

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Smt. Alshari A., Munsiff

Thursday, the 13th day of June, 2024/ 23rd Jyaishta 1946

I.A. No.05/2024 in OS.386/2023

Petitioners/Plaintiffs:-

1. Devan Narayanan, Aged 35 years, S/o.Vasudevan Namboothiri, Kidangassery Tharananalloor Illam, Thanissery P O, Thanissery Desam, Manavalassery Village, Mukundapuram Taluk, Thrissur District – 680 701.
2. Jayakrishnan, Aged 32 years, S/o. Krishnanunni, Kidangassery Tharananalloor Illam, Thanissery P O, Thanissery Desam, Manavalassery Village, Mukundapuram Taluk, Thrissur District- – 680 701.
3. Padmanabhan K P, Aged 30 years, S/o. Padmanabhan, Kidangassery Tharananalloor Illam, Thanissery P O, Thanissery Desam, Manavalassery Village, Mukundapuram Taluk, Thrissur District- – 680 701.

By Adv. Adv. K. C Muraleedharan

Respondents/Defendants:-

1. NSS Karayogam No.1669, Okkal Kara, Chelamattam Village, Kunnathunadu Taluk. Represented by its President Lohithakshan Nair.
2. Lohithakshan Nair, Aged 73 years, S/o. Kumarapilla, Thaikkattil House, Okkal P O, Okkal Kara, Chalamattam Village, Kunnathunadu Taluk-683 550. President, NSS Karayogam No.1669, Okkal Kara, Chelamattam Village, Kunnathunadu Taluk.
3. Sarvothaman, Aged about 60 years, S/o. Ramakrishnapanikkar, Perunthottathil House, Okkal P O- 683 550, Okkal Kara, Chalamattam Village. Secretary, NSS Karayogam No.1669, Okkal Kara, Chelamattam Village, Kunnathunadu Taluk

By Adv. T N Dileepkumar

This petition having been finally heard before me on 20/05/2024 and the court on 13/06/2024 passed the following:-

ORDER

1. Petition averments in brief:- The suit is one field for cancellation of document and perpetual injunction. The property with an extent of 8 acres and 18 cents is included in the Oorazhma of Kidangassery Tharanalloor Illam as per the records of the Devaswam. The property alienated by Padmanabhan Namboothiri as per the document bearing No. 1943/75, illegally is sought to be cancelled herein. The worshipers of the temple is also indulged in the management of the Devaswam. The property was assigned in favour of the 1st defendant illegally and the worshipers and devotees also have such suspicion. All the devotees also wish to get the document cancelled. Though, the plaintiff was entrusted to file the case by the elders of the Tharanalloor illam, other members of the illam also are interested in the suit. It is not possible to file the suit by arraying all those persons as parties to the suit. Hence, it is necessary to issue a paper publication under Order 1 Rule 8 of CPC. Hence, the petition.
2. The respondents had filed counter statement by denying the petition averments. According to the respondent, the petition is not maintainable. The suit is one filed for the cancellation of the document. The suit was filed as the elders of the Tharanalloor illam entrusted the plaintiffs to file the suit. In such scenario, there is no necessity to issue any paper publication. When the Oorazhmakar alone is having any right over the property. Then, others are not having any right to claim any relief pertaining to the subject matter of the suit. The devotees or the persons who resides in the locality are not necessary parties to the suit. The

worship in the temple or the rituals conducted are not in any way interfered with. This is a suit intended to wreck the cordial situations prevailing in the area. Hence, the petition is to be dismissed.

3. As a suit is one filed for cancellation of document alleging to be void, the devotees of the temple, whose rights are not affected in any manner cannot be seen to be necessary parties or even proper parties to the suit. To adjudicate the matter in issue, the presence of devotees of the temple are absolutely not necessary, when the matter in adjudication is regarding the validity and legality of the document bearing No. 1943/75. As per the averments in the petition itself, some of the members of the Illan are interested in getting the document cancelled, for which the suit is filed. So, when the plaintiffs already entrusted to file the suit for the cancellation of the document that itself is absolutely sufficient to protect the interest of the members of illam, who are also interested in getting the document cancelled. The petitioners have no case that, the rights of the devotees or the members of the illam are adversely affected by way of the relief sought for in the suit, when the matter is the legality and validity of the document bearing No. 1943/75. So, I could not find the suit to be in the nature of the representative suit that affects the rights and interest of the numerous persons, so as to make publication as per Order 1 Rule 8 of CPC. I could not find the devotees and all the members of the illam to be necessary parties to the suit and even in their absence, effective and final adjudication is possible. Therefore, I could not find it necessary to issue any publication as sought for herein. Hence, the petition stands dismissed.
4. In the result, this petition stands dismissed.

Dictated to the confdl.asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 13th day of June, 2024.

Sd/-
ALSHARI A.
MUNSIFF

Appendix:-Nil

Id/-
Munsiff
(By Order)

// True Copy //

Sd/-
Junior Superintendent

Typed by: jav
Compd by : Bpl

Copy of Order
in
IA. 05/2024 in OS 386/2023
Dated : 13/06/2024