

IN THE COURT OF THE MUNSIFF OF KANNUR

Present: Smt. Vandana R., LL.M., Additional Munsiff

Thursday, the 5th day of September, 2019/14th Bhadra, 1941

IA.NOs.2600/19 & 2677/19 In OS.No.530/16.

IA.2600/19.

T.P. Sreeshaj, S/o. Late Karunakaran, aged 46 years,)
 residing at Karuna Nivas, Post. Chovva, Kannur.) Petitioner.
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Vs.

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| 1 | M.C. Rameshan, Father's name not known,
aged 52 years, Advocate, No.521, Trade Centre,
Yogasala Road, Kannur – 670001. |)
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| 2 | C.T. Yatheendradas, S/o. Raghavan,
aged 68 years, 'Aparna', Kakkat, now residing at
GM Nilayam, CHE-16/216, near Mahasiva
Temple, Post Chovva, Kannur District. |)
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| 3 | P.P. Rajendran, S/o. T. Kunhikannan,
aged about 66 years, Director, The Chovva
Educational Society, Post Chovva,
Kannur -670006. |)
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) | Respondents. |
| 4 | T.K. Gireeshan, S/o. T.K. Kumaran, aged 59 years,
Director, The Chovva Educational Society,
Post Chovva, Kannur -670006. |)
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) | |
| 5 | T.K. Susheela, D/o. Govindan,
aged about 82 years, Thandayankandy House,
P.O. Chovva, Kannur-6. |)
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- 6 T.K. Sumodh, S/o. T.K. Kumaran,)
aged about 55 years, Thandayankandy House,)
P.O. Chovva, Kannur-6.)
- 7 T.K. Hareesh Kumar, S/o. T.K. Sukumaran,)
aged about 48 years, Lab Assistant,)
Thandayankandy House, P.O. Chovva, Kannur-6.)
- 8 T.K. Sheena, D/o. T.K. Sukumaran,)
aged about 42 years, Thandayankandy House,)
P.O. Chovva, Kannur-6.)
- 9 Deepa Balakrishnan, S/o. A. Balakrishnan,)
aged 52 years, Krishna Deepam, Muzhappilangad,)
Kannur.)
- 10 C.T. Sudheendran, S/o. Late C.K. Raghavan,)
aged about 60 years, 4C, Sreerosh Willa on) Respondents.
Heighty, Anayiduku, Post Thana, Kannur -670012.)
- 11 T.P. Prakash, S/o. Late Kumaran,)
aged about 75 years, Thandarkandy House,)
Post Chovva, Kannur-670006.)
- 12 T.K. Jayaraman, S/o. T.K. KunhIRaman,)
aged 65 years, Director, The Chovva Educational)
Society, P.O. Chovva, Kannur – 670006.)
- 13 The Principal, Chovva Higher Secondary School,)
P.O. Chovva, Kannur- 670006.)
- 14 Valsala Kumar, S/o. Kumaran,)
Grandson of P.K. Bapu, 64 years, Business,)
Vishnu, Chovva, Kannur.)

IA.2677/19

- 1 P.P. Rajendran, S/o. T. Kunhikannan,) Petitioners.
aged about 66 years, Director, The Chovva)
Educational Society, Post Chovva,)
Kannur -670006.)

- 2 T.K. Gireeshan, S/o. T.K. Kumaran, aged 59 years,)
 Director, The Chovva Educational Society,)
 Post Chovva, Kannur -670006.)
- 3 T.K. Susheela, D/o. Govindan,)
 aged about 82 years, Thandayankandy House,)
 P.O. Chovva, Kannur-6.)
- 4 T.K. Sumodh, S/o. T.K. Kumaran,)
 aged about 55 years, Thandayankandy House,)
 P.O. Chovva, Kannur-6.)
- 5 T.K. Hareesh Kumar, S/o. T.K. Sukumaran,) Petitioners.
 aged about 48 years, Lab Assistant,)
 Thandayankandy House, P.O. Chovva, Kannur-6.)
- 6 T.K. Sheena, D/o. T.K. Sukumaran,)
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 aged 52 years, Krishna Deepam, Muzhappilangad,)
 Kannur.)
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 Post Chovva, Kannur-670006.)

Vs.

