

IN THE COURT OF MUNSIFF, ERNAKULAM
Present :- Sri. Nanda Krishna M, I Additional Munsiff
(II Additional Munsiff In Charge)
Thursday, the 4th day of June, 2026/ 14th Jyaishta, 1948
I.A. No. 2/2026 in O.S. No. 1173/2024

Petitioners/Defendants 1 to 3, 5 to 8, D 12 to 18:-

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. K N Ramesh Kumar, aged 54 years, S/o Narayanapillai, Secretary, Nair Service Society Karayogam Vennala, Represented office of the Nair Service Society Vennala Karayogam No. 1639, Vennala P O, Ernakulam, Pin 682 028. (7th Defendant)
7. P Rajesh, aged 47 years, S/o Parameswaran, Thundipparambil House, Madavana Temple Road, Vennala P O, Ernakulam, Pin: 682 028. (8th Defendant)
8. 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)
9. Seetha Sudha Kumar, aged 56 years, W/o Krishnankutty Panicker, Vattamthettayil Thiruvonam House, VRA-59 Vattamthitta Road, Vennala P O, Ernakulam. (13th Defendant)
10. 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)

11. P S Shyam Kumar, aged 41 years, S/o Sasidaran, Pulikkapparambil House, Madavana Temple Road, Vennala P O, Ernakulam, Pin: 682 028. (15th Defendant)
12. Sajeewan Narayanan, aged 57 years, S/o Narayanan Nair, Thekkemadavana House, SRA-65, Vennala P O, Ernakulam, Pin: 682 028. (16th Defendant)
13. 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)
14. 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)

P1 to P3, P5, P6, P8, P12 to P18 By Advs. Shaji Chirayath, Pradeesh Chacko, Jiji M Varkey, M K Safeela Beevi, Savitha Ganpathiyatan

P7 By Advs. Shaji Chirayath, Jiji M Varkey, M K Safeela Beevi, Savitha Ganpathiyatan, M M Shajahan

Respondents/Plaintiffs :-

1. N S S Karayogam No. 1639, Vennala, represented by Registrar of Karayogams, Office of Registrar of Karayogams 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 Villages, 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 Radhakrishnan, 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, Ananthakrishnan A Kartha

This petition filed Under Section 10 of The Code of Civil Procedure prayed that this court may frame and decide, as a preliminary issue, the question relating to jurisdiction and maintainability of the suit under Order XIV Rule 2 of Code of Civil Procedure.

This Petition has been come up for hearing before me on 04.06.2026 in the presence of the said counsels and this Court on this day delivered the following :-

ORDER

This is a petition filed under S.10 of CPC with a prayer to frame and decide the issue of maintainability of the suit as a preliminary issue under Order XIV Rule 2 of CPC.

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, Vennala Karayogam, and the 7th defendant in the suit. It is contended that the suit is not maintainable either in law or on facts and that the Civil Court lacks jurisdiction to entertain the matter. The dispute pertains to the administration, management, elections, membership rights, and internal affairs of

the Nair Service Society, which is a company governed by the Companies Act, 2013, and whose corporate status has been recognized by the Hon'ble Supreme Court in **Nair Service Society v.State of Kerala, (2007)4 SCC 1**. It is submitted that the plaintiff Karayogam is merely a branch unit of the NSS and has no separate juristic existence independent of the parent company. Therefore, all disputes concerning its governance and administration fall within the scope of the Companies Act, 2013 and are matters exclusively triable by the National Company Law Tribunal (NCLT). In view of the express bar under Section 430 of the Companies Act, Civil Courts are prohibited from entertaining suits in respect of matters which the Tribunal or Appellate Tribunal is empowered to determine. Since the reliefs sought in the plaint directly relate to the governance and internal management of the NSS and its branch units, the suit is barred by law. The petitioner further submits that the issue of jurisdiction and maintainability goes to the root of the case and can be decided without recording evidence. Hence, it is averred that under Order XIV Rule 2(2)(a) CPC, this Court is to try the issue of jurisdiction and maintainability as a preliminary issue before

proceeding with trial. The petitioner therefore seeks framing and adjudication of the preliminary issue as to whether the Civil Court has jurisdiction in view of the statutory bar under Section 430 of the Companies Act, 2013. Unless the accompanying application is allowed, irreparable injury, hardship, and loss will be caused to the petitioner.

3. Respondents filed counter affidavit contending that the petition is not maintainable either in law or on facts. It is contended that the deponent who has sworn the affidavit is not the Secretary of Vennala Karayogam No.1639. The administration of the Karayogam is presently being carried out by the ad-hoc committee appointed by the respondent. The contention that the suit is not maintainable before the Civil Court for want of jurisdiction is denied. The disputes involved in the suit do not relate to the administration, management, or internal affairs of the Nair Service Society (NSS). The NSS is a non-trading company functioning under the Kerala Non Trading Companies Act and is not governed by the Companies Act, 2013. The allegation that the Hon'ble Supreme Court has held that the NSS is

governed by the Companies Act, 2013 is incorrect. The allegation that the plaintiff Karayogam is merely a branch unit of the NSS without independent juristic existence is also denied. Karayogams are voluntary associations functioning under their own bylaws and are not branches of the NSS. The further contention that disputes relating to administration, elections, membership rights, and governance fall exclusively within the jurisdiction of the NCLT is false and unsustainable. The plea regarding lack of jurisdiction is only a tactic adopted by the petitioners/defendants to delay and protract the proceedings. In any event, the issue raised is not a pure question of law capable of being decided as a preliminary issue. Hence, the application is liable to be dismissed with costs.

