

IN THE COURT OF THE MUNSIFF, THIRUVALLA
Present: Sri. Aravind.S. J, MUNSIFF

Tuesday the 21st day of October, 2025/ 29th day of Aswina, 1947 S.E

IA 01/2025 in OS 305/2025

Between:-

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| <ol style="list-style-type: none"> 1. P.Girish, aged 65, Raj Bhavan House, Kavumbhagom P.O, Kavumbhagom Village, Thiruvalla Taluk. 2. V.K.Muraledharan Nair, aged 67, Muraleerevam House, Kavumbhagom P.O, Kavumbhagom Village, Thiruvalla Taluk. | } | <p><u>Petitioners</u>
Plaintiffs</p> |
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(By Adv. Jacob Thomas)

And:-

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| <ol style="list-style-type: none"> 1. Thiru Erankavu Bhagavatti Devaswom Temple, Kavumbhagom PO, Thiruvalla Taluk represented by its secretary. 2. Santhosh Kumar, aged 67, President Thiru Erankavu Bhagavatti Devaswom Temple, Kavumbhagom PO, Thiruvalla Taluk residing at Kuttuvelil Sreelakshmi, Kavumbhagom PO, Kavumbhagom Village, Thiruvalla Taluk. 3. Ajith.K.N.Raj, aged 38, Secretary Thiru Erankavu Bhagavatti Devaswom Temple, Kavumbhagom PO, Thiruvalla Taluk residing at Cheppilayil House, Kavumbhagom P.O, Kavumbhagom Village, Thiruvalla Taluk. | } | <p><u>Counter petitioners</u>
Respondents</p> |
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(By Adv. P.K.Ravi)

This petition is filed under order 39 Rule 1 & 151 of the Code of Civil Procedure.

This petition having been finally heard on 17.10.2025 and stood over for consideration of 21.10.2025 and on the same day the court passed the following:-

ORDER

The afore numbered application is filed under Order XXXIX Rule 1 of the Code of Civil Procedure, 1908.

2. Petition averments in brief are stated as follows:- The petitioners are the plaintiffs in the suit. The suit is filed for a decree of permanent prohibitory injunction and consequential reliefs. Plaintiffs are the members of Thiru Erankavu Bhagavathi Devaswom Temple General Body and also the President and Secretary of NSS Karayogam, Kavumbhagom P.O., Kavumbhagam Village, Thiruvalla Taluk. Majority of the Karayogam members including the plaintiffs are active participants and members of Thiru Erankavu Bhagavathi Devaswom General Body. The 1st defendants is the Thiru Erankavu Bhagavathi Devaswom Temple represented by its secretary and the 2nd defendant is the President and the 3rd defendant is the Secretary of the Bharana Samithi. The day to day management and functioning of the temple are governed by the Constitution and By-laws of the Thiru Erankavu Bagavathi Devaswom Kshethra Bharana Samithi, registered under the Societies Registration Act, 1955, with Registration No. A 115/1986. The General Body of the Thiru Erankavu Bhagavathi Temple, as defined in section 6 of the Bye-laws, consists of individuals who are permanent residents, having attained the age of 21 years, are of sound mind, and profess the Hindu faith. The plaintiffs, as eligible members of the general body, have the right to cast votes and express their opinions. The Bharana Samithi, governed by the President and Secretary, was elected for a term of three years, which expired on 17-07-2025. As per s. 27(1) of the Bye- law, a Special General Body Meeting must be convened within one month of the term's expiry to obtain approval from the general body for the continuation of the same Bharana Samithi (Committee). However, no such ratification or approval was obtained from the special general body or any general body meeting, and the Bharana samithi continues to function without legal or statutory authority. Therefore, the continuation of the present Governing Body is unauthorized and illegal. As such, they have no right to take any administrative decisions or to declare elections for the term 2025-2028 which is scheduled on 26-10-2025 from 8 a.m. to 5 p.m. A general body meeting was convened on 20-07-2025, after the expiry of the term of the Kshethram Bharana Samithi on 17-07-2025 with 10 agendas. The existing Bharana Samithi did not obtain prior approval or permission

