

**IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),
MUVATTUPUZHA**

Present:- Sri. Atheek Rahman, Civil Judge (Senior Division)

Friday, the 12th day of December, 2025 / 21st Agrahayana 1947

I.A.No. 11/2025 & 16/2025 in O.S No.46/2025

1. I.A.No. 11/2025

Applicants/ Plaintiffs :-

- 1 Josh Varghese, Maracheri, Karukadam,
Karukadam P.O., Kothamangalam,
Ernakulam – 686691.
- 2 Mathai, S/o Kuriakkose, Maliyelil,
Thankulam, Thrikkariyoor,
Ernakulam – 686691.
- 3 Riju Kurian, S/o P.O Kurian,
46 years, Puthenpurakkal, T.B. Kunnu.,
Kothamangalam P.O., Kothamangalam,
Ernakulam – 686691.

*By Advs. Sajitha S Dharan, Sibi Karun
& R. Rajesh.*

Respondents/Defendants:-

- 1 Marthoma Cheria Pally, Kothamangalam,
now represented by its Trustees,
Viz [i] C.I. Baby [ii] Binoy Thomas.

- 2 C.I. Baby S/o Ittiyavira, aged 62 years,
Chundattu House, Thankalam Kara,
Thrikkariyoor Post,
Kothamangalam Taluk 686691.
- 3 Binoy Thomas S/o Thomas,
Manncheril House, Nadukani Post,
Perumanoor, Kothamangalam Taluk 686691.
- 4 Johnson Kuriakkose, S/o Kuriakkose,
Thekkilakkatu House, Kozhippilly Kara,
Kozhippily, Kothamangalam 686691.
- 5 P.V. Poullose, S/o Varkey, 66 years,
Pzhiukkallil House, Kodnimattom Kara,
Palamattom Post, Kothamangalam 686691.
- 6 Jomon Mathew, S/o Mathew, 44 years,
Palakkadan House, Kondimattom Kara,
Palamattom Post, Kothamangalam 686691.
- 7 Baby Thomas, S/o Thomas, 69 years,
Anjilivelil House, Thankam Kara,
Thrikkariyoor Post, Kothamangalam 686691.
- 8 Dr. Binoy Das, 52 years, Maliyil House,
Vendu Vazhy Kara, Kothamangalam P.O.,
Kothamangalam 686691.
- 9 Fr. Jose Puthuvayal, 49 years,
Son of Kuriakose, residing at Puthuvayal House,
Onnam Mile, MA College P.O,
Kothamangalam – 686666,
VICAR of Marthoma Cheria Pally,
Kothamangalam.
- 10 M.S. Eldhose, S/o Scaria, 70 years,
Maracheril House, Kuthukuzhy Kara,
Kothamangalam Post,
Kothamangalam Taluk 686691

- 11 Elias Abraham, S/o Abraham, 70 years,
Meleth House, Thankam Kara,
Kothamangalam 686691.
- 12 Raju Yohannan, S/o Yohannan,
70 years, Maliyil House, Venduvazhikkara,
Karukadam Post, Kothamangalam Post 686691.
- 13 Mathukutty Issac, S/o Issac,
70 years, Edavilayil house, Kottappadi Kara,
Kottappadi post, Kothamangalam Taluk 686691.
- 14 George Mathew, S/o Mathew, 72 years,
Valeth House, Kurur Kara, Kothamangalam post,
Kothamangalam Taluk 686691.
- 15 Binoy Thomas, S/o Thomas, 60 years,
Anjilivelil House, Thankalam Kara, Thrikkariyoor post,
Kothamangalam Taluk 686691.
- 16 Varghese P M, S/o Mathai, 60 years,
Palappillil House, Karukkadam Kara,
Karukkadam Post, Kothamangalam Taluk 686691.
- 17 K.M. Joy, S/o Mathai, 60 years,
Kothamattathil House, Kozhippilli Kara,
Kozhippilli Post, Kothamangalam Taluk 686691.
- 18 P.V. Varkey S/o Varkey, 64 years,
Pazhukkalil House, Venduvazhikara,
Karukkadam post, Kothamangalam Taluk 686691
- 19 K.V. Jolly, S/o Varkey, 60 years,
Kollammalil House, Mathirappilli Kara,
Karukadam post, Kothamangalam Taluk 686691.
- 20 Roy Skariah, S/o Skariah, 60 years,
Kuzhivelil House, Kozhippilli Kara,
Kozhippilli post, Kothamangalam Taluk 686691.
- 21 Aneesh P Mathew, S/o Mathai aged 45 years,
Palakkadan House, Thagalam Kara,
Kothamangalam post, Kothamangalam Taluk 686691.

