

IN THE COURT OF THE SUB JUDGE, CHERTHALA

Present:- Ms.Lakshmy.S., Sub Judge

Monday, the 30th March 2026/ 9th Chaithra 1948

OP (Trust) 02/2020

(Filed on 28.09.2020)

Petitioners:-

1. N.V Sanjeev, aged 64 years,
S/o. Vijayappan, Naduvile Veetil,
Kadakkappally P.O, Kadakkappally Muri,
Pattanakkad Village, Cherthala Taluk.
2. Ganga Prasad, aged 39 years, S/o. Gangadharan,
Kunnathezhathu Veetil, Kadakkappally P.O,
Kadakkappally Muri, Kadakkappally Village,
Cherthala Taluk.

By Adv.C.H Chandrabhanu &
Adv. Anish Madhav. A.

Respondents:-

1. Kandamangalam Kshethra Samithi,
Devaswom Office, Kandamangalam,
Kadakkappally Village, Kadakkappally Muri,
Kadakkappally.P O, Cherthala Taluk,
Rep. by its Secretary.
2. P.D. Gagarin, aged about 57 years, S/o. Divakaran,
Pollayil House, Kadakkappally.P O,
Kadakkappally Muri, Kadakkappally Village,
Cherthala Taluk.

3. Sajimon, aged about 47 years, S/o. Narayanan, Nivarthil House, Vettackal.P.O., Uzhuva Muri, Pattanakkadu Village, Cherthala Taluk
4. Ramachandran, aged about 76 years, S/o. Padman, Kaipparasseril, Thaikkal.P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk.
5. Sajesh Nanthyattu, aged about 38 years, S/o. Raveendran, Nanthyattu House, Pattanakkadu.P.O, Uzhuva Muri, Pattanakkadu Village, Cherthala Taluk.
6. Shaji, aged about 59 years, S/o. Kumaran, Tharayil, Kadakkarappally.P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk
7. Jayasree, aged about 61 years, W/o. Shaji, Punnackal, Thaikkal.P.O, Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk
8. K.N. Lalitha, aged about 64 years, W/o. Ramanathan, Vellipparambil, Pattanakkadu.P.O, Pattanakkadu Muri, Pattanakkadu Village, Cherthala Taluk.
9. Bhadran, aged about 58 years, S/o. Narayanan, Kalathil House, Kadakkarappally.P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk.

10. V. Shibu, aged about 47 years, S/o. Viswanathan, Shibubhavanam, Kadakkarappally P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk.
11. K.K.Anilkumar, aged about 54 years, S/o. Karunakaran, Anchutharayil, Kadakkarappally.P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk.
12. D.Sudheer, aged about 48 years, S/o. Dasan, Kizhakke Kavathikkattu, Kadakkarappally.P.O., Kadakkarappally Muri, Kadakkarappally Village, Cherthala Taluk.
13. Dileep, aged about 58 years, S/o. Sathyan, Ambadi House, Pattanakkadu .P.O., Pattanakkadu Muri, Pattanakkadu Village, Cherthala Taluk.
14. Babu, aged about 48 years, S/o. Karunakaran, Ponnattu Nivarthil, Pattanakkadu.P.O., Pattanakkadu Muri, Pattanakkadu Village, Cherthala Taluk.
15. P.K.Vasu, aged about 68 years, S/o. Kesavan, Polakkulangara House, Pattanakkadu P.O., Pattanakkadu Muri, Pattanakkadu Village, Cherthala Taluk.
16. Binu, aged about 39 years, S/o. Mani, Puthenthara Nikarthil, Pattanakkadu Muri, Pattanakkadu P.O., Pattanakkadu Village, Cherthala Taluk.