from the General Body during the meeting held on 20-07-2025 to continue in office. Further more, no such agenda was included on that day to seek ratification for the continuation of the existing Bharana Samithi. Despite this, the present Bharana Samithi unlawfully published the date of the upcoming election on 26-10-2025. Additionally, the election notice was neither served to the members nor displayed at the temple premises, the Devaswom office, or other designated public areas under the Devaswom jurisdiction. This constitutes violation of s. 15(1) and 15(2) of the bye laws. It also violates S. 14 of the bye laws as no preliminary or final voters' list was prepared, and ineligible members were not removed from the electoral roll. In the Annual General Body Meeting held on 17-07-2025, the defendants failed to present the annual accounts and audit report, and the same was not approved as required under the bye laws. Furthermore, the annual minutes for the year 2023-2024 were neither presented nor approved by the general body. The Bharana Samithi also failed to present the budget for the year 2025-2026. In violation of the bye laws, the voters' list for the upcoming election was unlawfully published by the 3rd defendant on 09-09-2025. It is evident that several eligible members were unjustly removed, while ineligible individuals including some deceased persons were included in the list. The existing Bharana Samithi has blatantly violated the entire constitution and bye laws of the Thiru Erankavu Bhagavathi Temple. Due to these unauthorized and unlawful actions, the plaintiffs, along with other aggrieved members, submitted a mass petition dated 10-09-2025 to the President and Secretary by registered post. The petition was received and acknowledged on 12-09-2025. However, no action was taken by the defendants. According to rule 17(1) of the By law, the date of the election must be declared in the general body meeting, and all electoral processes are to be decided in that meeting. The Bharana Samithi (Committee) has no authority to declare the election, and doing so is in violation of the bye law. Likewise, the Secretary has no authority to declare the election, which constitutes, a violation of rule 43. The actions of the defendants are illegal and unauthorized. They have no right to publish the election date or proceed with the election process. The existing Kshethram Bharana

Samithi itself is functioning illegally and is deemed void as it failed to obtain approval for extension from the General Body as required. Without such approval, the Samithi has no authority to announce or conduct elections. The existing bharana Samithi has violated the terms and conditions of the byelaws amounting to non-compliance with the law. Therefore, the present petition is filed to restrain the defendants from conducting the proposed election scheduled for 26-10-2025, until and unless prior approval is obtained in accordance with S. 27(1) of the constitution. Hence the petition.

3. The respondents entered appearance and filed objection contending as follows: The suit as well as the interlocutory application are not maintainable. Thiru Erankavu Devi, the deity is a separate legal entity in the eye of law. Hence the suit as well as the injunction petition filed without arraying the said Devi / Bhagavathi is not maintainable in law. The election procedures are already put into motion. Advocate, A. Ramesh was appointed as the Election Commissioner and he took charge and published the final list of voters. So the suit as well as the injunction petition filed without arraying the Election Commissioner in the array of defendant is not maintainable in law. On 20-07-2025, itself the Managing Committee for the period 2022-2025 convened the general body meeting and the general body permitted the Managing Committee to continue as 'care taker' committee for the next 6 months. It is with ulterior motive to mislead and to misguide and thereby to obtain an injunction order that those false averments were made. 96 members including the petitioners participated in the General Body Meeting held on 20-07-2025 and it was resolved to permit the managing committee to continue as an ad hoc / caretaker for the next 6 months. The petitioners who participated and gave consent is now assailing the resolution passed on 20-07-2025. The petitioners who did not raise any objection at the general body meeting held on 20-07-2025 has no right to file the above suit and the injunction petition. The petitioners who contend regarding non-convening of such a meeting on 20-07-2025 but denied the sanctioning of permission to the Managing Committee. The Managing Committee is administering the day to day affairs of the 1st

