

IN THE COURT OF THE MUNSIFF, HARIPAD
Present: Smt. Maneesha.K. Bhadran, Munsiff
Friday, 28th February, 2025/9th Phalgunam, 1946

IA.No.07/2025 in OS 361/2024

Filed on 07.02.2025

Petitioners/Plaintiffs:-

1. Kunjaniyan, aged 77 years,
S/o Kunjupanickan,
Thettikkattil Veettil,
Thamallackal South Muri,
Kumarapuram Village.
2. Soudamini, aged 75 years,
W/o Haridasan, Thevalpurathu Veettil,
Thulamparampu Naduvathu Muri,
Haripad Village.

(By Adv. R. Aravindakshan)

Respondents/Defendants:

1. Sree Kolath Devi Temple,
Represented by Kshethra Yogam President,
Nadarajan, aged 88 years,
S/o Narayanan, Thriveniyil Veettil,
Puthuppalli South Muri,
Puthuppally Village.
2. Tevalapurathu Kudumbayogam,
Represented by Secretary,
Babu @ Sadasivan, aged 71 years,
S/o Krishnan, Illapadeettathil Veettil,
Thamallakkal South Muri,
Kumarapuram Village.
3. Mohanadas, aged 65 years,
S/o Kesavan, Puthen Veettil, Haripad. P.O,
Haripad Village.

4. Sasikumar, aged 61 years,
S/o Surendran, Kalalayam Veettil,
Thamallackal North Muri,
Kumarapuram Village.
5. Santhosh, aged 51 years, S/o Rajan,
Kanjirathum Veettil, Thamallackal . P.O,
Kumarapuram Village.
6. Vipinvas, aged 41 years,
S/o Vasavan, Vasalayam,
Thamallackal . P.O, Kumarapuram Village.
7. Sajeevan, aged 61 years,
S/o Girija, Gowreeasam Veettil
Nangiarkulangara Muri,
Karthikappally Village.
8. Pramod, aged 51 years,
S/o Ammini, Pramod Bhavanam ,
Peringara . P.O, Thiruvalla Village.
9. Prasanth Haridasan, S/o Haridasan,
Haridasapuram Veettil,
Pothappally North Muri,
Kumarapuram Village.
10. Ponnamma, aged 79 years,
D/o Kunjukutty,
Raveendra Bhavanam Veettil,
Thulam Parampu South Muri, Haripad.
- 11 Ullaskumar, aged 56 Years,
S/o E. K. Thampi, Mani Bhavanam Veettil,
Thamallakkal. P.O, Kumarapuram Village.
12. Baby Sarojam, aged 55 years,
D/o Kamalabai, Kamalalayam Veettil,
Haripad. P.O, Pallippad Village.
13. T. K. Manoharan, aged 65 years

S/o Karunakaran, Pokkattu Kizhakkathil,
Thamallakkal North Muri,
Kumarapuram Village.

D1 Exparte

D2 to D13

By Adv. G. Shimuraj

This petition having been finally heard on 18.02.2025 and the court on 28.02.2025 day passed the following:-

ORDER

Petition seeking leave of the court to institute the suit against defendants under Order 1 Rule 8 of CPC as the representatives of the members of the Thevalapurath Kudumbayogam.

2. Petition averments in brief are as follows:- Suit is for setting aside the decision dated 01.12.2024 suspending plaintiffs as the members of Thevalapurath Kudumbayogam for ten years and for permanent prohibitory injunction. There are numerous members of the Thevalapurath Kudumbayogam having similar interest in the suit. It is difficult to implead them as defendants and proceed with the trial of suit. Hence the above petition seeking leave of court to institute the suit against defendants as the representatives of the members of the Thevalapurath Kudumbayogam.