17. P.P. Narayanan, aged about 58 years,
Kannanthara House, Kadakkarappally P.O.,
Kadakkarappally Muri, Kadakkarappally Village,
Cherthala Taluk
18. Gireesh, aged about 38, Asariparambil House,
Kadakkarappally.P.O., Kadakkarappally Muri,
Kadakkarappally Village, Cherthala Taluk.
19. Jaya Prathapan, aged about 45 years,
W/o. Prathapan, Kaithavalappil,
Andhakaranazhi.P.O., Pattanakkadu Muri,
Pattanakkadu Village, Cherthala Taluk.
20. Rajesh, aged about 38 years, Pollayil House,
Vettackal P.O., Pattanakkadu Muri,
Pattanakkadu Village, Cherthala Taluk.
21. Suresh Babu, aged about 48 years,
S/o. Neelambaran, Vazhatharayil,
Kadakkarappally.P.O., Kadakkarappally Muri,
Pattanakkadu Village, Cherthala Taluk.
22. Ashokan, aged about 48 years, S/o. Sukumaran,
Kannamthodathu, Kadakkarappally.P.O.,
Kadakkarappally Muri, Kadakkarappally Village,
Cherthala Taluk
23. Pradeep, aged about 35 years,
S/o. Purushan, Puthentharayil, Thaikkal P.O.,
Vattakkara Muri, Kadakkarappally Village,
Cherthala Taluk.

24. Radhakrishnan, aged about 56 years,
S/o. Chakrapani, Therathu Veliyil,
Kadakkappally.P.O., Kadakkappally Muri,
Kadakkappally Village, Cherthala Taluk.
25. Bhargavan, aged about 61 years, S/o. Divakaran,
Panachikkal Tharayil, Thaikkal.P.O.,
Vattakkara Muri, Kadakkappally Village,
Cherthala Taluk.
26. K.D. Jayaraj, aged about 55 years,
S/o. Dasaradhan, Kandathiparambil,
Vettackal.P.O., Vettackal Muri,
Pattanakkadu Village, Cherthala Taluk.
27. K.K. Rajeev, aged about 38 years,
S/o. Kunjappan, Kuriyappasseril, Vettackal.P.O.,
Vettackal Muri, Pattanakkadu Village,
Cherthala Taluk
28. Sajimon, aged about 43 years,
S/o. Mrithyunjayan, Athulya Nivas,
Thaickal .P.O, Kadakkappally Muri,
Kadakkappally Village, Cherthala Taluk.
29. Rajendran, aged about 53 years,
S/o. Narayanan, Chirayil House, Thaickal P.O.,
Kadakkappally Muri, Kadakkappally Village,
Cherthala Taluk.
30. V.K. Ashokan, aged about 55 years,
S/o. Karunakaran, Karunalayathil House,
Pattanakkadu.P.O., Pattanakkadu Muri,
Pattanakkadu Village, Cherthala Taluk.

31. K.Purushothaman, aged about 63 years,
S/o. Krishnan, Moozhikattu House,
Pattanakkadu P O, Pattanakkadu Muri,
Pattanakkadu Village, Cherthala Taluk.
32. Vivek.V. Ponnappan, aged about 27 years,
S/o. Ponnappan, Pandipparambil,
Vettackal P O, Vettackal Muri,
Pattanakkadu Village, Cherthala Taluk.
33. Harikrishnan, aged about 38 years,
S/o. Gopinathan, Ettuchakrathara House,
Vettackal P O, Vettackal Muri,
Pattanakkadu Village, Cherthala Taluk.

R1 By Adv. T.Jayakrishnan,
Adv. Hormis Abraham, Adv.S.Lekha &
Adv. M.V Baiju.
R4 By Adv. M.M Vinod &
Adv. V.N Madhusoodhanan.

This petition coming on for final hearing on 27.03.2026 and the court on 30.03.2026 passed the following:-

ORDER

The present petition is filed u/S.92 CPC for leave to institute suit against first respondent, Kandamangalam Temple Committee, a public religious trust.

2. Petition: -

The first respondent is a public religious trust and its administration is as per byelaw dt.05.04.1969 framed by the Hon'ble District Court, Alappuzha which was later modified on 31.07.1991. The Kandamangalam Temple and other associated

temples together with its income and assets, both movable and immovable and all contributions from the public shall be the property of the first respondent Temple Committee. The term of the Temple Committee is three years. The election shall be held once in three years after April 30th and before May 15th. The property measuring about 7 acres in Kadakarapalli Village including the Kandamangalam Sree Rajarajeshwari Temple and its sub-temples, Kandamangalam High School, Higher Secondary School, Kandamangalam Sree Rajarajeshwari English Medium School, the Shakti Vinayaka Temple at the Thanki kavala etc., are the property of the first respondent. The respondents herein were elected as officer bearers of the Temple Committee in the elections held on 28.05.2017 and 03.06.2017 and they assumed office on 18.06.2017. The term of the Temple Committee ended on 03.06.2020. But the activities of the Committee were all illegal and there were total maladministration and mismanagement of the assets. The misdeeds of the Committee are enumerated hereunder:

- (i) The Committee did not convene any Annual General body meeting since it took charge on 18.6.2017. There was no budget for the activities of the committee for the year 2017-18. The income and expenditure statement was not audited and approved in the General body as per Clause 34 of the byelaw. There was no Annual General body meeting for the year 2018-19 and 2019-20.

