

IN THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA

Present: Sri. Mahesh. M., Additional Munsiff

Thursday, the 12th day of March, 2026/ 21st Phalgunam, 1947.

IA No. 01/2025 in O.S. No.628/2025

(Filed on 11.12.2025)

Petitioner:-

Alappuzha Ananatha Narayanapuram Thuravoor
Thirumala Devasom, Alappuzha, represented by
its President S. Rajkumar, aged 57 years,
S/o Surendra Kamath, Alunkal, Thirumala Bhagom,
Thuravoor, Cherthala, Alappuzha.
*By Adv.D.Jayasree, Adv.Rohit.P.Shenoy
and Adv.Akshara*

Counter Petitioners:-

1. Dileep, aged about 67,
S/o. Parameswaran, Soumini Cottage,
Parayakkad P.O., Kuthiathode Village.
2. Salvin.V.J, aged about 53,
S/o. Janaradhanan, Thekke Kannattu,
Parayakadu. P.O, Kuthiathode Village.
3. T.Aniyappan, aged about 51,
S/o. Thankappan, Devaswom Tharayil,
Parayakad P.O., Kuthiathode Village.
4. Remanan, aged about 65,
S/o. Velayudhan, Thekke Karinattu,
Parayakad P.O., Kuthiathode Village.
5. Jon Britto, aged about 65,
S/o Soloman, Kunnel House.
Parayakad P.O., Kuthiathode Village.
6. Manesh, aged about 41,
S/o. Maheendran, Thekke Kannatu,
Parayakad. P.O., Kuthiathode Village.

7. P.G.Raveendran, aged about 75,
S/o. Govindan, Anjali, Vayalar. P.O., Cherthala.
*R1, R3 to R7 by Adv.M.M.Vinod, Adv.V.N.Madhusudanan,
Adv.C.Purushothaman Nair, Adv.Rajeshkumar,
Adv.Haritha Unni and Adv.Sreekala.K.S.
R2 by Adv.Kiran Bright*

This petition having been finally heard on 04.03.2026 and the court on 12.03.2026 passed the following:-

ORDER

This is a petition filed by the petitioner under Order 39 Rule 1 and 2 of CPC for restraining the respondents from trespassing into the plaint item and obstructing the fishing operation and taking yield by the auction purchaser of the petitioner Devaswom till the disposal of the suit.

2. Petition averments in brief :-

The petitioner herein is the plaintiff in the suit. The suit is for injunction. The petitioner Alapuzha Anantha Narayanapuram Thuravoor Thirumala Devaswom belonging to Gowda Saraswatha Brahmins is a Hindu Public Religious Trust governed by the scheme framed by the District Court Alapuzha in O. S. NO. 8 of 1956. The plaint schedule properties belong to the plaintiff Devaswom and the same is held under Thandaper number 2 of Thuravoor South Village. The plaint schedule properties are canals (Thodu) which run within and on the peripheries of the Padasekharam (Large extent of wet land mainly used for the cultivation of paddy) known as Kocituvavakkad Padasekharam which lie north of the Pallithodu Bridge and East of pozhichal. The entire Padasekharan is single crop paddy land and the cultivation mainly depend on the monsoon rain. The remaining period is utilised for cultivation of fish. Both the paddy and fish cultivation require in flow and out flow of water

from the western Pozhichal to the padasekharam and vice versa at different intervals. The management of the Kochuvarakkad Padasekharam is done by the Kochuvavakkad Karshaka Sanghon a registered Samithi and the extent cultivated comes not less than 180 acres. The said cultivating lands which originally vested with the plaintiff Devaswom were divested by the advent of the Land Reforms Act. The canals belonging to the plaintiff flowing inside and Periphery of the Kochuvavakkad Padasekharam is having an extent of not less than 40 acres and the same highly essential for the regulation of the inflow and outflow of the water depending on the high and low tides and further used for dewatering the padasekharam during/after heavy monsoon using motor pumps. The canals belonging to the Plaintiff Devaswom include the adjoining ridges as well. The canals belonging to the plaintiff Devaswom and situate on the northern and southern peripheries of Kochuvavakkad Padasekharam are known as Kocchamma Thodu and Vallaam thodu respectively which flow east west. In addition there are other inner canals connecting the peripheral Kocchamma Thodu and Vallaam thodu. It is further submitted that the agriculture and pisciculture harvest in the Kochuvavakkad Padasekharam would be impossible without the Thodu belonging to the plaintiff Devaswom. Long back there were disputes between the plaintiff Devaswom and the Kochuvavakkad Karshaka Sangham, with regard to the profit sharing. The dispute was finally settled at the instance of the District Collector Alappuzha. in the proportion 30:70. Plaintiff Devaswom is entitled to 30% of the profit and the remaining 70% to the Kochuvavakkad Karshaka Sangham Since then yearly fishing right in the Kochuvavakkad Padasekharam and the Devaswom thodu are auctioned together. The bidders are given the right to cultivate paddy and fish alternatively. Paddy cultivation starts from April to September and fish farming from November to April. In view of the recent Government Order as to 'ഒരു മീനം ഒരു നെല്ലും' scheme