- 22 Mar Basellius Educational Trust rep. By its Chairman,
Kothamangalam P.O, Kothamangalam 686691
- 23 Mar Basil Charitable Trust rep. By its chairman,
Kothamangalam P.O, Kothamangalam 686691.
- 24 Mar Basellius Medical Mission Trust rep. By its chairman,
Kothamangalam P.O, Kothamangalam 686691.
- 25 Saint Basil Charitable Trust rep. By its chairman,
Kothamangalam P.O, Kothamangalam 686691.
- 26 Sub Registrar, SRO, Kothamangalam,
Aluva Munnar Road – SH 16, Kothamangalam,
Kerala – 686666.
- 27 M.K. Biju, aged 54, S/o Kuriakose,
Maleyalil House, Nellikuzhy P.O, Elambra,
Thrikkariyoor [part] Ernakulam, Kerala – 686691.
- 28 Sosamma Kuriakose, W/o Kuriakose,
aged 61, Mannapparambil, Venduvazhy,
Kothamangalam P.O, Karukadom,
Ernakulam,Kerala – 686691.
- 29 Basil George, aged 29, S/o V.V. George,
Vadakkechalil, Aykkadu, Thrikkariyoor [P.O],
Thrikkariyoor, Ernakulam – 686692.

R1 to R9 – By Adv. Gigi Peter

R11 to R21 – By Advs. Sabu John & Glaison Varghese.

R10 & R22 to R25 – By Advs. Sabu John & Seena C.P.

R26 – By Adv. A.G.P (Sabu Joseph Chalil)

R27 to R29 – By Adv. Basim Aslam T.S.

2. I.A.No. 16/2025

Applicants/ Plaintiffs :-

- 1 Josh Varghese, Maracheri, Karukadam,
Karukadam P.O., Kothamangalam,
Ernakulam – 686691.
- 2 Mathai, S/o Kuriakkose, Maliyelil,
Thankulam, Thrikkariyoor,
Ernakulam – 686691.
- 3 Riju Kurian, S/o P.O Kurian,
46 years, Puthenpurakkal, T.B. Kunnu.,
Kothamangalam P.O., Kothamangalam,
Ernakulam – 686691.

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Manncheril House, Nadukani Post,
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Thekkilakkatu House, Kozhippilly Kara,
Kozhippily, Kothamangalam 686691.

- 5 P.V. Poullose, S/o Varkey, 66 years,
Pzhiukkallil House, Kodnimattom Kara,
Palamattom Post, Kothamangalam 686691.
- 6 Jomon Mathew, S/o Mathew, 44 years,
Palakkadan House, Kondimattom Kara,
Palamattom Post, Kothamangalam 686691.
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Anjilivelil House, Thankam Kara,
Thrikkariyoor Post, Kothamangalam 686691.
- 8 Dr. Binoy Das, 52 years, Maliyil House,
Vendu Vazhy Kara, Kothamangalam P.O.,
Kothamangalam 686691.
- 9 Fr. Jose Puthuvayal, 49 years,
Son of Kuriakose, residing at Puthuvayal House,
Onnam Mile, MA College P.O,
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VICAR of Marthoma Cheria Pally,
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Kothamangalam 686691.
- 12 Raju Yohannan, S/o Yohannan,
70 years, Maliyil House, Venduvazhikkara,
Karukadam Post, Kothamangalam Post 686691.
- 13 Mathukutty Issac, S/o Issac,
70 years, Edavilayil house, Kottappadi Kara,
Kottapadi post, Kothamangalam Taluk 686691.

