

IN THE COURT OF MUNSIFF, ERNAKULAM

**Present :- Smt. Needi.K.Dinamany., II Additional Munsiff
Monday, the 19th day of January, 2026/ 29th Pousha, 1947**

I.A. No. 6/2025 in O.S. No. 1173/2024

Petitioners/Defendants :-

1. M N Aravindakshan, aged 65 years, S/o Neelakandan Nair, Idakkattu House, Mahila Samajam Road, Vennala P O, Ernakulam Pin: 682 028 (1st Defendant)
2. K B Krishnakumar, aged 56 years, S/o Bhaskaran Pillai, Arathy House, 46/2477 TRA/V24, Puthiya Road, Thaikkavu Junction, Vennala P O, Ernakulam, Pin: 682 028 (2nd Defendant)
3. P P Narayanan Kutty, aged 71 years, S/o Krishnan Nair, Gokulam House, ARA- 51, Madavana Temple Road, Vennala P O, Ernakulam, Pin: 682 028 (3rd Defendant)
4. V S Premalatha, aged 56 years, W/o Shekaran, Veliyil Puthen Veedu, SRWA-68, Madavana Road, Vennala P O, Ernakulam, Pin: 682 028 (5th Defendant)
5. T R Madhusoodanan, aged 67 years, S/o Raman Pillai, Thareparambil House, SRAP-37, Janatha Road, Vennala P O, Ernakulam, Pin: 682 028 (6th Defendant)
6. P Rajesh, aged 47 years, S/o Parameswaran, Thundipparambil House, Madavana Temple Road, Vennala P O, Ernakulam, Pin: 682 028 (8th Defendant)
7. Dr. T Vinayakumar, aged 66 years, S/o V K S Panickar, residing at Vellattu House, Vennala P O, Kochi, Ernakulam, Pin: 682 028 (12th Defendant)
8. Seetha Sudha Kumar, aged 56 years, W/o Krishnankutty Panicker, Vattamthettayil Thiruvonam House, VRA-59 Vattamthitta Road, Vennala P O, Ernakulam (13th Defendant)
9. T K Sukumaran Nair, aged 83 years, S/o T Keshava Pillai,

Aswathy House, 42/1639 CVRA-88, Thuruthiyil Unnikrishnan Road, Vennala P O, Ernakulam, Pin: 682 028 (14th Defendant)

10. P S Shyam Kumar, aged 41 years, S/o Sasidaran, Pulikkapparambil House, Madavana Temple Road, Vennala P O, Ernakulam, Pin: 682 028 (15th Defendant)
11. Sajeevan Narayanan, aged 57 years, S/o Narayanan Nair, Thekkemadavana House, SRA-65, Vennala P O, Ernakulam, Pin: 682 028 (16th Defendant)
12. T G Nandakumar, aged 53 years, S/o Gopinath, aged 65 years, Thekkemuri House, Mahila Samajam Road, Vennala P O, Ernakulam, Pin: 682 028 (17th Defendant)
13. T A Anil Kumar, aged 50 years, S/o Anirudha Panikar, Thuruthiyil House, Thuruthel Para Road, Vennala P O, Ernakulam, Pin: 682 028 (18th Defendant)

By Advs. Shaji Chirayath, Pradeesh Chacko, Jiji M Varkey, M K Safeela Beevi, Savitha Ganpathiyatan

Respondents/Plaintiffs :-

1. N S S Karayogam No. 1639, Vennala, represented by Registrar of Karayogams, Office of Registrar of Kemeyededie the Nair Service Society Head Office, Perunna P O, Changanacherry, Pin: 686 101.
2. The Registrar of Karayogams, Office of Registrar of Karayogams, the Nair Service Society Head Office, Perunna P O, Changanacherry, Pin: 686 101.
3. V Sasidharan Nair, S/o Vasudevan Pillai, aged 72 years, Vettikavumkal House, Karukachal P O, Karukachal Village, Changanacherry Taluk, Kottayam District.
4. Sunil Kumar S N, aged 59 years, S/o Narayanan Nair, Thekke Madavana, Sree Kala Road, Kanayannur Taluk, Edappally South Village, Vennala Desom, Vennala P O, Ernakulam District, Pin: 682 028.
5. C Padiralrishna, aged 70 years, S/o Chandrasekharan Pillai,

Gayathri, Kanayannur Taluk, Edappally South Village, Vennala Desom, 682 028, Ernakulam.

