

IN THE COURT OF MUNSIFF, THIRUVALLA

Present:-Sri. Aravind S.J, Munsiff, Thiruvalla.

Wednesday the 24th day of January 2024/ 4th day of Pausha 1945 SE.

IA 05/24 in OS 23/2023

Between

1. Assembly of Christian Churches in India Reg.No. P 202/02, Kottankudi, Mount Herb, Ezhumattoor P.O. PIN-689586, Ezhumattoor Village, Mallappally Taluk rep by its Secretary, C.K.Kochumon, aged 41 years, S/o Kunjukunju, residing at Kunnumparackal House, Kanjeettukara P.O, Ayroor, Pathanamthitta District-689641.
2. C.K.Kochumon, aged 41, S/o Kunjukunju, residing at Kunnumparackal House, Kanjeettukara P.O., Ayroor, Pathanamthitta District-689641 Secretary, Assembly of Christian Churches in India Reg. No.P202/02
3. Aneesh M.K., aged 44, S/o Kochilal, Muttathil House, Kanayankavayal P.O.. Idukki District Now residing at Prakkanam P.O., Muttukudukka, Pathanamthitta District.
4. Aneesh Joseph Simon, aged 40, S/o P.J.Simon, Kavumkal House, Kolabhagom P.O., Thadiyoor, Pathanamthitta District-689545.
5. Jomon P Daniel, age 34, S/o Daniel P.D, Pulikkamannil House, Chellakkadu P.O., Ranni, Pathanamthitta District-689677.

Petitioners/
Plaintiffs

(Adv. Binoy Abraham)

And

1. Raju Paul M @ Bhaskaran M.G., aged 56, S/o Gopalan, Mullamkuzhiyil House, Kulathoor Kara, Kulathoor P.O., Kottangal Village, Pathanamthitta District-689586.

2. Assembly of Christian Churches in India Charitable Trust, Kottankudi, Ezhumattoor P.O., Ezhumattoor Village, Mallappally Taluk, Pathanathitta District-689586, by its Managing Trustee Raju Paul M, aged 56 years, S/o Gopalan, Nedumpalayil Mullamkuzhiyil House, Kulathoor Kara, Kulathoor P.O., Kottangal Village, Pathanamthitta District.
3. Rajan P.S., aged 50, S/o Samuel Chacko, Thekkadiyil House, Perumparambu P.O., Mallappally Village, Mallappally Taluk, Pathanamthitta District-689587.
4. Susamma P.J., aged 60, W/o Raju Paul, Mullamkuzhiyil House, Kulathoor Kara, Kulathoor P.O., Kottangal Village, Pathanamthitta District.
5. Sasidharan M.C., aged 57, S/o Chellappan, Thazhathuvadakara House, Vellavoor P.O., Vellavoor Village, Changanacherry Taluk, Kottayam District-686541.
6. Jessy Joseph, aged 47, W/o Joseph, Pothalil House, Vaipur P.O., Kottangal Village, Mallappally Taluk, Pathanamthitta District-689588.
7. V.R. Ajaykumar, aged 55, S/o Ramachandran Nair, Valluzhathil House, Kuruvankuzhy P.O., Pullad Muri, Koipuram Village, Thiruvalla Taluk.

Counter Petitioners
Respondents

(Adv. Shaji George)

This petition is filed U/o XXXIX Rule 1 of Civil Procedure Code 1908.

This petition having been finally heard on 22.01.2024 and stood over for consideration on 24.01.2024 and on the same day the court passed the following:-

ORDER

The afore numbered application is filed by the plaintiffs in this suit under Order XXXIX Rule 1 of the Code of Civil Procedure, 1908.

2. Petition averments in brief are stated as follows: - The 1st plaintiff Church is a society registered under the Provisions of The Travancore — Cochin, Literary, Scientific and Charitable Societies Registration Act, 1955 with Reg. No.P 202/02 having its head office at Building No.463, Kottankudi, Ezhumattoor P.O., Ezhumattoor Village, Mallappally Taluk, Pathanamthitta District. The 2nd plaintiff is the Secretary of the 1st plaintiff church who is authorized and competent to represent the 1st plaintiff church. The 1st defendant is the elected president of the 1st plaintiff for the year 2021-2022. 1st plaintiff society established in the year 2002 with the aims and objective of preaching the Gospel of Jesus Christ, to rehabilitate people who are addicted to drugs, to improve the living conditions of the economically and socially backward people, to establish churches and schools under the control of the society etc. As per the by-law of the society the 1st plaintiff society is having its General body and executive council. The General Body meeting has to be convened once in a year. The executive council members are elected from the general body. The Annual General Body meeting of the 1st plaintiff for the year 2021-22 was convened on 23-4-2021 at the head office building presided by the 1st defendant being its president. All the procedures were complied in convening the said General Body Meeting. The executive council and new office bearers of the society for the year 2021-22 were elected in the said General Body meeting. For the last more than two years, the 1st defendant was acting in an arbitrary manner and doing things according to his whims and fancies without consulting the executive council and other office bearers. The 1st defendant has made many attempts to transfer the properties of the church for his own personal benefits. But due to the timely intervention of the members of the church the said attempts were not fully succeeded. The 1st defendant without the knowledge of the members of the 1st plaintiff and without giving any notice to