4. Heard both sides.

5. The point that arose for consideration is :-

Whether the issue of maintainability of the suit is to be framed and decided as a preliminary issue?

6. **The point-** Petitioner is the 7th defendant in the suit. 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. A relief of 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 is also sought for.

7. 1st plaintiff is the NSS Karayogam, Vennala and the 2nd plaintiff is the Registrar of Karayogam, the post which is held by the

3rd plaintiff. The contention of the petitioner is that the suit is not maintainable before this Court since the suit relates directly with the administration, management and internal affairs of Nair Service Society (NSS) which is a company governed by Companies Act, 2013 and whose status as a company has been recognised by the Hon'ble Supreme Court in **Nair Service Society v.State of Kerala, (2007)4 SCC 1**. It is stated that the first plaintiff is a branch of NSS and all matters relating to its administration, election, membership rights and internal governance forms part of the internal management of the company and therefore, falls within the exclusive jurisdiction of National Company Law Tribunal under the Companies Act, 2013.

8. The respondent denies the petition averments and submits that Nair Service Society (NSS) is a company registered under the Kerala Non-Trading Companies Act and is not governed by the provisions of Companies Act, 2013. It is stated that, Karayogams are not branches of NSS nor members and that they are voluntary associations functioning as per their own bylaws.

9. The petitioner mainly relies upon the judgement of the

Hon'ble Apex Court in **Nair Service Society** *supra* contend that NSS is a company and therefore, the disputes pertaining to the 1st plaintiff Karayogam is triable only before the NCLT and that Civil Court's jurisdiction is barred under S.430 of the Companies Act. It can be seen that the Hon'ble Apex Court has not in **Nair Service Society** *supra* dealt with the question whether NSS is a company registered under the Companies Act for the disputes concerning the same is to be tried by NCLT. The passive observations of the Hon'ble Apex Court which are only obiter dicta is as follows "*Nair Service Society ('the Society'), a Society which was initially registered under S.26 of the Travancore Companies Act, 1914 and after coming into force the Companies Act, 1956, it would be deemed to have been registered under S.25 thereof.*" There is no statement that any disputes within an NSS Karayogam, which is having affiliation alone to NSS is triable by NCLT alone.

10. S.430 of the Companies Act Reads as follows;

"No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal or the

Appellate Tribunal is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by the Tribunal or the Appellate Tribunal.” In the present case, even the

petitioners have no case that the 1st plaintiff Karayogam is an incorporated company. It is a voluntary association having its own bylaws. It is only affiliated to NSS through its 3-tier structure. At this juncture, it is pertinent to refer to the observations of the Hon’ble High Court Of Kerala in **Jayalakshmi v. Nair Service Society 2010 KLT 4 171, 2010 ILR KER 4 344**, where Nair Service Society(NSS) was the 1st respondent and one of its affiliated Karayogam was the second respondent;

“ It may be true that the second respondent is a member of the first respondent- Society which is in turn a company registered under the Travancore Companies Act. But we fail to see how on that score it could be considered to be a company. A member of a company can be a natural person or a legal person. The fact that the second

respondent is a member of the first respondent company would not by itself make it a company. In other words, unless the appellants have a case that the second respondent is a company in its own right, by the mere fact that it is a member of the first respondent company, it cannot be transformed into a company against which a petition under S. 433 would be maintainable. As already noted, there is no case for the appellants that this is a company registered under the Companies Act to which S. 433 would apply in its own right. Even assuming for a moment without deciding the issue that there is control by the first respondent over the second respondent that again by itself would not make the second respondent a company against which a petition under S. 433 would lie in its own right.”

11. Thus, there is no ambiguity in this regard. Further reference can be placed to the dictum of the Hon’ble High Court in N.S.S. Karayogam, Rep. By Its President, P.G. Krishnan Nair v. N.S.S. Karayogam Registrar And Others 2019 SCC ONLINE KER 14074. It was held as follows;

1. “A suit for partition instituted by a Karayogam, an

unregistered body against five Karayogam, five unregistered associations. The suit was instituted by the plaintiff without obtaining leave under Order 1 Rule 8 CPC. No leave was also obtained to sue against unregistered associations, the defendants 1 to 5, but proceeded with the suit inspite of objection raised by the 5 defendant challenging the maintainability of the suit. The First Appellate Court omitted to consider the said question.

2. The Trial Court considered the question and entered into a finding that the parent association was registered under the non trading companies Act. As such, the plaintiff association can maintain a suit being a legal entity.

3. The fact that the parental organisation was registered as a non trading company itself will not constitute or assign any legal entity to an unregistered association, apart from the parental Association though it was affiliated to the parental association. A suit can be maintained only after obtaining leave under Order 1 Rule 8 CPC. The decrees passed in violation of the mandate under Order 1 Rule 8 CPC cannot be sustained.”

12. In the present case also, suit has been filed after obtaining leave under O.1 R.8 of C.P.C. Therefore, the discussions above only leads to the finding that the dispute between the parties to the suit being a suit of civil nature and absence of any legal provision which bars the jurisdiction of this court from trying the same, the suit is maintainable before this court. There is no situation which warrant framing an issue as to maintainability of the suit and to try the same as a preliminary issue. Point is accordingly found against the petitioner.

In the result, the petition is dismissed. Parties shall bear their respective costs.

Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in open Court on this the 4th day of June, 2026.

Nanda Krishna M
I Additional Munsiff
II Additional Munsiff (I/C)

Appendix:- Nil

II Additional Munsiff (I/C)

ORDER

I.A. No. 02/2026 in
O.S. 1173/2024
Dated 04.06.2026