By Advs. Anil D Kartha, Smitha Mohan

This petition filed Under Section 10 of The Code of Civil Procedure humbly prayed that this court may be pleased to stay all further proceeding in Original Suit No. 1173 of 2024 on files of this Hon'ble Court Pending disposal former suit Original Suit No. 877 of 2024 on the files of 3rd Additional Munsiff's Court, Ernakulam.

This Petition has been come up for hearing before me on 13.01.2026 in the presence of the said counsels and this Court on this day delivered the following :-

ORDER

Petition filed by applicants to stay the original suit invoking Section 10 of C.P.C.

2. **Petition averments in brief are as follows:** The petitioner is the 7th applicant in the Interlocutory Application, the present Secretary of the Nair Service Society (NSS) Vennala Karayogam, and the 7th defendant in the Original Suit. The petitioner contends that the so-called plaintiff has no legal right or authority to represent the NSS Vennala Karayogam. It is submitted that on 6 June 2024, the 2nd defendant conducted a duly constituted election to the Karayogam for electing 15 Administrative Committee Members, 2 Taluk Union Representatives, and 1 NSS Electoral Roll member, through secret ballot. On the same day, the 2nd defendant declared the results after counting the votes polled. A total of 496 votes were cast, of which

437 were valid and 59 were invalid. Candidates securing votes ranging from 206 to 249 were declared elected as the 15 Administrative Committee Members. Candidates securing 220 and 225 votes were declared elected as Taluk Union Representatives, and the candidate who secured 250 votes was declared elected as the NSS Electoral Roll Member. These results were duly recorded in the election minutes. Subsequently, after the institution of Original Suit No. 877 of 2024, a General Body Meeting was convened on 10 September 2024 by the Convenor of the Ad hoc Committee. In that meeting, the General Body unanimously elected Dr. T. Vinayakumar as President, Mr. T. K. Sukumaran Nair as Vice President, Mr. K. N. Ramesh Kumar as General Secretary, Mr. P. Rajesh as Joint Secretary, and Mr. P. P. Narayananikutty as Treasurer. Following this election, the office bearers assumed charge, and the Ad hoc Committee ceased to exist. Accordingly, the petitioners have been lawfully managing and administering the affairs of the Karayogam. It is further pointed out that on 7 September 2024, the Hon'ble 3rd Additional Munsiff's Court passed an order intercepting the exercise of power pursuant to the notice dated 17 August 2024 issued by the 2nd respondent in Original Suit No. 877 of 2024. However, by order dated 4 October 2024 in IA No. 9 of 2024, the same court permitted the plaintiff to amend the pleadings in Original Suit No. 877 of 2024 to incorporate subsequent events and to seek a declaration that the 2nd respondent is not a Registrar under the Kerala Non-Trading Companies Act, 1961. It is contended that the Nair Service Society is in fact a

company governed by the Companies Act, 2013, and its affairs are controlled by its Board of Directors. The 2nd respondent is neither the Managing Director nor a Managing Agent as per the Articles of Association. Pursuant to the said order, the plaintiff carried out amendments in Original Suit No. 877 of 2024. The respondents did not raise any counterclaim in that suit. Instead, they instituted the present suit, Original Suit No. 1173 of 2024, seeking declarations that squarely fall within the scope of the earlier suit. The relief sought in Original Suit No. 1173 of 2024 is a declaration that the defendants therein are not entitled to act as members of the executive committee, Taluk Union representatives, or Electoral Roll Member of the Karayogam unless duly elected and approved as per the byelaws. The petitioner points out that the petitioners are already duly elected and are managing the Karayogam. Since both suits involve identical parties, identical issues, and substantially the same subject matter, continuation of parallel trials would lead to multiplicity of proceedings and the risk of conflicting judgments. Therefore, it is contended that the present suit is liable to be stayed under Section 10 of the Code of Civil Procedure, 1908, as Original Suit No. 877 of 2024 is earlier in point of time, pending before a competent court, and its decision would operate as *res judicata*. In the interest of justice, all further proceedings in Original Suit No. 1173 of 2024 should be stayed pending disposal of Original Suit No. 877 of 2024, failing which irreparable injury, hardship, and loss would be caused to the petitioner.