- (ii) The above activities of the respondents are in violation of Clause 16 of the byelaw, maladministration and breach of trust committed by the respondents as the office bearers of the Committee.
- (iii) The President, Vice President, Secretary, Treasurer and Manager acted beyond their powers vested in the byelaw and in violation of the same. The 2nd respondent who has control over the activities of the Committee and members as per Clause 22(h) failed to perform his duties.
- (iv) The General Body meeting, which has to be held after the festival was not held and the income and expenditure statement has not been approved as per Clause 47. The 3rd respondent has caused liability in the conduct of the festival and no measures were taken to recover the same from him.
- (v) The 4th respondent who was the Secretary of the Committee has acted against Clause 24 and 41 of the byelaw and has failed to keep proper statement of accounts approved and signed by the President, Secretary and Treasurer. No minutes were prepared regarding approval of accounts.
- (vi) The fourth respondent, who is authorized under Clause 24 of the bye-law, is not entitled to retain any amount exceeding Rs.500/- under Clause 25 of the bye-law. The amount collected shall be immediately handed over to the Treasurer under Clauses 27 and 28 of the byelaw

and the Treasurer shall deposit the same in a bank account jointly in the name of the President and the Treasurer within two days. The money could be withdrawn only through cheques signed by the President and the Treasurer. These conditions were violated by the respondents.

- (vii) According to the accounts and balance sheet published by the Committee, it was shown that there was a balance of Rs.14,89,748.25/-. However, no such amount was seen deposited by the first respondent in the Committee or in the Bank in the name of the President and Treasurer.
- (viii) Eventhough the first petitioner demanded the Committee to deposit the sum, the respondents did not take any action which resulted in the filing of OS 504/2018. But evenafter the direction of Munsiffs Court, the respondents dealt with the amount without notice to petitioner.
- (ix) In order to conceal the embezzlement of the amounts and to conceal their misappropriation of funds for the period upto September 2017, the respondents filed two cases, OS.205/2018 and OS.284/2018, in the Munsiff Court, against the 4th respondent herein. These two cases were filed alleging that the 4th respondent embezzled of Rs.8,17,943/-.
- (x) The said litigation was filed to cover up the misdeeds of the respondents and to deviate public attention. After placing 4th respondent under suspension, a committee member named

Purushothaman was illegally given the charge of Secretary on 01.04.2018 and then to Respondent No.26 from 01.03.2019 to 06.03.2020 and then to Respondent No.17 who was illegally holding the charge of the Secretary.

- (xi) As per clause 14(b), the Secretaryship was automatically taken away from 4th respondent as he turned out to be a defaulter. Still, the Committee suspended him only to cover up their misdeeds.
- (xii) The former Governing body, of which the second Respondent was the President and the fourth Respondent was the Secretary, had in its general body meeting held on 14.03.2015 decided to renovate Sri Rajarajeshwari Temple and to build a new Shiva Temple at a cost of Rs.3.5 crores. The sixth counter petitioner was the convener of these works. It was decided to collect Rs.4,000/- per house from the houses of the thirteen SNDP branch members for this purpose. But no proper account is kept for the crores of sums so collected.
- (xiii) The collections from offering boxes were not properly accounted and there is no proper inventory on the gold ornaments and other valuables of the Temple.
- (xiv) The sixth respondent did not keep the income and expenditure accounts of the schools and his term ended on 3.6.2020. The respondents 2 to 6, have received a huge amount of Rs.90,00,000/- as donation for appointment of teachers which are unaccounted.