- 14 George Mathew, S/o Mathew, 72 years,
Valeth Housu, Kurur Kara, Kothamangalam post,
Kothamangalam Taluk 686691.
- 15 Binoy Thomas, S/o Thomas, 60 years,
Anjilivelil House, Thankalam Kara, Thrikkariyoor post,
Kothamangalam Taluk 686691.
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Kozhippilli post, Kothamangalam Taluk 686691.
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R26 – By Adv. A.G.P (Sabu Joseph Chalil)

R27 to R29 – By Adv. Basim Aslam T.S.

I.A. 11/2025 filed by the Counsel for the Applicants/Plaintiffs under Order 39 Rule 1 & 2 Read with Section 94 and Section 151 of the Code of Civil Procedure 1908, to pass an order of interim prohibitory injunction. And IA 16/25 filed under Order 39 Rule 1 of the Code of Civil Procedure, to pass an order of interim injunction.

These petitions are coming on for final hearing on 02.12.2025 in the presence of the above counsel and the Court on 12.12.2025 passed the following:-

COMMON ORDER

IA 11/2025 has been filed by the petitioners/plaintiffs under Order XXXIX Rule 1 & 2 read with Section 94 and under Section 151 of the Code of Civil Procedure, 1908. The petition is supported by an affidavit sworn by the first petitioner.

2. Brief averments in the affidavit in support of the petition are as follows: The suit is instituted after obtaining leave under Section 92 of the CPC. The petitioners are the beneficiaries of the first defendant church. On 13.08.2019, respondents 10 to 21 registered four trusts, respondents 20 to 25, as per trust deed Nos. 150/2019, 151/2019, 152/2019 and 153/2019 of SRO Kothamangalam. Immediately after the registration of the above trusts, the respondents 2 to 8, fraudulently created 6 lease deeds purporting to transfer almost all the various educational and medical institutions and immovable properties of the church through lease deed Nos. 3386/2019, 3388/2019, 3405/2019,

3406/2019, 3448/2019, and 3449/2019. The lease deeds are created in violation of clauses 16 and 22 of the Church Udampady and against the provisions of the Constitution of concerned institutions of the Church. The respondents have no right to execute lease deed or hand over possession and control of the properties to respondents 10 to 23 or to any other trust or any third person, in violation of the Udampady of the church. There is no provision in the Udampady to execute lease deeds or to transfer the properties of the Church to others for a period of 40 years. The respondents never obtained the permission of the general body or parish assembly prior to the execution of the said lease deeds. The impugned lease has been created not for the benefit of the church or parishioners, but only for the benefit of the respondents. The trust deeds were created with an intention to make an unlawful gain of the respondents. On 10.08.2025, a general body meeting was convened and it was decided to cancel the newly formed trust and all liability and other properties acquired are to be merged with the 1st respondent. A notice was issued by the 2nd respondent to hold a meeting of alleged members of the trust on 21.09.2025 at Nercha hall beside Kalkurishu in

the 1st respondent church. One of the items in the agenda of the notice was the final merger agreement, and another was to withdraw the police complaint filed by the 2nd petitioner. The respondent may not be permitted to deal with the properties and institutions of 1st respondent church in any manner during the pendency of this suit. It is also necessary to issue an injunction restraining the respondents 2 to 8 and 10 to 25 from conducting the proposed general body meeting to be held on 21.09.2025. The petitioners have made out a prima facie case, and the balance of convenience is also in their favour. If the petition is not allowed, the petitioners will be put to irreparable loss and hardships. Therefore, to preserve the status quo, the interim prohibitory injunction order is to be granted as prayed for. Hence, the petition.