3. **Respondents/ 2nd plaintiff filed counter affidavit stiffly opposing the petition.** The respondent contends that the petition is not maintainable either in law or on facts. It is asserted that the administration of NSS Karayogam No. 1639, Vennala, is presently being carried out by the deponent through an Ad-Hoc Committee validly appointed by the Registrar of Karayogams. The allegation that the deponent has no authority to represent or administer the Karayogam is specifically denied and stated to be unsustainable. It is submitted that the plaintiff in O.S. No. 877/2024 is not properly represented. The deponent therein is not the Secretary of the Karayogam, and no resolution was taken by NSS Karayogam No. 1639 authorising the institution of that suit. Due to severe maladministration in the affairs of the Karayogam, an administrative deadlock arose, compelling the then Registrar of Karayogams to intervene under Clause 55 of the Karayogam Bylaws. In exercise of the said power, the Registrar took over the administration and constituted an Ad-Hoc committee to manage the day-to-day affairs of the Karayogam under his supervision. The respondent denies the allegation that elections to the executive committee and other posts were conducted on 6-6-2024. It is stated that elections were decided to be conducted in accordance with Clauses 14(a) and 14(b) of the Bylaws. The election notice was published on 25-4-2024 by the Convenor of the Ad-Hoc Committee under the respondent's direction, and the Kanayannoor Taluk NSS Inspector was appointed as the Election Officer. As per the notified schedule, the election was

conducted on 9-6-2024 by secret ballot, and counting was carried out immediately thereafter. However, after declaration of the results, a group of members demanded recounting alleging manipulation and vote rigging. This was opposed by another group, resulting in serious commotion, unrest, and physical altercations, necessitating police intervention and evacuation of the premises. As per the By-laws, the election of office bearers must be conducted by the General Body from among the elected committee members. Due to the unrest, the General Body could not be convened. The Returning Officer sealed the ballot box and kept it in safe custody, and the election process remained incomplete due to the unresolved demand for recounting. Before the respondent could take further steps, O.S. No. 626/2024 was instituted by certain members seeking recounting of votes under Court supervision through an Advocate Commissioner and an injunction restraining the respondent from approving the election without recounting. The Advocate Commissioner sealed the ballot box pursuant to court orders, rendering it impossible for the respondent to approve the election. The allegation that office bearers were elected on 10-9-2024 and assumed office is denied. Since the election conducted on 9-6-2024 is under judicial scrutiny, no election of office bearers could legally take place. The administration continues to be carried out by the respondent through the Ad-Hoc Committee, which was reconstituted by proceedings effective from 17-8-2024, extending its tenure for six months from 22-2-2024. It is further contended that even if elections are conducted, the elected

committee or office bearers cannot assume charge without approval of the Registrar as mandated under Clause 18 of the Bylaws. The amendment to the plaint in O.S. No. 877/2024 does not confer any authority on any person to act as executive member or office bearer. Finally, it is asserted that the reliefs and issues in the present suit and O.S. No. 877/2024 are not identical, the defendants are not administering the Karayogam, and Section 10 CPC is not attracted. The prayer for stay is legally unsustainable, O.S. No. 877/2024 itself is bad in law, and the application deserves dismissal.

4. Points for determination:-

- 1) Whether the trial of OS.1173/2024 of this court is liable to be stayed till the disposal of OS.877/2024?
- 2) Order as to costs?

