

IN THE COURT OF THE SUBORDINATE JUDGE, ALAPPUZHA

Present:-Smt. Rekha Laurian, Sub Judge
Monday 30th day of March, 2026/09th day of Chaithra 1948

A.S.No.06/2021

(Filed on 09.11.2021)

(OS.982/2015 on the file of Additional Munsiff's Court, Alappuzha)

Appellants:-

1. R.Sanalkumar, 65 years, S/o V.K.Rakhavan,
Randu thaiveliyil House, Paravoor Village,
Punnapra North Panchayath,
Paravoor Muri.
2. R.Anilkumar, 55 years, S/o V.K.Rakhavan,
Randu thaiveliyil House of – do -
3. V.K.Sudhakaran, 63 years, S/o Kesavan,
Appakulam House,of – do -
4. V.B. Gopi, S/o Kesavan, 59 years,
Kootugal House, Punnapra village,
Punnapra South Panchayath
5. Madhu.T, aged 54 years, S/o T.K.Thankappan
Appakulam House,Kalarkodu Muri,
Paravoor Village,
Punnapra North Panchayath
Alappuzha.
6. T. Satheendran, 64 years,S/o T.K.Thankappan,
Appakulam House,of – do -
7. Remadevi, aged 56 years, D/o T.K.Thankappan,
Appakulam House of – do -
8. Thankamma.T, 67 years, D/o T.K.Thankappan,
Appakulam House of – do -
9. Kutty Bhavani, aged 94 years, D/o Kutty
Appakulam House of – do -

(By Adv. C.Parameswaran)

- Respondents:-**
1. Sasidharan, 64 years, S/o V.K.Chakrapani, Velikkakathu House, Paravoor Muri, Punnapra, Paravoor North P.O, Alappuzha
 2. Sabu, 59 years, S/o V.K.Chakrapani, of – do -
 3. Pushkaran, 69 years, S/o V.K.Chakrapani, of – do -
 4. S. Manoharan, President in charge, Paravoor Subrahmanya Swamy Kshethra Trust, Reg.No. A 166/09, Paravoor North P.O, Alappuzha.
 5. M.P. Salim, Treasurer of – do -
 6. R. Bineesh Chandran, Secretary of – do -

(R6 by Adv. Vishnuraj Sugathan)

This Appeal suit having been finally heard on 12.03.2026 and the court on 30.03.2026 delivered the following:-

J U D G M E N T

This is an appeal filed by the appellants against the judgment and decree dated 05.02.2020 in O.S.982/2015 on the file of the Additional Munsiff's Court, Alappuzha.

2. The parties to this appeal would hereinafter be referred in accordance with their status in the court below. Therefore, the ***appellants would be referred as the plaintiffs and respondents as the defendants.*** Suit was filed by the appellants/plaintiffs for framing for the administration and management of a private Devaswom and for other reliefs.

3. The appellants/plaintiffs filed the suit against the defendants for framing for the administration and management of a private Devaswom and for other reliefs.

4. The respondents/ defendants have not filed objection to the appeal.

5. Averments in the plaint are as follows: The plaintiff and defendants No.1 to 3 are members of a Marumakathayam Ezhava Family by name Kaliamparambil Valappil Veetil, Paravoor Muri, Paravoor Village. The said family owns a Temple by name Paravoor Subramanya Swamy Devaswom. The plaint schedule properties were dedicated to the Paravoor Subramanya Swamy Devaswom by the members of the Valappil Veetil family and they belong to the Paravoor Subramanya Swamy Devaswom. The right to manage and administer the affairs of the Devaswom was with the senior male member of the family and it was being done so. The plaint schedule properties belong to and held in common by the Valappil Veetil family for the administration and management of the Paravoor Subramanya Swamy Devaswom. There was mismanagement in the administration of the devaswom by the members of the family who were in the helm of affairs in the management of the Devaswom. The properties dedicated to the Devaswom were not maintained by the persons who were in the management of the Devaswom. The Paravoor Subramanya Swamy Devaswom is a private Devaswom having character of private Religious trust and the members of the family alone have the right of ownership and management of the Devaswom. There was a suit instituted by the family members as OS.244/1994 before the Hon'ble Sub Court for declaration and injunction and in the said suit the appellate court mounded the relief for partition and decreed the suit in part. The plaint schedule properties were left out in the said suit being the properties dedicated to the said Paravoor