3. Copy of the petition is served on the learned counsel for respondents. 2nd to 13th respondents filed objection stiffly opposing the above petition. It is contended that the above petition is not maintainable and without any bonafides. It is denied that there are numerous persons in Thevalapurath Kudumbayogam. The number of members are definite and plaintiffs who are the office bearers have no difficulty in securing the details of the members. The above application should not be considered in a routine and mechanical manner as per the dictum of Hon'ble High court and the discretion of the Court should be rarely exercised. There is no sameness of interest or joint interest for the members of Thevalapurath Kudumbayogam. Hence the petition be dismissed.

4. The following point arise for consideration.

1. Whether the above petition is liable to be allowed?

5. Heard both sides.

6. **The point :-** Suit is for setting aside the decision dated 01.12.2024 suspending plaintiffs as the members of Thevalapurath Kudumbayogam for ten years and for permanent prohibitory injunction . The suit was instituted without seeking the leave of court

under Order Rule 8 of CPC. The contention of plaintiff is that 16 member governing body of the Thevalapurath Kudumbayogam was elected on 31.03.24 in the general body meeting. Their tenure is till 31.03.2025. However a general body meeting was held on 01.12.2024 and without an agenda suspended plaintiffs from the membership of the committee and kudumbayogam for 10 years. The suit is instituted against Thevalapurath Kudumbayogam represented by president, Secretary and others. The question to be considered here is whether plaintiffs can be granted leave under Order 1 Rule 8 of CPC.

7. Learned counsel for respondents placed the reliance upon the dictum of Hon'ble High Court of Kerala in Narayan M.V and others Vs V Periyadan Narayan Nair & others 2021(3) KHC 211, Narayani Kamalakshi & others Vs Kunchiyan Bahuleyan & others 1972 KHC 72: AIR 1972 Kerala 269, Brigade Enterprises Ltd v. Anilkumar Viramani and others 2021 KHC 6871, Stephen Issac v. State of Kerala 2024(3) KHC 611 and contended that there is no sameness of interest and the jurisdiction should not be exercised in routine and mechanical manner without due diligence. It is further contended that the leave cannot be granted after the institution of the suit .

8. I find no merit in the contention of learned counsel for

respondents that sanction under order 1 Rule 8 of CPC cannot be given after presentation of the plaint. There is provision in rule 8 itself for giving notice of such sanction to all persons interested in the suit in such a manner as may be directed by the court. The suit will be deemed to be representative suit brought forward with the permission of the court only after for issue such notice. For issue of sanction of under order 1 Rule 8 two conditions have to be satisfied ie., there must be numerous persons interested in the suit and their interest must be same or similar. Further the term numerous is not to be read as innumerable or as limitless or unascertainable. The determination of the question whether the parties are numerous must necessarily depend upon the allegations in the plaint and nature of the suit.

9. Petitioners static case is that they were suspended by general body held on 1.12.24. In the case in hand all the members of Thevalapurath Kudumbayogam cannot be impleaded individually as it will cause inconvenience. The question of sameness of interest does not imply sameness of interest in its entirety. Even if the interest is not joint, concurrent or identical leave under order 1 Rule 8 can be granted as the interest are similar. I find merit in the contention of learned counsel for petitioners that the interest of members of Thevalapurath Kudumbayogam will be similar. As all the members who participated in the general body and the members of the

Thevalapurath Kudumbayogam cannot be conveniently impleaded, I am satisfied that this is a fit case wherein discretion can be exercised to grant leave to institute the suit against the defendants as the representatives of the members of Thevalapurath Kudumbayogam. Accordingly the above petition is liable to be allowed.

In the result,

- 1) Petition is allowed. Leave is granted to petitioners to institute the suit against defendant as representatives of members of Thevalapurath Kudumbayogam.
- 2) Considering the facts and circumstance of the case, parties are directed to bear their respective costs.

Dictated to the Confidential Assistant typed by her, corrected and pronounced by me in the open court on this the 28th day of February, 2025.

Sd/-
Maneesha K Bhadran
Munsiff.

APPENDIX- :- Nil

Id/-
Munsiff.