- (xv) A charitable trust was registered in the Alappuzha District Registrar Office under the name of Sri Rajarajeshwari Educational Trust, Kadakarapally.P.O, Cherthala under number A200/08 in 2008 by the members of the first counter petitioner committee, with fraudulent and malicious intent. But all the works undertaken for the school were manipulated.
- (xvi) There was total misappropriation of funds regarding transfer of temple properties. All activities were done to siphon of the funds and assets of the temple against the byelaw and to induct persons of the respondents' choice to misappropriate the funds. There was no proper meeting for any decisions relating to the affairs of the first respondents. A suit was filed before the Munsiff Court, challenging the election of the first respondents Secretary to the governing body.

3. OBJECTIONS of 1st respondent:

The Hon'ble High Court on 07.10.2020, has passed an Order in W.P.(C) No:28678/2019 whereby it was ordered that "All the records pertaining to the income and expenditure shall be forwarded to the accountant deputed by the Travancore Devaswom Board for the said purpose. The Devaswom Commissioner of the Travancore Devaswom Board shall appoint a qualified Accountant for that purpose within one week from the date of receipt of a copy of this judgment. The Dy.S.P Cherthala shall address the concerned officials forthwith". The petitioner in that Writ Petition was none other than the 1st petitioner in this leave petition. The

temple involved was Kandamangalam Kshethram and the matter in issue was one and the same. Thus, enquiries and audits were conducted and it was found that all the allegations are without any basis and there is no misappropriation of funds as the petitioners allege. Apart from the intention to defeat the interests of "Public Religious Charitable Trust" no good reason exists for filing the above petition. The 1st petitioner as well as the 2nd petitioner have abused the process of court by filing vexatious and unsustainable litigation before the Munsiff's court and some among it are still pending. There is a scheme framed by the District Court, Alappuzha and the Temple Committee has to work as per the scheme. Annual general body could not be convened because the Munsiff's court has taken custody of daybook accounts and all other related data. The elected members have collectively decided and have carried out the decisions which are necessary for the functioning of Kandamangalam Kshethra Samithy.

4. There was no breach of trust or cheating as contended by the petitioners. There was proper accounting for the expenses incurred in the festival. The accounts were duly audited by a competent auditor. The suspension of 4th respondent and the further action taken by the committee is well within the jurisdiction conferred. The keys of the hundi's are kept in safe locker. President, Secretary and Treasurer are having keys of the locker. Only in the presence of these 3 persons, the strong room could be opened. It is equally wrong to say that counter petitioners have caused damage and pilferage to the ornaments of temple. The English medium school is completely functioning under the control of Kshethra

Samithy. All the members of the managing committee of the school are the committee members of the Kshethra Samithy. Allegations are unnecessarily made by the petitioners to tarnish the reputation of the school. Hence, the leave petition is liable to be dismissed.

5. Additional Objections to the leave petition filed by the 1st respondent:

During the pendency of the above petition, a new committee has been democratically elected and have assumed charge. The 1st petitioner was an office bearer of the previous committee and as such estopped from making a prayer for removal of elected committee. A new committee has already assumed power. It is pertinent to note that the Hon'ble High Court as per the request of the 1st petitioner in WPC.28678/2019 directed audit through qualified accountant. The object and purpose of filing the suit is of paramount importance. The only intention is to "vindicate" private rights and to satisfy personal egos. After the suit a properly constituted General Body and the Returning Officer has elected new members to hold executive posts. They are now managing the affairs of the trust. No allegations against the newly elected members are made in the plaint by way of amendment.

6. The petition was posted for evidence. No oral evidence adduced from both sides. Exts A1 to A13 and Ext.B1 to B6 were marked.

7. Heard both sides.

8. **Points for consideration:-**

(i) *Whether the petitioners have successfully established breach of trust by the respondents in the administration of first respondent public*

charitable trust or whether direction of Court is necessary for the administration of the first respondent?

- (ii) Whether the petitioners could be granted leave u/S.92 CPC to institute the suit for any of the reliefs mentioned therein?*
- (iii) Order as to costs?*

9. **Point No.1 and 2:** These points are considered together for convenience. The Kandamangalam Temple Committee and associated institutions are administered under Ext.A1 byelaw framed by the District Court, Alappuzha on 05.04.1969 which was modified on 31.07.1991. The Temple Committee has a three-year term. The respondent committee was elected in May 2017 and they assumed office on June 2017. Their term ended on June 2020.