Subramanya Swamy Devaswom. The plaintiff states that the day today affairs of the temple was conducted by the people of locality by a Trust constituted by the defendants No.1 to 3 without the consent and concurrence of the plaintiffs and other members of the family. The defendants No.4 to 6 represent the said Trust illegally constituted by the defendants. The defendants No.4 to 6 have no right over the plaint schedule property. The temple in the property is a private's temple. The public does not have any interest over it. On 11.11.2015, the plaintiffs got information that the defendants would obstruct the plaintiff and members of the family from worshiping in the temple and making offering. The defendants along with antisocial elements of the locality had inflicted fatal injuries to the first plaintiff on 02.05.2015 and the Station House Officer, Punnapra police station has registered a case against the defendants No.1 to 3 and the investigation is under pipe line. The first plaintiff was admitted in the Medical College Hospital, Vandanam for treatment for the injuries sustained in the said incident. Coming to understand the said illegal and unauthorized acts of the defendants, the members of the family convened a meeting of their and have decided to elect a managing committee from among the members of the family for the administration and management of the Devaswom. Even though such a decision was taken, it could not be put into effect due to the recalcitrant attitude of certain members of the family including the defendants No.1 to 3 and their associates. It is further learnt that the defendants No.1 to 3 along with others who unauthorizedly causing all sorts of obstruction to the plaintiffs in making worship and offering to the temple. The administration of the Devaswom is now in jeopardy. The 1st defendant claiming as the senior male member of the family, is executing documents after documents with respect to the plaint schedule properties one by one to several persons and large number of strangers are being inducted into the plaint schedule properties. The said act of the 1st defendant and others are allowed to be continued, the entire

assets of the Devaswom including the plaint schedule properties will be lost for ever. It will also become impossible to have the Poojas, Rituals and Festivals of the temple of the Devaswom conducted. The temple of the Devaswom will get ruined and the very purpose of the dedication of the family properties for the deity of the devaswom will be defeated. The plaintiffs apprehend that if such a situation is allowed to be prevailed, it will cause ruin to the family and its members. The plaintiffs are not in a position to prevent the aforesaid unauthorized and illegal acts of the defendants No.1 to 3 directly. Hence it is highly, necessary in the interest of justice that the defendants No.1 to 3 be restrained by a decree of permanent injunction from doing the aforesaid vandalous acts. In the above circumstances, it is highly necessary that a scheme for the management and Administration of the Devaswom is to be framed and the administration and management of the devaswom is to be conducted as per the scheme. It is also submitted that in the interest of justice, a receiver may be appointed for the management and administration of the devaswom and its properties till a suitable scheme is framed for that purpose. The above said facts constitute the cause of action for this suit and the cause of action has arisen at Paravoor Village where the plaintiff Devaswom situated within the jurisdiction of this court from 11.11.2015, when the plaintiff found it necessary for the framing of scheme for the management and administration of the Devaswom. Hence the suit.

6. Written statement filed by the 6th defendant reads as follows : - The suit is not maintainable either in law or on facts. It is devoid of any truth or bonafides. The suit is barred under section 92 of CPC as the Temple and Devaswom in question are oblique religious trust, as conclusively found in OS.244/1994 on the files of the Sub Judge's Court, Alappuzha and in AS.90/2005 on the files of the District Judge's Court, Alappuzha. The plaintiffs No.1 and 2 and

