

IN THE COURT OF THE CIVIL JUDGE(SENIOR DIVISION) OF HOSDURG

Present:- Sri. Biju.M.C, Civil Judge Judge (Senior Division)

Thursday, the 22nd day of January, 2026/2nd Magha,1947

IA.No. 02 OF 2026 in CMA.No. 05 OF 2026

Between:-

Adiyarkavu Thaikula Paithruka Tharawad
Charitable Trust, Represented by its member
Manikandan, aged 49 years, S/o. Kalladan,
Residing at Ramdas Nagar, Nellithara,
Ajanur Village, Hosdurg Taluk,
Anandashram P.O., Pin 671531.

Applicant/
Appellant

And

1. Mohandas. K, aged 55 years
S/o.Govindan K, Residing at Devi Kripa House,
Kizhakke vellikoth.
2. Rameshan. V, aged 55years,
S/o.late Bolan, Krishna Chaithannya House,
Residing at Puthiyakandam.
3. Bharathan. S, aged 45 years,
S/o. Padmanabhan Achari, Kizhakke Vellikoth,
All are residing in Ajanur Village, Hosdurg Taluk,
Anandashram – 671 531.

Respondents/
Respondents

Application Under Order XXXIX Rule 1 and 2 and Section 151 of Civil
Procedure Code.

Petition filed on : 22.01.2026

Court fee paid : ₹ 125.00

This petition coming on this day for hearing before me in the presence of
Sri.Akil K.S, Advocate for Applicant; and the court passed the following.

ORDER

This is an application filed under Order XXXIX Rules 1 and 2 read with
Section 151 of the Code of Civil Procedure seeking an interim prohibitory injunction.

2. The petitioner is the appellant in the above CMA and the plaintiff before the trial court. The petitioner approached the trial court seeking a declaration that *Adiyarkavu* is managed by *Adiyarkavu Taikula Paithruka Tharawad Charitable Trust* and that all ceremonies, poojas and *Ulsavam* connected with *Adiyarkavu* are to be conducted only by the said Trust. A decree for permanent prohibitory injunction was also sought restraining the respondents, who are not members of the Trust or the Mavilan community, from conducting any poojas or rituals connected with *Adiyarkavu* or from collecting any funds in the name of the Trust.

3. The petitioner claims to be a member of *Adiyarkavu Taikula Paithruka Tharawad Charitable Trust* and instituted the suit before the trial court in that capacity. The learned counsel for the petitioner submitted that the trial court, without affording a proper hearing, disposed of the application for interim prohibitory injunction. It is further submitted that the trial court misconceived the provisions of law and erroneously concluded that only the Chairman of the Trust is competent to institute the suit. The trial court failed to consider the precedents relied on by the petitioner, which clearly hold that any member of a trust is competent to institute proceedings on behalf of the trust.

4. It is alleged that only the members of *Adiyarkavu Taikula Paithruka Tharawad Charitable Trust*, belonging to the Mavilan community, are entitled to conduct *Kaliyattam Mahotsavam*. The respondents, who do not belong to the said community and are not members of the Trust, are allegedly interfering in the affairs

of the Trust, falsely projecting themselves as Trust members and collecting money from third parties in the name of the Trust. It is further contended that although the respondents filed a counter before the trial court stating that they have no interest in the affairs of the Trust, they have subsequently started collecting funds for *Kaliyattam* from the public and devotees through various accounts, for which purpose they have opened two bank accounts with Kerala Gramin Bank, Ramanagar Branch. The petitioner relies upon documents produced before the trial court and submits that the trial court failed to consider any of those documents and dismissed the application solely on the erroneous premise that only the Chairman of the Trust could file the suit.

5. I have gone through the counter filed by the respondents before the trial court. The existence of the plaintiff Trust is admitted. It is also admitted that only persons belonging to the Mavilan community are authorised to manage the place of worship and conduct poojas and rituals therein. However, the respondents contend that, apart from members of the Mavilan community, a large number of members of the general public are devotees of the deity and are interested in the welfare of the place of worship. They further contend that they are neighbours of *Adiyarkavu* and are participating in the *Kaliyattam Festival* only as devotees and are assisting the Trust members at their invitation, without any personal gain.

6. On a consideration of the counter filed by the respondents, it is evident that they are not members of the Trust and do not belong to the Mavilan community.

It is also admitted that members of the Mavilan community alone are entitled to conduct poojas, rituals and *Kaliyattam Mahotsavam* in *Adiyarkavu*. It is further evident from the counter that the respondents, being neighbours, are only worshippers and have no authority to interfere in the affairs of the Trust or in the conduct of *Kaliyattam Mahotsavam*. In the above circumstances, it is relevant to note that a prima facie case is established that the respondents have opened bank accounts for the purpose of collecting money from the general public for the conduct of *Kaliyattam Festival*. Since they admittedly have no connection with the Trust or the management of the place of worship, their act of collecting funds in the name of *Kaliyattam* prima facie amounts to interference in the affairs of the Trust and is against its interest.

7. The learned counsel for the petitioner relied upon the decision in **Vimal Kishor Shah and Others v. Jayesh Dinesh Shah and Others (AIR 2016 SC 3889)**, wherein the Hon'ble Supreme Court held that disputes relating to the affairs of a trust, including disputes between trustees and beneficiaries, are required to be adjudicated by the civil court. Relying on the said dictum, it is contended that even a suit instituted by beneficiaries of a trust is maintainable. Whether the Trust has formally authorised the plaintiff to institute the suit is a matter to be decided at trial.

8. At this stage, the materials on record prima facie establish that the respondents, who are neither members of the Trust nor belong to the Mavilan community, are interfering with the affairs of the Trust by collecting funds from the

public in the name of *Kaliyattam*. The petitioners have thus established a prima facie case, balance of convenience and likelihood of irreparable injury if interim protection is not granted. The question whether the suit is hit by Order I Rule 8 CPC is a matter to be considered at the stage of trial. In any event, it is a curable defect. In the above circumstances, I am of the view that the petitioners are entitled to an interim prohibitory injunction as prayed for. However, it must be ensured that the conduct of *Kaliyattam Mahotsavam* is not interfered with. The learned counsel for the petitioner has submitted that the petitioner is willing to file an affidavit undertaking that the *Kaliyattam Mahotsavam* will not be interfered with in any manner.

In the result,

1. The petition is allowed. The respondents and their men are hereby restrained by way of an ad interim prohibitory injunction from conducting any poojas, rituals or related activities in the plaint schedule property (*Adiyarkavu*) or from collecting any funds from the public or any other persons in the name of the plaintiff Trust or *Adiyarkavu*, for the festival or otherwise.
2. It is made clear that the injunction granted by this Court shall not in any manner affect the conduct of the *Kaliyattam Mahotsavam*, and the competent authorities, excluding the respondents, are at liberty to conduct the same as scheduled.

3. The petitioner shall file an unconditional affidavit within two days undertaking that the conduct of *Kaliyattam Mahotsavam* shall not be interfered with in any manner.
4. Comply Order XXXIX Rule 3 (a & b)

(Dictated by using A.I Adalath and pronounced by me in the open court on this the 22nd day of January, 2026)

CIVIL JUDGE (SENIOR DIVISION)

Typed by: Mariyam. E.L
Compared by: Reena. P.P

Fair/Copy of Order in IA.02/2026
in CMA No. 05/2026.

Dated: 22.01.2026.