yearly paddy cultivation is made mandatory though not profitable. This year the plaintiff Devaswom along with the Kochuvavakkad Karshaka Sanghom had auctioned the right for paddy cultivation and fishing for the period 1.4.2025 to 31.3.2026. Mr. Malick S/o. Kunju Muhammed, K.M. Manzil, Vaduthala Jetty Post, Arookutty Village had bid the auction for Rs. 4,50,000/- and an agreement has also been executed. On 1.4.2025 jointly by the Plaintiff Devaswom, Kochuvavakkad Karshka Sanghom and the said Malick. Plaintiff Devaswom had also receive its due share Rs 1,50,000/- in two payment made on 1.4.2025 and 21.7.2025. The defendants are/were learnt to be members of Kochuvavakkad Karshaka Sanghom. The defendants though not agriculturists, had managed to get enrolled in the membership of the Karshaka Sanghom by purchasing small extent of 10 to 40 cents of wet land within the Kochuvavakkad Padasekharam. The said enrolment of the defendants was with malafide intention of entry into the executive of the Sangham and usurp power. It is learnt that the defendants are inimical with the Kochuvavakkad Karshaka Sanghom and there are certain disputes pending. It is also learnt that the defendants two and three were expelled from the membership of the Karshaka Sanghom in view of their fraudulent activities of executing false documents as to fishing auction and attempt to raise loans mortgaging the property of the Karshka Sangham and for unlawful receipt of grants from the Government of Kerala through deceptive methods. The defendants are in no way connected with the functioning of the plaintiff Devaswom and Padasekharam They have no manner right over the plaint properties belonging to the plaintiff Devaswom or to meddle with the paddy and fish cultivation in the Kochuvavakkad Padasekharam including the plaint schedule thodu. However the defendants who are unruly elements are causing obstruction to the bidder of the fishing right. They had even managed to commit theft of the fishing yield from the plaint thodu. A complaint has also been

preferred by the auction purchaser seeking necessary help. Last year also some of the defendants and their men committed theft of fishing yield and prevented the auction purchaser from taking fishing yield, Plaintiff Devaswom is liable to render necessary assistance to the bidder to carry on the fishing activities and catching fish throughout the season without disturbance. Paddy Season in the Padasekharam is over and in the month of November commenced the fishing season. The defendants had since then started creating obstructions to the bidder of fishing right. All his attempts to prevent the interference has become futile. That on 25.11.2025 the Plaintiff Devaswom came to know that the defendants who are in no way related with the padasekharam are causing disturbances to the auction purchaser and also committing theft of the premature fish and thereby causing threat to the auction purchaser. In view of the threat by the defendants the auction purchaser is unable to catch fishing which would result in the frustration of the fishing contract resulting in monetary loss to the plaintiff. The income derived from the paddy and fishing right auction is the main source of income for the Devaswom for running its education institutions namely TD Higher Secondary School, TD High school, TD UP School and the TD Teachers Training School which are a century old prestigious education institution in Cherthala Taluk. That the petitioner has a prima facie case to go for trial and the balance of convenience is also in favour of the Devaswom. In case the counter petitioners are not restrained by an order of ex parte interim injunction Devaswom will be put to irreparable hardship and loss. Hence this petition.

3. Respondents No.1, 3 to 7 did not file any written objection to the petition. Instead they filed written statement along with a memo stating that their contentions in the written statement may be considered as their objections to this petition.