8 were parties to the said suit and appeal and therefore the said finding is binding on them and they are estopped from contending that the Devaswom is a private Trust. The said claim of the said plaintiffs are barred by the principles of res-judicata and issue estopped in view of the conclusive findings in the said suit and appeal that the said Temple and Devaswom are public Trust. The above suit is bad for non-joinder of necessary parties also, as the Paravoor Sree Subramanya Swamy Kshethra Trust, Reg.No.A.166/2009, Paravoor North P.O, which is now administering the affairs of the Temple and Devaswom and which is having a separate legal entity, has not been made a party to the suit. Similarly, the idol is also not made a party to the suit and on that score also, the suit is bad for non-joinder of necessary parties. The description of the plaint item is wrong and incorrect and so described with ulterior motives. The plaintiffs have neither title to nor possession of the plaint item and in the property where the Sree Subramanya Swamy Temple is situated. Moreover, as stated above, the temple in question is a public temple and so the plaintiffs have no title nor exclusive possession in the plaint item. All the averments contained in the para 1 of the plaint are not true, hence denied. The plaintiffs and the defendants No.1 to 3 are not at all the member of Kaliamparambil Valappil Veettil family of Paravoor. The said family has no ownership over the Sree Subramanya Swamy Temple or Devaswom. As such there is no question of any dedication as alleged. The said family has no right to administrator the Devaswom also. The plaint properties do not belong to or held in common by valappil veettil family for the administrator management of the said Devaswom. The averments in the contra in para 2 of the plaint, are not true and correct and hence denied. The averments contained in para 3 of the plaint are not true and correct and hence denied. The administration of the Devaswom is done from time immemorial by the general public of the locality and the member of the plaintiffs family are also in the administrative body, as members of the general

public. There was no management, as alleged. As stated above, the said Devaswom is a public trust and it is not at all a private Devaswom having the character of a private religious trust, as alleged. The averments that, the members of the family alone have the right of worship and management of the Devaswom is absolutely wrong and incorrect. The plaint item is not at all a subject matter in OS.244/1994 of the Sub Judge's Court, Alappuzha. The survey number of the plaint item and the description is wrongly shown as 401/6 of Paravoor village. It is submitted that the said Temple is situated in the property comprised in Sy.No.415/2A of Paravoor Village (old Punnapra Village) and it forms part of a larger holding of 1.91 acres of property, which originally belonged to Vadakkeattathu Veetil family and was owned by one Prabhakaran and Mahadevan as per sale deed No.2275 dated 18.10.1962 of the SRO, Alappuzha. The said temple situated in the said property is having more than 120 years old and in a public temple managed and administered by the general public and worshiped by the public at large. The main idol is Lord Subrahmania and there are sub deities such as Mahavishnu, Nagarajav, Bhadrakali, Arukola, Brahmarakshass and Kirathamoorthi. The Namakshara Mandapam, Manimandapam and Temple of Kiratha Moorthi are situated in Sy.No.401/6 of Paravoor Village and there where re-installation of idols in the year 2006 and 2016. The said sun deities and mandapam are part and parcel of the main temple and those are also public temples. The said temple and its assets are now administered by a Trust formed from the general public of the locality namely viz Paravoor Sree Subrahmania Swamy Kshetra Trust, reg.No.A.166/2009, which is registered under Act 12 of 1955, which is constituted in the year 2009. The administration of the said temple is carried on as per the provisions enjoined in a written bye-laws. As per provisions in the bye-laws, there are 15 committee members, out of which 5 members including the president are selected from the family of the plaintiffs and the remaining committee members vice president, Secretary, Treasurer and