10. The main allegations against the respondents are that there was failure in administration as there was no annual general body meetings, no budgets and no audited accounts, which is total violation of Clauses 16, 34, 41 and 47 of the byelaw. Financial irregularities are alleged as large sums in the form of donations, temple renovation contributions were allegedly unaccounted or misappropriated. It is further alleged that there was unauthorized retention of funds, improper suspension/appointment of secretaries and lack of transparency in temple festival accounts. According to the petitioner there is no inventory of temple valuables and alleged misuse of school funds, creation of a separate educational trust with alleged fraudulent intent.

11. Based on these allegations, the petitioners have sought for leave to institute the suit for the following reliefs.

- (a) The first respondent Temple Committee which includes respondents No.2 to 33 to be removed.
- (b) A new Committee to be elected through the process of the Court.
- (c) An enquiry to be conducted on the allegations in the plaint and to call for a report.
- (d) The accounts of the first respondent Committee for the year 2017-18, 2018-19, and 2019-20 to be audited.
- (e) If any loss or misappropriation is found, the same has to be realised from the respondents.
- (f) An expert committee to be formed for the implementation of the reliefs under (b) to (d).

12. The respondents have contended that in W.P.(C) 28678/2019, the Hon'ble High Court directed the Travancore Devaswom Board to audit accounts and they could not find any misappropriation. They argued that annual general body meetings couldn't be held because the Munsiff's Court took custody of account books in a suit filed against the respondents. It is contended that suspension of the 4th respondent and subsequent appointments were within framework of byelaw. A new committee has already been elected, making this petition against the old committee infructuous.

13. Section 92 CPC requires leave of court to sue for mismanagement of a public trust. The leave is granted only if there is a prima facie case of breach of trust or necessity for directions of Court. The petitioners have to show credible evidence of mismanagement, and not just allegations to get an order in their favour. Here, the interference of the Hon'ble High Court to audit the account was already there before the suit. The petitioners are aware of the order of the Hon'ble

High Court and they could not place any material to find that the Audit so conducted found any irregularity against the respondents.

14. The primary allegations raised by the petitioners are directed against the first respondent Committee, which was elected in 2017. The relief sought is essentially the removal of that Committee from administration and the appointment of a new Committee. However, it is an admitted fact that a new Committee has since assumed charge, and no relief has been claimed against the present Committee. Furthermore, no consequential amendment has been made to indicate that the petitioners' grievances continue with the current Committee. In these circumstances, the reliefs sought have become infructuous.

15. The remaining reliefs are related to the audit of the annual accounts of the Committee alleging misappropriation. Ext.B6 judgment of the Hon'ble High Court would show that a direction was already given to the Travancore Devaswom Board to audit the Account. If the same was completed, the petitioners have every right to challenge the Audit report and to initiate appropriate proceedings. There is already a scheme for the Administration of first respondent Committee and petitioners have no prayer for removal of any trustee. The grievance is only with regard to internal governance of a Committee which was already removed. Hence, the petitioners have failed to establish any ground to grant leave u/S.92 and the points are found against them.

16. **Point No.3:** In view of the findings on point Nos.1 and 2, the OP is to be dismissed, with costs.

In the result, OP is dismissed, with costs.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 30th day of March, 2026.

Sd/-
LAKSHMY.S,
SUB JUDGE

Appendix

Exhibits for Petitioners

A1	:	Byelaw
A2	:	03.06.2017 : Notice
A3	:	06.11.2017 : Copy of complaint
A4	:	09.05.2018 : Photocopy of letter
A5	:	25.03.2018 : Copy of application
A6	:	30.05.2018 : Copy of letter
A7	:	27.02.2020 : Copy of application
A8	:	10.08.2018 : Notice
A9	:	22.06.2018 : Notice
A10	:	10.02.2018 : Notice
A11	:	13.01.2019 : Notice
A12	:	26.06.2020 : Notice

A13 : 23.09.2020 : Notice

Exhibits for Respondents

B1 : Copy of plaint in OS.No 205/2018

B2 : 04.10.2021 : Copy of deposition

B3 : 18.09.2018 : Certified copy of IA.1192/2018

B4 : 23.03.2022 : Certified copy of IA.04/2022 in
OS.205/2018

B5 : 22.05.2018 : Copy of affidavit

B6 : 07.10.2020 : Copy of High Court Order

Id/-
SUB JUDGE