5. Heard both sides. Perused the records.

6. **Point 1 and 2:** - The above suit is one for declaration that the defendants are not entitled or competent to act or pose as the members of the executive committee of the 1st plaintiff, or as the union representatives or as the electoral roll member of the Karayogam, until and unless they are duly elected as provided in clause 14 and unless and until such election is approved in writing by the 2nd plaintiff as provided in clause 18 of the Karayogam byelaw and for permanent prohibitory injunction restraining defendants from acting or posing as the members of the executive committee of the 1st plaintiff, or as

the union representatives or as the electoral roll member until and unless they are duly elected as provided in clause 14 and unless and until such election approved in writing by the 2nd plaintiff as provided in clause 18 of the Karayogam bye-law and from causing any obstruction to the administration of the Karayogam by the 2nd defendant and by the Ad-hoc committee appointed by him from time to time and also from causing any interference to them in the peaceful use of the office and the records of the Karayogam. The present petition is filed to stay all proceedings in OS 1173/2024 on files of this court pending disposal of OS 877/2024 on the files of 3rd Additional Munsiffs Court, Ernakulam. The petitioner contend that subject matter of suit in OS 877/2024 and OS 1173/2024 are same, also the issues are identical and parties are also same. Hence conducting parallel proceedings will give rise to contradictory judgments. It is pertinent to note that the petitioner herein has not produced the copy of plaint in OS 877/2024. But in the plaint of present suit, it is stated that OS 877/2024 is filed by one of the members of the Karayogam claiming that he was the convenor of the ad-hoc committee and seeking the relief of injunction against Registrar, from implementing his proceedings no KR 1639/3754/2256/2024 dated 17-08-2024, whereby the Registrar reconstituted the Ad-hoc committee. The plaintiffs herein are Vennala NSS Karayogam no 1639, Registrar of Karayogam, present registrar and chairman and convener of present ad-hoc committee. The petitioners herein are 1st, 2nd, 3rd, 5th to 8th, 12th to 18th defendants and the deponent claims to be secretary of

NSS Karayogam, Vennala. The present suit is filed by respondents herein seeking a declaration that the defendants are not qualified to be pose as elected members of Karayogam without following procedure as per bye law of Karayogams. Therefore on perusal of the reliefs sought in the two suits itself, it is evident that the matter in issue are not directly and substantially same. Further the question to be considered is whether the judgment in previous suit would act as resjudicata to the subsequent suit. But on perusal of the reliefs itself it is evident that the question of resjudicata does not arise as the nature of relief is different in both suits and hence issues would also be different. Further it is pertinent to not that the petitioners herein have not even filed the written statement in this suit and hence no issues are framed. Also what are the issues raised in OS 877/2024 is also not stated by the petitioners herein as pleadings in OS 877/24 is not produced by petitioners.

7. The fundamental test to attract Sec.10 of CPC is whether on final decision being reached in the previous suit such decision would operate as resjudicata in the subsequent suit. Sec.10 applies only in cases where the whole of the subject matter in both the suit is identical. Reading of provision makes it clear that the same restricts the court from proceeding with the trial of any suit in which the matter in issue is also directly and substantially in issue in the previously executed suit between the same parties or between parties under whom they or any of them claim litigating under the same title

were such suit is pending in the same or any other court.

8. Though, the pleadings in the OS 877/2024 are not produced, from the averments in the affidavit and counter affidavit filed along with this petition and on perusal of plaint averments, the court is not satisfied that the matter in issue in both suits are directly and substantially same. Also, it is not evident that the parties to both suits are same but it is evident that reliefs sought in both suit are different. Accordingly, I am satisfied that the above petition is not having merits and no purpose will be served by stay of this suit U/s. 10 of CPC.

In the result, the above petition is dismissed with costs.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this the 19th day of January, 2026.

Needi.K. Dinamany
IInd Additional Munsiff

Appendix:- Nil

IInd Additional Munsiff

ORDER
I.A. No. 6/2025
in
O.S. 1173/2024
Dated 19.01.2026