv/

3. SANKARAN NAIR, AGED 80 YEARS,
RESIDING AT VARUVILAKATHU VEEDU, GOUREESA PATTOM,
THIRUVANANTHAPURAM-695 004.
4. DR.GEORGE KOSHY, AGED 70 YEARS,
S/O.KOSHY, MONITORY HOME EYE CLINIC,
VEERABHADRA GARDENS, POTTAKKUZHY JUNCTION,
THIRUVANANTHAPURAM-695 004.
5. T. R. RADHA DEVI, AGED 65 YEARS,
D/O.RAMAKRISHNA PILLAI,
RESIDING AT THEKKE KOYIKKAL PUTHEN VEEDU,
THIRUVANANTHAPURAM-695 011.
6. T. R. BHAMA DEVI, AGED 60 YEARS,
D/O.RAMAKRISHNA PILLAI,
RESIDING AT THEKKE KOYIKKAL PUTHEN VEEDU,
THIRUVANANTHAPURAM-695 011.
7. T. R. PREMACHANDRAKUMARAN NAIR, AGED 58 YEARS,
S/O.RAMAKRISHNA PILLAI,
RESIDING AT THEKKE KOYIKKAL PUTHEN VEEDU,
THIRUVANANTHAPURAM-695 011.
- * 8. RAGHAVAN NAIR, AGED 85 YEARS,
S/O.LATE KUMARAN THAMPI, RATHAALAYAM VEEDU,
PAZHAYA ROAD, MEDICAL COLLEGE PO, PATTOM VILLAGE
THIRUVANANTHAPURAM-695 004. (REMOVED)
9. INDIRA BHAI, AGED 60 YEARS,
D/O.VALU PILLAI, RESIDING AT THOLIYARA PUTHEN VEEDU,
MEDICAL COLLEGE P. O., POTTAM VILLAGE,
THIRUVANANTHAPURAM.
10. MURALEEDHARAN NAIR, AGED 75 YEARS,
T. C. 3/2056, LAKSHMI , PATTOM P.O.,
THIRUVANANTHAPURAM-695 004.

RESPONDENTS 5 AND 6 IN THE LOWER APPELLATE COURT HAVE PASSED
AWAY AND THEIR LEGAL HEIRS ARE ALREADY IN THE PARTY ARRAY IN THE
LOWER COURT AND RESPONDENTS 5 TO 7 IN THIS APPEAL.

- * THE 8TH RESPONDENT IS REMOVED FROM THE PARTY ARRAY AT THE RISK
OF THE APPELLANTS AS PER ORDER DTD.12.6.2015 IN IA.1245/2015.

R1 BY ADV. SRI.J.HARIKUMAR
R2 & R9 BY ADV. SRI.D.SAJEEV
R4 BY ADV. SRI.G.S.REGHUNATH
R10 BY ADVS. SRI.K.B.PRADEEP
SRI.ASHOK SURESH

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

P.B.SURESH KUMAR, J.

R.S.A.No.249 of 2015

Dated this the 28th day of September, 2015

JUDGMENT

Plaintiffs 1, 3 and 4 in a suit for declaration and recovery of possession, are the appellants in this second appeal.

2. The first plaintiff is Palliyara Bhagavathy temple and the remaining plaintiffs are the office bearers of the committee formed for the administration of first plaintiff temple. According to the plaintiffs, the first plaintiff temple is the family temple of one Koyickal family and the suit properties are the properties set apart in schedule No.17 of Ext.A1 partition deed executed by the members of the said family for the maintenance of the first plaintiff temple. The

case of the plaintiffs is that the suit properties are being held by the defendants without authority and hence the suit for recovery of possession of the same on behalf of the first plaintiff temple. The defendants contested the suit by filing separate written statements. All the defendants challenged the locus standi of plaintiffs 2 to 4 to institute the suit on behalf of the first plaintiff temple. In addition, defendant Nos. 1 and 4 have also contended that the properties sought to be recovered from them are not part of the properties included in item No.17 of Ext.A1 partition deed. In the light of the contentions raised by the defendants, the plaintiffs were required to establish the locus standi of plaintiffs 2 to 4 to institute the suit on behalf of the first plaintiff temple. The trial court as also the appellate court held that plaintiffs 2 to 4 had no locus standi to institute the suit on behalf of the first plaintiff temple. The second plaintiff died during the pendency of the suit and his legal representatives have not come on record. The surviving plaintiffs who are aggrieved

by the concurrent decisions of the courts below have thus come up in the second appeal.

3. Heard the learned counsel for the appellants as also the learned counsel appearing for respondent Nos.1,2,4,9 and 10.

4. As indicated above, the suit is instituted on behalf of the first plaintiff temple to recover possession of the suit properties allegedly owned by the temple. The fact that the surviving plaintiffs are not members of the koyikkal family is not in dispute. Likewise, the fact that the surviving plaintiffs are not beneficiaries of the private religious endowment created as per Ext.A1 document is also not in dispute. As such, it cannot be said that the surviving plaintiffs have the locus standi to institute the suit on behalf of the first plaintiff temple. The findings rendered by the courts below on the issue as to the locus standi of the plaintiffs are therefore in order. Since it is found that the surviving plaintiffs do not have the locus standi to institute the suit on behalf of the

first plaintiff temple, I am not dealing with the issues relating to the title to the suit properties raised by the defendants. The second appeal, in the circumstances, is devoid of merits and the same is accordingly dismissed.

P.B.SURESH KUMAR, JUDGE.

smm