Returning Officer of Administrator are elected from the general public. The said provision was made considering the fact that the family of the plaintiffs is situated adjoining to the temple and the members of the family were showing strong belief and devotion to the temple and its affairs. As such, the direct brother of the plaintiffs No.1 and 2, R.Prasannakumar, is now the Presidents of the trust and 4 members from the family are also elected as managing committee members. The administration of the temple and the assets are carried on very effectively and the said trust is protecting and safeguarding the temple and its assets. The day-to-day affairs of the temple are performed promptly and the poojas and ceremonies are conducted without any fail, perfectly in accordance with the custom and usage. The income and expenditure of the temples are accounted properly, truly and correctly. The trust was formed with public notice and no separate consent or concurrence of the plaintiffs is required for the formation of the Trust. The constitution of the trust is not at all illegal and the defendants have also right over the plaint item, as it is a public religious trust. As stated above, the temple is not at all a private temple, as alleged. The general public have right over the same, as it is a public trust. The defendants never obstructed the plaintiffs or the members of their family from worshiping in the temple or making offerings, as alleged. The defendant never inflicted any injury to the 1st plaintiff on 02.05.2015, as alleged. It is understood that there was a dispute among the family members of the plaintiff which result is causing injury to the 1st plaintiff. The said incident has no connection whatsoever with the trust or the administration of the temple. The averments to the contra in para 4 of the plaint are not true and correct, hence denied. It is submitted that the plaintiffs No.1, 3 and 5 had filed an application on 22.10.2014 before the trust showing their intention to co-operate with the administrative committee of the trust, on fulfilling certain conditions contained therein. The said application was placed before the committee and since the said persons were not members of the

trust and as the conditions were either not correct or not acceptable, the application was rejected. It is thereafter that raising false contention, the plaintiffs have filed the above suit. The averments contained in para 5 of the plaint are not fully correct, hence denied. As stated above, there is no illegal or unauthorised acts from the part of the defendants. This defendant is unaware of the convening of the meeting or election of Managing committee from among the members of the family for the administration of the Devaswom. The members of the plaintiff's family are incompetent to elect a managing committee for the administration of the Devaswom, as the family has no right of administration or management of the Devaswom. As stated above, the defendants are not at all causing any sort of obstruction to the plaintiffs in worshipping or offering to the temple. The administration of the Devaswom is not at all in jeopardy as alleged. The 1st defendant is now the President of the said trust and as the President of the same, he is discharging his duties and plaintiff has no right to question it. Since, the public temple is situated in the plaint items, every public has got the right to enter there and worship in the temple. Nothing is done to cause any loss to the Devaswom and poojas, rituals and festivals of the temple are conducted with all promptitude. There is no dedication of the plaintiff's family as alleged and as the family of the plaintiff has no special right, over the temple and the Devaswom, the apprehension of the plaintiffs of ruin to the family, is incorrect and unfounded. Since, the defendants are not at all doing any illegal or unauthorized acts and as the plaintiffs have no special right over the temple and the Devaswom, there cannot be a decree of permanent injunction as prayed for. The averments to the contra in para 6 of the plaint are not true and correct and hence denied. The averments contained in para 7 of the plaint are not true and correct and hence denied. In the aforesaid circumstances, the plaintiffs cannot seek for the reliefs of framing a scheme for the management or administration of Devaswom, both in law and on facts. A receiver, as prayed for,

can't also be appointed for the administration and management of the Devaswom and its assets. There is no cause of action for the plaintiffs against the 6th defendant and the cause of action alleged is false, imaginary and incorrect. The plaintiffs are not at all entitled to get any of the reliefs prayed for. The suit is not properly valued and no sufficient court fee is paid. Therefore, it is prayed that the suit is liable to be dismissed with costs.

7. Based on the pleadings in plaint and written statement, the court below framed six issues to try the suit and it is dismissed.

8. In the course of evidence in trial court, PW1 to PW3 were examined and Exts. A1 to A11 were marked on the side of plaintiffs. ExtB1 and B2 were marked and no oral evidence from the side of the defendants.

9. On being highly aggrieved by the judgment and decree rendered by the court below, this memorandum of appeal stands preferred by challenging the same on various grounds mooted therein.

10. Points that arise for consideration in the appeal are as follows:-

- i. Is the suit maintainable as prayed for ?
- ii. Is the suit barred by res judicata ?
- iii. Is the suit bad for non-joinder of necessary parties ?
- iv. Is the prayer to frame a scheme for administration and management of the Devaswom allowable ?