3. The 3rd respondent filed counter affidavit to the petition for and on behalf of respondents 1 to 9, stating that the petition is not maintainable either in law or on facts. The petitioners have no cause of action against the respondents. The disputed matters in respect of the lease deeds were elaborately discussed by the general body of the 1st respondent church, and taken decision for the sake of harmony and

unity. The petitioners are not amenable for anything, but only out of personal vengeance they wanted to proceed with the above suit without any bonafides. The decision of the general body of the 1st respondent church is binding to all parties concerned. The 24th respondent trust has decided to convene the meeting in compliance of the decision of the general body of the 1st respondent church. The alleged lease deeds have never curtailed any rights of the parishioners of 1st respondent church. The lease deeds are valid and in order. The lease deeds came into effect and it is for the benefit of the 1st respondent church. The averment that the entire rights over the properties of the 1st respondent church were transferred through the lease deeds is incorrect. The petitioners have purposefully and deliberately ignored clause No.14 of 1110 ME Udambady of the church. If the petitioners had a genuine cause, they ought to have been applied before the present Vicar of the 1st respondent church to convene a general body meeting, wherein they could have attempted to resolve their genuine disputes, if any. Clause No.14 of 1110 ME Udambady stipulates that if 100 members requested to convene the general body in respect of any matter, it ought to be

convened by due notice to all concerned. Without availing the said right, they approached the court. The managing committee has every right and duty to take all administrative actions for the well being of the 1st respondent church, in accordance with the provisions of the Udambady. The lease were created in accordance with the decision of the managing committee, and were accepted by the general body dated 26.10.2023, which is functioning in accordance with the registered Udambady of the 1st respondent church.

4. Respondents 10 and 19 filed objection stating that the petition is not maintainable either in law or on facts. The plaint shall not contain a description of the property sufficient to identify it. The managing committee is to decide and execute the day-to-day affairs of the Cheria Pally; however, the finality of any of their decisions rests with the parish assembly, which, as mandated by Udampady is to be constituted in every two months, and the same has been duly followed. The validity of the actions of the managing committee could be challenged or forfeited on the basis of the majority decision of the members present in the parish assembly. All parish members are bound

to accept and adopt the decisions of the Pothugogam/managing committee in allegiance to the 1110 Udmabady. The organizations managed by the Cheria Pally functions towards the betterment of the lives of the public at large in various aspects. While allowing OP 06/2023 under Section 92 of the CPC, this court was inclined to observe that the allegations brought in the OP are to be considered only after appropriate and conclusive evidence is adduced under the established rule of law, for which the case is to be listed. The applications filed by the plaintiffs/petitioners are based merely on allegations, with no conclusive proof. If the applications are allowed merely on the basis of the allegations brought in by the applicants, the Cheria Pally will suffer irreparable harm and injury. Furthermore, the balance of convenience shifts to the Cheria Pally, as the same would affect the day-to-day affairs of the church as well as the institutions governed by the church. The plaintiffs, being the members of the parish, have been given assurance in writing from the Cheria Pally that the statements of accounts and the affairs of lease deeds shall be disclosed to them, or to the persons appointed by them, and to all the parish members who seeks the same,

so as to ensure the transparency in the affairs of the Cheria Pally.

Hence, they prayed to dismiss the petitions.

5. Respondents 11 and 22 filed objection more or less similar to those filed by respondents 1 to 9. It is further stated that there are no allegations have been raised against the Trust, nor has any relief been incorporated in the suit against the Trusts with regard to its functioning and registration of documents. Hence, they prayed to dismiss the petitions.

6. Subsequent to the filing of the aforementioned petition, the petitioners filed another injunction application as IA No.16/2025, on 02.12.2025, seeking a temporary injunction order restraining the respondents 2 to 8 and, 10 to 21, and their men, from initiating any proceedings for merging respondents 22 to 25 trusts with 1st respondent church, and from doing any act for merging respondents 22 to 25 trusts with 1st respondent church till the accounts of the 1st respondent church and respondents 22 to 25 trust are properly audited by chartered accountants under the supervision of the court.

7. The respondents, except respondents 27 to 29, submitted at the time of hearing that the objection filed to IA 11/2025 may also be treated as objection to IA 16/2025.

8. Respondents 27 to 29 submitted that they have no objection to the petitions being allowed.

9. Both sides were heard.

10. For the purpose of reference, Exts. A1 to A12 documents were marked on behalf of the petitioners. Exts. B1 to B5 documents were marked on behalf of the respondents 1 to 9. No documents were marked on behalf of other respondents.