them alleged to have held a meeting on 18-11-2021 and passed a resolution to dissolve the 1st plaintiff and to amalgamate it in a Charitable trust called Assembly of Christian Churches in India Charitable Trust, the 2nd defendant herein. The 1st defendant is the Managing Trustee of the 2nd defendant and defendants No.3 to 6 are the trustees of the 2nd defendant. The said meeting and the decisions taken in the so called general body meeting are void and illegal. The convening of the said general body meeting was not known to the 2nd plaintiff who is the elected Secretary of the 1st plaintiff and also the other plaintiffs who are the members of the church. In fact no such general body meeting was actually convened. But some how or other the 1st defendant managed to file the proceedings of the said illegal and unauthorized general body meeting to the files of the Registrar of Pathanamthitta by which the 1st defendant claims that the 1st plaintiff church was dissolved and the assets were amalgamated in the so called Trust. The said General Body meeting is void abinitio and not binding on the 1st plaintiff abinitio and has no effect at all as far the working of the 1st plaintiff is concerned. The so called 2nd defendant Trust was created by the henchmen and family members of the 1st defendant to take over the assets of the 1st plaintiff. The four members who are alleged to have participated in the meeting dated 18-11-2021 are the 1st defendant, his wife and his two sons. The other three members are the hench men of the 1st defendant. The 1st defendant pretending to be the Chairman of the 1st plaintiff, is now making arrangements to convene a convention of the 2nd defendant in the name of 1st plaintiff in item No.I property to be held on 25th to 28th of January 2024 in the name and style "21- മതം കൊറ്റുകൾ കൺവൻഷൻ which is perse illegal and without authority. For the publicity of the said convention notices are printed and published. In the notice the place of convention is stated as "Mount Horeb Stadium Kottankudi-Mallappally" which is none other than the plaint schedule item No.I property. The 1st defendant having no connection with 1st plaintiff Church now has no right or authority to conduct a convention in plaint schedule item No. I property and to do anything in the property of

the 1st plaintiff. The 2nd defendant Trust and the Trustees has no right or authority to use any of the assets of the 1st plaintiff for their purposes. The said illegal attempts are to be restrained a through an order of temporary prohibitory injunction. Hence, this petition.

3. The respondents entered appearance and filed objection contending as follows: The petition is not maintainable either under law or on facts. The 1st plaintiff is not in existence at present. Therefore, neither the 2nd petitioner nor any other person is competent to institute the suit and the present petition. The 1st petitioner was registered as per the provisions of the Travancore- Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 with Reg No.P 202/02. A certificate to the said effect was issued by the District Registrar (General), Pathanamthitta to that effect. The 1st petitioner was functioning as part of the global Assembly of Christian Churches INC. The petitioners 2 to 5 were removed as the members of the church due to their acts against the interests of the church. There is a specific clause in the by- law that the church would be dissolved and amalgamated with similar associations if the functioning of the church is stalled. Matters being so, the 1st respondent and respondents 3 to 6 formed a trust as per deed no. 171/IV/2021 and the 1st respondent was appointed as the managing trustee. The trust deed authorizes the parties to form churches by name of Assembly of Christian Churches in India. The 1st respondent alone is the authorized personal to represent the Assembly of Christian Churches INC. and he was selected as the chairman of the Assembly of Christian Churches in India on 23-03-2023. As the functioning of the 1st petitioner was stalled, the general body held on 18-11-2021 decided to amalgamate the 1st petitioner and its assets with the 2nd respondent and it was so done. The matter was intimated to the Registrar (General), Pathanamthitta. The Registrar granted dissolution certificate also. 288 members participated in the General Body meeting on 18-11-2021. The petitioners have no right or authority over the properties of the 1st petitioner which is not vested with the 2nd respondent. The intention of the petitioners is only to cause hindrance to the convention scheduled to be held from 25-01-2024 till 28-01-2024. They have no right or authority to do so. The petitioner has no prima facie case. Hence, they sought for

dismissal of the petition.