- v. Is the plaintiff entitled for perpetual injunction as prayed for ?
- vi. Has the court below rightly decided the case?
- vii. Whether the appellate court need to interfere in the findings rendered by the court below?
- viii. *Reliefs and cost.*

11. **Points No.1 to 5:-** The plaintiffs' case is that the plaintiff and defendants No.1 to 3 are members of a Marumakathayam Ezhava Family named Kaliamparambil Valappil Veetil, Paravoor Muri, Paravoor Village. Paravoor Subramanya Swamy Devaswom temple belongs to the said family. The properties were dedicated to Paravoor Subramanya Swamy Devaswom by the members of the Valappil Veetil family. So the right to manage and administer the affairs of the Devaswom is with the senior male member of the family. It is averred that there was mismanagement in the administration of devaswom. Devaswom is a private one having a character of private Religious trust and the members of the family is entitled to ownership and management. OS.244/1994 for declaration and injunction was previously filed before the Sub Court. It was decreed in part. The plaintiff schedule properties were dedicated to Devaswom . Day today affairs of the temple was conducted by the people of locality by a Trust constituted by the defendants No.1 to 3 without the consent and concurrence of the plaintiffs and family members. The defendants No.4 to 6 represent the Trust. It is illegally constituted and they have no right over the plaintiff schedule property. On 02.05.2015 the defendants and certain antisocial elements inflicted fatal injury to the 1st plaintiff. The case was registered against them before Punnapra Police Station. Even though members of the family convened a meeting to elect a

managing committee, due to difference of opinion it could be materialized. The defendant No.1 to 3 are causing obstruction to the plaintiff in worshipping in the temple. If the defendants are allowed to continue the temple will be ruined and the entire assets of the temple will be lost. So the plaintiff claims to frame a scheme for administration for management of the temple.

12. The case of the 6th respondent is that the temple and Devaswom is a public trust. It was conclusively found in OS.244/1994 of Sub Court, Alappuzha and AS.90/2005 of the District Court, Alappuzha. The plaintiffs No.1 and 2 and 8 were also parties to the said suit. So the suit is barred by the principles of res-judicata and issue estoppel. Further it is contended and the idol is not made a party to the suit. The plaintiffs have no title or exclusive possession in the plaint schedule property. The temple is a public temple. The Vallappil family have no right to administer the Devaswom. The administration of Devaswom is done by general public from past so many years. The temple is more than 120 years old. There is a trust formed from the general public of the locality, Paravoor Sree Subramanya Swamy Kshethra Trust registered No.A.166/2009. There is no mismanagement and hence the appeal is liable to be dismissed.

13. The plaintiff had tendered 11 documents before the trial court. The defendants tendered two documents before the trial court. Ext. B1 and B2 are judgment and decree in AS. 90/2005. It is the appeal preferred from Ext. A1. In Ext. B1 it is specifically found by the Hon'ble District Court that the property that is scheduled herein which is item No. 3, comprised in survey number 415/2, in the appeal belongs to temple and it does not belong to family. Property scheduled in the present suit is to an extent of 26.1218 ares in survey number 401/6 of Punnappa North panchayath. As per Ext.A3 It is part and parcel of temple property. It is also

stated that it is a public administration dedicated by English man for the worship of public over which neither the plaintiffs nor the defendants have any matter of right and hence no relief was granted to the plaintiff. So the question that has been raised in OS. 982/2015 before the Additional Munsiff's court, Alappuzha was already decided on merit in AS. 90/2005 on 03.11.2007 by Additional District Court, Alappuzha. Further 1st, 2nd and 9th plaintiffs and 1st, 2nd and 3rd defendants here in were parties to the said proceedings . Hence it is clearly barred by the principles of res judicata. Hence these points are found against the appellants/plaintiffs.

14. **Point No.6 and 7:-** In view of my finding on the above points, it is held that there are no valid grounds to interfere with the judgment and decree passed by the Additional Munsiff's Court, Alappuzha. Appeal has no merits and it is only liable to be dismissed confirming the judgment and decree passed by the court below. Hence, I am not inclined to allow this appeal and interfered on the findings of the trial court. The points are found against the appellants/plaintiffs.

15. **Point No.8:-** In the result, the appeal is dismissed with costs.
(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court today this the 30th day of March, 2026.)

Sd/-
REKHA LAURIAN
SUB JUDGE

Appendix:- Nil

Id/-
SUB JUDGE