4. Respondent No.2 filed objection contending as follows -

The petition is neither legally nor factually sustainable. The petitioner has no locus standi or authority to institute such a petition. The petition also suffers from the defect of non-joinder of necessary parties, as indispensable parties have not been impleaded. The disputed property is situated in Thuravoor South Village, which is not disputed by the second respondent. The second respondent has no knowledge regarding Kochuvavakkad paddy fields. In Kuthiyathode Village, there exists Kochuvavakkad Nellupadaka Sangham Reg. No. ALP/TC/2016 @ 195/91, of which the second respondent is the President. The management and functioning of the paddy fields in Kuthiyathode Village are under Kochuvavakkad Nellupadaka Sangham ALP/TC/45/2016 @ 195/91. The so-called Kochuvavakkad Karshaka Sangham was the predecessor of the present Kochuvavakkad Nellupadaka Sangham and Kochuvavakkad Padasekhara Samithi. It merged and ceased to exist, and presently the joint general body of the said Samithi and Padasekhara Samithi governs the affairs. Under this Samithi, more than 25 cents of land per member is held by 211 members, covering about 210 acres. The cultivation and management of these lands are carried out jointly under the said Samithi. The second respondent has no knowledge of any canals belonging to the plaintiff Devaswom in Kuthiyathode Village. The alleged profit-sharing ratio of 30:70 is also unknown to the second respondent. The activities of the Kochuvavakkad Nellupadaka Sangham functioning in Kuthiyathode Village are not connected with the matters alleged in the petition. Neither the plaintiff Devaswom nor the erstwhile Kochuvavakkad Karshaka Sangham has any authority or right to auction the paddy fields under Kochuvavakkad Nellupadaka Sangham, ALP/TC/45/2016 @ 195/91. The right to auction such fields vests exclusively in the said Samithi. The plaintiff

Devaswom has no property rights in Kuthiyathode Village within the jurisdiction of the Samithi. One Malik, who had taken the paddy fields on auction through Jomon, obstructed agricultural operations by trespassing into the Samithi's lands, against which an injunction order has been passed by the Court in O.S. No. 688/2024. Despite the subsistence of the injunction, Malik, in collusion with one Sajan Thomas, fabricated false documents and instituted O.S. No. 547/2025 before the Munsiff Court, Cherthala, suppressing true facts and obtaining an interim injunction. However, upon objections raised by the defendants, the injunction was not extended. In that suit, the plaintiff Devaswom has been impleaded as the third defendant. The present petition is based on such fabricated contract. Against the said forged contract, the President of Kochuvavakkad Nellupadaka Sangham, V.J. Salvin, has already filed C.M.P. No. 5912/2025 before the Judicial First Class Magistrate Court, Cherthala, which is pending trial. The defendants are not members of the erstwhile Kochuvavakkad Karshaka Sangham. They are office bearers and committee members of Kochuvavakkad Nellupadaka Sangham, ALP/TC/45/2016 @ 195/91. The alleged Saju Thomas referred to in the contract relied upon by the plaintiff has no paddy fields or lands in his own name and is not a member of the Samithi. The plaintiff Devaswom has no canals adjacent to the paddy fields of Kochuvavakkad Nellupadaka Sangham in Kuthiyathode Village. The Samithi has full authority and right to access and use the canals under its control. The plaintiff has no authority or right to auction the lands of the Nellupadaka Sangham. The plaintiff has no prima facie case. The balance of convenience is in favour of the defendants. Granting injunction would cause irreparable hardship and loss to the Samithi and its office bearers. Hence the petition is liable to be dismissed.

4. Heard both sides.

5. The following points are raised for consideration;

(1) Whether this petition is allowable or not?

(2) What is the order?

6. Point No.1 –

The petitioner Devaswom has approached this Court contending that it has ownership over the canals flowing within and along the periphery of Kochuvavakkad Padasekharam, which, according to it, extends to about 40 acres. The petitioner further submits that the affairs relating to the Padasekharam are managed by Kochuvavakkad Karshaka Sanghom, a registered society. It is asserted that the cultivating rights of the Padasekharam and the fishing rights in the canals are jointly auctioned by the petitioner Devaswom and the said Kochuvavakkad Karshaka Sanghom. Pursuant to such auction, the rights for fish cultivation were taken by one Mr. Malik under an agreement dated 01.04.2025, executed jointly by the petitioner and the Kochuvavakkad Karshaka Sanghom. The grievance of the petitioner is that the respondents are causing disturbances to the auction purchaser and committing theft of premature fish belonging to him. On the other hand, the respondents dispute the petitioner's claim of ownership over the canals. They contend that no society exists under the name Kochuvavakkad Karshaka Sanghom, as the same has merged into another body known as Kochuvavakkad Nellulpadaka Sangham. The respondents, claiming to be office bearers of the latter, assert that the entire Padasekharam is under their control and possession. Consequently, they argue that neither the petitioner nor the erstwhile Kochuvavakkad Karshaka Sanghom has any authority to conduct auctions for cultivation or fishing rights. While analysing the rival contentions, the foremost issue that arises is whether the petitioner has approached this Court with clean hands. The petitioner itself admits that ownership over the cultivating