4. Heard both sides in detail.

5. Points that arose for consideration are: -

1. Whether there exists a prima facie case in favour of the petitioners?
2. Whether balance of convenience tilts in favour of the petitioners?
3. Whether refusal to grant injunction would cause irreparable injury to the petitioners?
4. What is the order as to costs?

6. On the side of the petitioners, Ext.A1 to A4 were marked for the purpose of this petition. Ext B1 to B6 were marked from the side of the respondents.

7. **Point No.1 to 3:-** To avoid repetition and for brevity, these points are considered together. The specific case put forth by the petitioners is that the 1st plaintiff is a society registered under the provisions of the Travancore- Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 with Reg No.P 202/02. The 2nd petitioner is its secretary and the 1st defendant was its president. The 1st defendant had arbitrarily convened an alleged meeting on 11-08-2021 and amalgamated the 1st plaintiff in a charitable trust called Assembly of Christian Churches in India Charitable Trust which is arrayed as the 2nd respondent. It is the contention of the petitioners that the respondents have made arrangements to convene a convention from 25-01-2024-28-01-2024 in the plaint schedule item No1 property which belongs to the 1st petitioner. The bone of the contention of the petitioners is that the respondents have no right or authority to do so and thus the present petition is filed to restrain the respondents from convening the proposed convention to be held from 25-01-2024 till 28-11-2024 in the plaint schedule item No 1 property in the name of the 1st petitioner, from misusing the name of the 1st plaintiff for the convention and from using the plaint schedule item No. 1 property for the functioning of the 2nd respondent.

8. The formation of the 1st plaintiff society is not in dispute. In fact, the 1st defendant was the founding president of the 1st petitioner. The photocopy of the minutes book and the by-law is marked as Ext A1 for the purpose of this petition. Ext

A1 would disclose that the 1st petitioner was formed for the purpose of preaching the gospels of Jesus Christ, to rehabilitate people who are addicted to drugs and **the** to improve the living standards of economically and socially backward classes of persons. Ext A2 is the copy of the executive committee minutes and audit report for the year 2021-2022. Ext A2 would disclose that the 1st respondent was elected as the president of the 1st petitioner and the 2nd petitioner was elected as the secretary. The 4th respondent was its Treasurer. These facts are not in dispute. The lis arose when respondents 1, 3 to 7 allegedly convened a general body meeting on 18-11-2021 and amalgamated the 1st plaintiff with a charitable trust called Assembly of Christian Churches in India Charitable Trust. The trust deed was executed on 11-08-2021. It was registered as No. 171/IV/2021 of the Thiruvalla SRO and the copy of the said deed was produced and marked as Ext B1. One of the aim and objective of the trust as is evident from Ext B1 is to establish and incorporate assembly of Christian Churches in India under the trust. Ext A3 is the copy of the letter issued by the 1st respondent to the District Registrar (General), Pathanamthitta and the copy of minutes dated 18-11-2021. Ext A3 would show that the respondents have dissolved the 1st plaintiff and amalgamated the same with the 2nd respondent. Ext B2 is the copy of the dissolution certificate issued by the Society Registrar, Pathanamthitta certifying that the 1st plaintiff is dissolved as per the general body meeting held on 18-11-21. The present suit is filed for declaring that the meeting held on 18-11-2021 and the decisions taken thereon are not binding on the 1st petitioner.

9. It is the specific contention of the respondents that the 1st respondent is the legal representative of the Assembly of Christian Churches, INC. Ext B3 and B4 are the copy of certificates issued by the said association certifying that the 1st respondent is the representative from July 2017 till July 2019 and till July 2025 respectively. Ext B5 is the letter issued by the Executive Secretary stating that the 1st petitioner is the authorized national representative and Chairman of the Assembly of Christian Churches in India. The respondents contends in the written statement that the 1st petitioner was formed as part of the aforesaid Assembly. However, page 10 of Ext A1

would make it indubitable that no other institution is functioning in the name or character of the 1st petitioner when the same was formed. Thus, the contention that the 1st petitioner was formed under the auspices of the said assembly does not appear to be true. However, Ext A6 and B4 notice evidencing the conduct of the convention on 25.01.2024 till 28.01.2024 which has the logo of the aforesaid assembly when read along with Ext B3 to B5 would indicate that at present the 2nd respondent is under the control and guidance of the aforesaid assembly.