- 1 T.P. Sreeshaj, S/o. Late Karunakaran,)
 aged 46 years, residing at Karuna Nivas,)
 Post. Chovva, Kannur.) Respondents.
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Society, P.O. Chovva, Kannur – 670006. |)
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| 5 | The Principal, Chovva Higher Secondary School,
P.O. Chovva, Kannur- 670006. |)
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Grandson of P.K. Bapu, 64 years, Business,
Vishnu, Chovva, Kannur. |)
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These petitions are coming on 3rd day of September, 2019 for final hearing before me in the presence of S/Sri. K.K. Balaram, K. Babu, K.O. Prathap Nambiar & Dhanya N.P., Advocates for petitioner in IA.2600/19 and 1st respondent in IA.2677/19 and of Smt. Kavitha G., Advocate for petitioners in IA.2677/19 and respondents No.3 to 11 in IA.2600/19 and of Sri. Pramod Krishnan, Advocate for 1st respondent in IA.2600/19 and 2nd respondent in IA.2677/19 and of Sri. M.K. Prasad, advocate for 2nd respondent in IA.2600/19 and 3rd respondent in IA.2677/19 and of S/Sri. P.K. Anwar & Shumla Das, Advocate for 12th respondent in IA.2600/19 and 4th respondent in IA.2677/19 and of Sri. P.K. Mahash, advocate for 13th respondent in IA.2600/19 and 5th respondent in IA.2677/19 and of Sri. K. Shaju, Advocate for 14th respondent in IA.2600/19 and 6th respondent in IA.2677/19 and having stood over to this day for consideration, the court passed the following:-

COMMON ORDER

These petitions are filed to remove the Advocate Commissioner who was appointed to conduct election of the Chovva Educational Society and to appoint a new Advocate Commissioner.

2. Petitioner in IA 2600/2019 is the plaintiff in the above suit.

3. Petitioners in IA 2677/2019 are defendants No. 3 to 11 in the above suit.

4. It is contended by the petitioner that as per the Order of Hon'ble High Court of Kerala in OP (C) No. 3449/2017 dated 27-5-2019, Advocate Commissioner was directed to conduct election of the society including all the 36 persons who attended the meeting convened on 17-8-1997 and to consider the objection on provisional list on merit and then prepare a final list . It is the grievance of the petitioner that the Advocate Commissioner is prolonging the matter and doing things to help the defendant No. 12. It is also contended that the Advocate Commissioner was the Junior of the Advocate appearing for the defendant No. 12 . It is further contended that the Advocate Commissioner is attempting to include the legal heirs of deceased voters in the voters list and also some other third parties as voters in the voters list. The petitioners contend that only members of the society have the right to vote and the legal heirs of deceased members can be given membership only by the society. Only when they are given membership, they will acquire the right to vote. So according to the petitioner, Returning Officer has no right to give membership to the society. The petitioner apprehends that Returning Officer will do

anything beyond the power of Returning Officer to protect the interest of the defendant No. 12. The petitioner states that fair conduct of election is not possible if present Advocate Commissioner is retained as the Returning Officer. Hence, both the petitions.

5. Respondent No. 16 filed counter opposing the petition stating that after the death of a member, membership right will devolve upon the legal heir of the expired member. So, Advocate Commissioner's decision to hear and record the objection cannot be challenged by the petitioner. It is further contended that name of the Advocate Commissioner was suggested by the petitioner/plaintiff. Respondent contends that there is no merit in the petition.

6. Heard both sides.

7. On perusal of records, it is seen that present Advocate Commissioner was appointed, when the earlier Advocate Commissioner stated personal inconvenience and returned the warrant. Before appointing the present Advocate Commissioner, a panel of the Advocate Commissioner was directed to be filed. Accordingly, petitioner in IA 2600/2019 and respondent No. 12 filed panel of the Advocate Commissioner. On consensus of both sides, Adv. P.P Pradeepan was appointed as the Advocate Commissioner.

8. The Hon'ble High Court while disposing OP (C) No. 3449/2017 has directed to consider objections if any, on merit and then prepare a final list of voters. As if now, Advocate Commissioner has not prepared final voters list. Hence, the allegation made against the Advocate Commissioner can only be considered to be apprehension of the petitioner. If at all, the petitioner is aggrieved against the voters

list, the petitioner has other remedy. Merely because the Advocate Commissioner was the junior attached to the office of counsel appearing for the defendant No. 12, the Advocate Commissioner cannot be removed. For the time being I find no good reason to allow the present petition. Hence, both the petitions are dismissed.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 5th day of September, 2019).

ADDITIONAL MUNSIFF.

mmh/-

**Fair/Copy of Order
in IA.2600/19 &
2677/19 IN OS.530/16
Dated. 05/09/2019.**