lands was divested by virtue of the Land Reforms Act, and that its present claim of title is confined only to the canals measuring about 40 acres. However, a perusal of the plaint schedule property reveals that the petitioner has described “*All those part and parcels of land having an extent of about 180 acres of wet land along with the peripheral and inner canals situate in Survey Nos. 52/2, 51/2, 45/2 and 20/2 of Kuthiyathodu Village of Cherthala Taluk, District Alappuzha, popularly known as Kochuvavakkad Padasekharam and thodus known as Kochamma Thodu and Vallaam Thodu.*” This description unmistakably includes cultivating lands, which the petitioner has already admitted are not in its ownership or possession. Thus, while the petitioner’s title is limited to canals of 40 acres, it seeks an injunction over the entire 180 acres of land. Such an attempt to secure relief over properties admittedly not owned or possessed by the petitioner demonstrates that the petitioner has not approached this Court with clean hands. The effort to enlarge its claim beyond its admitted ownership amounts to an attempt to secure an injunction over lands to which it has no legal entitlement. So this court is of the view that the petitioner has not approached the court with clean hands.

7. Coming to the aspect of whether the petitioner has established a prima facie case, it is to be noted that the plaint schedule property is comprised in Survey Nos. 52/2, 51/2, 45/2 and 20/2 of Kuthiathodu Village. However, on perusal of the tax receipts produced by the petitioner, it is evident that the petitioner has not remitted property tax in respect of any of the properties comprised in the aforesaid survey numbers. This omission casts serious doubt on the petitioner’s claim of possession. Furthermore, the petitioner has failed to produce even a single document to substantiate its alleged ownership over the canals in question. The petitioner’s own pleadings reveal that the cultivating

lands are in the possession and control of Kochuvavakkad Karshaka Sangham. Thus, from the petitioner's admission itself, it is clear that it has not established ownership or possession over the disputed lands or canals. With respect to the agreements produced in connection with the auctioning of fish cultivation rights, it is seen that the same were executed jointly by the petitioner Devaswom along with Kochuvavakkad Karshaka Sangham. However, the respondents have produced documents showing that Kochuvavakkad Karshaka Sangham was merged into Kochuvavakkad Padasekhara Nellulpadaka Samithi as early as 1991. From this, it follows that Kochuvavakkad Karshaka Sangham ceased to exist from 1991 onwards. In such circumstances, the agreements relied upon by the petitioner do not inspire confidence. When the very existence of one of the contracting parties is doubtful, the validity of the agreement itself becomes questionable. An equitable relief of injunction cannot be granted on the basis of such infirm agreements. Moreover, the question as to which Samithi or Sangham is in possession and control of the cultivating lands is already the subject matter of pending suits, and therefore cannot be adjudicated in the present proceedings. The petitioner has also failed to produce any material to show that Kochuvavakkad Karshaka Sangham continues to exist at present. Notably, the seal of the said Sangham is absent from the agreement produced, which further undermines its authenticity. To sum up, the petitioner has failed to prima facie establish ownership or possession either over the 180 acres of land described in the plaint schedule or over the 40 acres of canals which it claims to own. In the absence of such proof, the petitioner cannot be said to have made out a prima facie case.

8. Another important aspect that requires consideration is the identity of the property over which the injunction is sought. Even if the contention of the

petitioner is accepted at face value, and even if reliance is placed upon the findings of the Advocate Commissioner, it becomes evident that the property alleged to be under the ownership of the petitioner and the Padasekharam lies contiguously, without any clear demarcations separating one from the other. In such circumstances, the property cannot be identified with precision so as to distinguish the petitioner's alleged portion from the remaining Padasekharam. When the property itself is not capable of being identified an equitable relief of injunction cannot be granted. The absence of such demarcations renders the relief sought incapable of enforcement. Therefore, this Court is of the considered view that the petitioner has failed to prima facie establish the identity of the property in respect of which the injunction is prayed for. On this ground also, the claim of the petitioner must necessarily fail.