10. The learned counsel for the respondents invited the attention of this court to page 10 of Ext A1. It is stated that the 1st plaintiff can be dissolved and amalgamated with other similar institution along with the property of the 1st plaintiff if it is found that the functioning of the 1st plaintiff had stalled. The respondents contend that the petitioners 2 to 5 were removed from the 1st petitioner society and thus the functioning of the society stalled which led to the formation of the new trust and the amalgamation of the 1st petitioner with the trust as enumerated above. It is in this context that the respondents contend that the 1st petitioner is not in existence and even before the amalgamation of the 1st petitioner with the 2nd respondent, petitioners 2 to 5 ceased to be members of the 1st petitioner. Hence, the learned counsel vehemently argued that the 2nd petitioner is not competent to represent the 1st petitioner. Even though the respondents had put forth the contention of removal of petitioners 2 to 5, the same is not supported by any documents. Ext A1 indicates that the secretary is competent to represent the 1st petitioner in legal disputes. Thus, it cannot be held that the 2nd petitioner is not competent to represent the 1st petitioner if the latter still exists. Thus, the fundamental question is whether the 1st petitioner is still in existence.

11. It is not in dispute that the convention is scheduled to be conducted from 25.01.2024 till 28-01-2024. Ext A4 and B6 are the copies of notice issued by the Assembly of Christian Churches of India that the 21st Kottankudy Convention is scheduled to be conducted from 25-01-2024 till 28-01-2024. It is the case of the petitioners that the respondents are using the name of the 1st petitioner to convene the meeting and they have no right or authority to do so. Per contra, the respondents

contend that the society registered as P.202/2002 had ceased to exist and the convention is organized by the new society formed after the amalgamation.

12. If the meeting dated 18-11-2021 is found to be legal, then the 1st petitioner cannot be said to be in existence. Thus, the crucial question is regarding the fact whether the meeting dated 18-11-2021 can be said to be valid. Ext A3 would show that only 7 persons have signed the minutes. The learned counsel for the petitioners argued that as per the by- law, only one general body meeting is to be conducted every year and the general body meeting for the year 2021-2022 was conducted on 23.04.2021. Based on this aspect, the learned counsel contended that the general body meeting held on 18-11-2021 has no legal sanctity. A perusal of Ext A2 would show that the meeting convened on 23-04-2021 is the annual executive committee meeting and not the general body meeting. No material is produced before the court to show that the 1st petitioner is in existence after 18-11-2021. If the contention of the petitioners that the 1st respondent has ceased to be member of the 1st petitioner and that the 1st petitioner is still in existence, then there ought to be a general body meeting for the year 2022 and 2023 as the same is postulated in Ext A1. No evidence of such meeting convened is before this court. On the contrary, Ext A3 coupled with Ext B1 and B2 would prima facie show that the 1st petitioner has amalgamated with the 2nd respondent. Ext B1 would also indicate that the office of the newly formed trust would be in the building No. 463 of Ezhumattoor village which is the same building situated in the plaint schedule item No 1 property. Prima facie, it could be considered that the 1st petitioner is not in existence. Anyhow, the conclusive answer to the question whether the alleged general body meeting held on 18-11-2021 is valid or not can only be ascertained after detailed inquiry which the court cannot embark at this stage.

13. Moreover, the convention is scheduled to commence on 25-01-2024. The present petition is filed on 11-01-2024. Ext A4 and B6 would suggest that all arrangements for convening the convention are in full swing. Issuing an order of injunction at this time would cause irreparable loss and injury to the respondents. The respondents had convened similar convention in 2023 also. Ext A5 would indicate the

said fact. Thus, this court is of the opinion that balance of convenience is also in favour of the respondents. The upshot of the above discussion is that the petitioners are not entitled to an order of injunction as sought for. Thus, Issue no 1 to 3 are found against the petitioners.

12. **Point No 4:** There is no order as to costs.

In the result, this application is dismissed. No order as to costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 24th day of January 2024.

Sd/-

ARAVIND S.J
MUNSIFF

APPENDIX

Petitioner's Exhibits:-

- A1 - Photocopy of minutes book & By law of the 1st petitioner.
- A2 - Copy of the Executive Committee Minutes and Audit Report for the year 2021-2022.
- A3 - Copy of the letter issued by the 1st respondent to the District Registrar (General), Pathanamthitta and copy of minutes dated 18.11.2021.
- A4 - Notice of the 21st Kottankudy Convention dated 25.0.1.2024 to 28.01.2024.

Respondent's Exhibits

- B1 - Copy of Trust deed Reg. No. 171/IV/2021.
- B2 - Copy of dissolution certificate issued by the Society Register, Pathanamthitta.
- B3 - Copy of certificate issued by Assembly of Christian Churches inc. dated 16.07.2017.
- B4 - Copy of certificate issued by the Assembly of Christian Churches inc. dated 23.03.2023.

- B5 - Copy of the letter issued by the Executive Secretary of the Assembly of Christian Churches inc.
- B6 - Notice of the 21st Kottankudy Convention dated 25.01.2024 to 28.01.2024.

Sd/-
MUNSIFF