11. From the rival pleadings and the documents produced, the points that arise for consideration are as follows:

1. Have the petitioners made out a prima facie case?

2. Will the petitioners be put to irreparable hardship in the event of not allowing the petition?

3. Is the balance of convenience in favour of the petitioners?

4. What is the order as to costs?

12. Point Nos. 1 to 4:- Since the facts are interlinked, these points are considered together. Ext.A1 is the Udambady of the 1st defendant Church. There is no dispute with respect to Ext.A1 Udambady. The specific contention of the petitioners is that respondents 2 to 9 are taking steps to merge the assets of the respondents 22 to 25 trusts with the assets of the first respondent church, without conducting any proper audit of the accounts. Further, they apprehend that, by merging the assets, the 1st respondent church will be burdened with the liabilities of respondents 22 to 25 trusts. The further contention of the respondents is that Ext.A2 to Ext.A10 lease deeds were created in violation of the Clause 16 and 22 of the Ext.A1 Udambady.

13. Per contra, respondents 1 to 9 denied all the allegations contained in the affidavit filed in support of the petition. They contended that the execution of lease deeds was ratified by the

Pothuyogam held on 08.08.2019 and 29.10.2023, respectively. The Pothuyogam decided to cancel the lease deeds and to restore the property to the church and the same was duly intimated to the petitioners by Ext. B5 letter. Furthermore, they contended that they are ready to audit the account with auditors, who are also acceptable to the petitioners. Despite such a step was taken by the church, the petitioners were not amenable for the same. The allegations made in the suit are solely based on surmises and conjunctures. If the injunction order is granted as prayed for, the functioning of various institutions under the 1st respondent church will come to a stand still and cause considerable hardship to the respondents. The Udampady was marked as Ext. B1, and the copies of the minutes of the Pothuyogam were marked as Exts.B2 and B3, respectively. Ext.B5 is a letter issued by Fr. Jose Mathew Thachethukudy.

14. While considering an application under Order 39 Rule 1 of the CPC, the matters to be considered by the Court are: whether the petitioner has made out a prima facie case, whether the balance of

convenience is in favour of the petitioner, and whether the petitioner will be put to hardships if disallowed.

15. *Dalpat Kumar And Anr. v. Prahlad Singh And Ors.*

reported in ***AIR 1993 SC 276***, the Hon'ble Supreme Court held that, it is settled law that the grant of injunction is a discretionary relief. The exercise thereof is subject to the court satisfying that: (1) there is a serious disputed question to be tried in the suit and that an act, on the facts before the court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant; (2) the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue before the legal right would be established at trial; and (3) that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

16. There is no dispute regarding the fact that various educational institutions and a hospital are functioning under the 1st respondent church. The execution of the lease deeds is not disputed by

the petitioners. However, they argued that it was decided to cancel the lease deeds by the Pothuyogam and to restore the property. Moreover, the church is ready to conduct an audit of the accounts with auditors who are also acceptable to the petitioners. Despite the said fact having been intimated to the petitioners, they are not amenable.

17. The learned counsel for the petitioners argued that the apprehension of the petitioners is that by merging the assets of respondent 22 to 25 trusts, the first respondent church will be burdened with the liabilities of those trusts. He further argued that, in the suit, there is an allegation of misappropriation of funds by the respondents, and the petitioners seek a proper audit.

18. The prayer in IA 11/25 is to pass an order of interim prohibitory injunction restraining the respondents/defendants 2 to 8, 10 to 25 and their men and agents or anyone claiming under them or through them from taking over the liability of the Trusts and leases created by them, in any manner, without proper settlement of accounts from the date of alienation of properties and institution through lease deeds, through this court. An ex parte order directing that money shall

not be dealt with or transferred may be granted before objections are filed by the respondents to avoid presentation of a fait accompli by the respondents at the time of final hearing.