Coming to the aspects of balance of convenience and irreparable injury, it is already found that the petitioner has failed to establish either title or possession over the plaint schedule property. The very existence of an association under the name Kochuvavakkad Padasekhara Samithi is itself under serious doubt. In such circumstances, if an injunction were to be granted in favour of the petitioner, it would inevitably cause greater inconvenience to the respondents rather than to the petitioner. The respondents have consistently contended, and the materials on record indicate, that they are in possession of the cultivating lands known as Kochuvavakkad Padasekharam. The question of who is in possession cannot be considered at this stage. So an interference would cause irreparable injury to the respondents, whereas the petitioner, who has failed to prove ownership or possession, would not suffer any legally cognizable prejudice by the refusal of injunction. Therefore, on the touchstone of balance of convenience and irreparable injury, this Court is of the considered view that the scales tilt heavily against the petitioner. Hence this point is found against the

petitioner.

9. Point No.2 –

In view of the findings in point No.1, it is found that the I.A. is meritless and deserves dismissal.

In the result, the I.A. is dismissed.

(Dictated to the Confidential Asst. transcribed and typed by her, corrected by me and pronounced in open court on this the 12th day of March, 2026.)

Sd/-
MAHESH. M.
ADDITIONAL MUNSIFF

APPENDIX :-

Documents produced/ relied from the side of the petitioner

- 1) Photocopy of agreement dated 01.04.2025
- 2) Photocopy of Receipt dated 01.04.2025
- 3) Photocopy of letter dated 25.11.2025
- 4) Administrative scheme of plaintiff Devaswom
- 5) Photocopy of Gazette dated 20.11.2023
- 6) Photocopy of the By- law of the Kochuvavakkad Nellulpadaka Samithi.
- 7) Photocopy of Complaint O.S No. 18/2026 of Munsiff's Court, Cherthala.
- 8) Photocopy of FIR No. 0878/2025 of Kuthiathode Police.
- 9) Photocopy of Complaint in O.S No. 547/2025 of the Munsiff's Court, Cherthala
- 10) Photocopy of receipts dated 16.03.2017

- 11) Photocopy of Agreement of fishing right dated 16.11.2024
- 12) Photocopy of Agreement of fishing right dated 01.07.2022
- 13) Photocopy of Agreement of fishing right dated 16.11.2021
- 14) Photocopy of Agreement of fishing right dated 20.10.2020
- 15) Photocopy of Agreement of fishing right dated 25.07.2019
- 16) Photocopy of Agreement of fishing right dated 10.05.2018
- 17) Photocopy of Agreement of fishing right dated 05.07.2017
- 18) Photocopy of Agreement of fishing right dated 28.10.2015
- 19) Photocopy of Letter dated 01.01.1999
- 20) Photocopy of Letter dated 13.11.2000
- 21) Photocopy of Letter dated 27.06.1996
- 22) Photocopy of summons issued in O.S 688/2024
- 23) Photocopy of interim Order in O.S 603/2024
- 24) Photocopy of letter dated 11.09.2024
- 25) Commission report and rough plan by Adv. Aromal

Documents produced from the side of the Respondent No.1, 3 to 7

- 1) Photocopy of registration certificate
- 2) Photocopy of Memorandum of association of Kochuvavakkad Nellulppathaka Sanghom
- 3) Photocopy of by – law of Kochuvavakkad Nellulppathaka Sanghom

- 4) Information under RTI Act dated 16.12.2024 from District Registrar (General) Alappuzha
- 5) Office copy of complaint dated 17.03.2025 to the District Registrar Alappuzha
- 6) Photocopy of complaint to SHO Kuthiyathodu dated 12.11.2025
- 7) Photocopy of receipt dated 12.11.2025 from Kuthiyathopdu Police Station

Documents produced from the side of the Respondent No.2

- 1) Photocopy of registration certificate
- 2) Photocopy of administrative members list in 2023
- 3) Document issued by State Public Information Officer
- 4) Photocopy of order in CMA 1/2025 of Sub Court, Cherthala
- 5) Photocopy of Case status in O.S 547/2025
- 6) Photocopy of list of members of administrative committee
- 7) Photocopy of receipt dated 29.03.2025
- 8) Photocopy of minutes
- 9) Photocopy of complaint in CMP. No.5912/2025 before JFCM -I Cherthala

Sd/-
ADDITIONAL MUNSIFF