19. The prayer in IA 16/2025 is to pass an order of interim injunction restraining the respondents 2 to 8 and 10 to 21 and their men from initiating any proceedings for merging respondents 22 to 25 trusts with 1st respondent church and from doing any act for merging respondents 22 to 25 trust with 1st respondent church till the accounts of the 1st respondent church and respondents 22 to 25 trust are properly audited by Chartered Accountants under the supervision of the court.

20. In order to establish a prima facie case that there is misappropriation of funds, no proper documents produced on behalf of the petitioners. The allegations made by the petitioners regarding the mis-management and mis-appropriation of funds is a matter of evidence. While granting leave under Section 92 of CPC, the said fact was mentioned in the order. On going through the rival contentions, I am of the considered view that, if the above mentioned prayers are allowed at this stage, it will adversely affect the functioning of various

institutions as argued by the respondents 1 to 9. The contention of the petitioners is that, without proper audit, the assets shall not be merged. It is significant to note that Ext.B5 letter is not disputed by the petitioners. Without considering the the fact that the Pothuyogam of the church had taken such a decision as mentioned in Ext. B5 letter, if the prayer in both petitions are allowed, it will affect the smooth functioning of various institutions of the church, and cause considerable hardship. The petitioners failed to establish, prima facie, that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it. These points are answered accordingly against the petitioners.

In the result, both petitions are dismissed. No costs. However, it is made clear that any policy decisions of the managing committee shall be subject to the final decision in the suit.

Dictated to the Confdl.Asst., typed by her directly to the computer, corrected by me and pronounced in the Open Court on this the 12th day of December, 2025.

Sd/-
ATHEEK RAHMAN
CIVIL JUDGE(SENIOR DIVISION)

APPENDIX :

Plaintiff's Exhibits :-

A1	Nil	True Copy of the Udampady of the Mar Thoma Cheriya Pally, Kothamanglam in the year 1110 ME
A2	13.08.2019	True Copy of Trust deed of Trust deed No. 150/2019 of Kothamangalam SRO
A3	13.08.2019	True Copy of Trust deed of Trust deed No. 151/2019 of Kothamangalam SRO
A4	13.08.2019	True Copy of Trust deed of Trust deed No. 152/2019 of Kothamangalam SRO
A5	13.08.2019	True Copy of Trust deed of Trust deed No. 153/2019 of Kothamangalam SRO
A6	14.08.2019	True Copy of Lease Deed No. 3388/2019 of Kothamangalam SRO
A7	16.08.2019	True Copy of Lease Deed No. 3405/2019 of Kothamangalam SRO
A8	16.08.2019	True Copy of Lease Deed No. 3406/2019 of Kothamangalam SRO
A9	14.08.2019	True Copy of Lease Deed No. 3448/2019 of Kothamangalam SRO
A10	20.08.2019	True Copy of Lease Deed No. 3449/2019 of Kothamangalam SRO
A11	Nil	General Body Notes of Mar Basil Charitable Trust Kothamangalam.

A12 11.08.2025 F.I.R. No. 1682/2025 of Kothamangalam (Police Station)

Respondents Exhibits :-

B1 Nil Udampadi of Marthoma Cheriya Palli,
Kothamangalam

B2 29.10.2023 Minutes Book of General Body of Marthoma
Cheriya Pally, Kothamanglam.

B3 08.10.2019 Minutes Book of Managing Committee Marthoma
Cheria Pally Kothamangalam.

B4 11.09.2025 Decision of Managing Committee of Mar Thoma
Cheria Pally Kothamangalam .

B5 31.08.2025 Letter sent by Vicari of Mar Thoma Cheria Pally
Kothamangalam.

Third Party Exhibits:- Nil

Court Exhibits :- Nil

Petitioner Witness :-Nil

Respondents Witness :- Nil

Court Witness :- Nil

Sd/-
CIVIL JUDGE(SENIOR DIVISION)

Ss/-

Mt/-

I.A.No.11/25 & 16/25
in OS 46/2025

- 25 -

Common Order
in I.A. No.11/2025 &16/25
in O.S. 46/2025
Dated: 12.12.2025