defendant Devaswom with the due authority and hence is invested with the ample power to declare the election for 2025-2028 and that decision is not tainted with any illegality or irregularity. The Managing Committee is taking every administrative matters/ decisions strictly in accordance with the law and has duly published the preliminary and final voters list in all places as per the by law and as per the precedents. Both the preliminary and final lists contains each and every name of valid voters and not even a single voter is left out. Even otherwise, the petitioners could have suggested the inclusion of every valid voter, if anybody's name was omitted by mistake. The petitioners have no specific case of intentional omission of any voter from the published final voters list. The petitioners who are well aware of the publishing of the preliminary voters list on 09-09-2025 could have submit the list of valid voters omitted from the list as well as could have pointed out the names of eligible voters omitted from the list. In the general body meeting held on 17-07-2025, the annual accounts were submitted with all supporting documents and it was duly approved as well. The Managing Committee has not violated any provisions of the bye law. Many of the signatories therein are unaware regarding the presenting of the so-called mass petition as they have not signed any such mass petition. Even two deceased persons were also signed therein. Every decision is being taken by the Managing Committee in strict compliance with the bye-law of the 1st defendant society and the respondents have never committed any illegality or irregularity. The election process has already started. The Election Commissioner was duly been appointed on 03-09-2025 and has finalized the final voters list and the same is published also. The election commissioner Adv. Ramesh has made every arrangements to conduct the election as scheduled on 26-10-2025. The Managing Committee consists of 11 members and they were not made parties in the suit as well as in the injunction petition. Since the decisions taken by the Managing Committee is the question in issue, the presence of the Managing Committee is highly inevitable and essential. The suit as well as the injunction petition filed without arraying the Managing committee in the party array is not maintainable on account of non-joinder of necessary party.

The 1st respondent Society has 1345 number of valid voters from different walks of life, settled in different parts of the world, having interest in the affairs and administration of the 1st respondent society. Hence the society is also an essential party to the suit as well as in the injunction petition. So the suit as well as the injunction petition filed without arraying all the interest parties/ valid voters in the array of respondents/ defendants are unsustainable in law. Hence the respondents sought for dismissal of the petition.

4. Points that arose for consideration are: -

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

5. On the side of the petitioner, Ext. A1 to A5 were marked and Ext. B1 to B4 were marked from the side of the respondents.

6. Heard both sides in detail.

7. **Point No.1 to 3:-** To avoid repetition and for brevity, these points are considered together. The case of the petitioner is that they are the members of the Thiru Erankavu Devaswom Temple General body and the president and secretary of the NSS Karayogam, Kavumbhagam. It is contended that the 1st defendant Devaswom temple is represented by its Secretary, the 2nd defendant is the President and the 3rd defendant is the Secretary of the Thiru Erankavu Devaswom Temple Bharana Samithi. The day to day management and functioning of the temple are governed by the constitution and byelaws of the Thiru Erankavu Bhagavathi Devaswom Kshethram Bharanasamithi registered under the Societies Act 1955. It is contended that the governing body was elected for a term of 3 years and the same was expired on 17-07-2025 and that as per S. 27(1) of the Byelaw, a special general body meeting should be convened within one month of the expiry of the term to obtain approval from the General body for continuation of the same governing body and to conduct elections for

the next term. The case of the petitioners is that a general body meeting was convened on 20-07-2025 and that the existing governing body did not obtain prior approval or permission from the general body during the meeting held on 20-07-2025 to continue in office and that no agenda was included on that date to seek ratification for the continuation of the existing governing body. The bone of the contention of the petitioners is that the governing body has unlawfully published the date of the upcoming election on 26-10-2025 and that the same was done in violation of S. 27(1) of the constitution. The petitioners thus now wants to injunct the defendants from conducting the proposed election scheduled for 26-10-2025 until and unless prior approval is obtained in accordance with S. 27(1) of the byelaw.

8. The respondents have per contra contended that on 20-07-2025, the existing managing committee convened a general body meeting and that the general body permitted the managing committee to continue as a care taker committee for the next six months and that the petitioners had also participated in the general body meeting held on 20-07-2025 and duly gave consent for the managing committee to continue as a caretaker for the next six months. It is contended that the managing committee is administering the day to day affairs of the 1st defendant Devaswom with due authority and hence is invested with ample power to declare the election for 2025-2028 and that the said decision is legal. It is further contended that the election process has already commenced and that the election commissioner was duly appointed on 03-09-2025 and he had finalized the final voters list and the same is published.

9. The respondents have contended that the suit is bad for non-joinder of necessary parties as the deity is not made a party in the said suit and the petition. It is pertinent to consider that the present suit and petition does not pertain to the affairs of the deity but rather it deals with the due compliance of the byelaw of the 1st defendant Devaswom. Therefore in that view of the matter, the deity need not be a necessary party to the present suit and petition. It is also contended that the election commissioner is not a party to the suit and petition and thus the suit is bad for non

joinder of necessary parties. A close perusal of the petition averments would show that the dispute is not regarding the appointment of the election commissioner or the election process as such. The dispute is regarding the very authority of the respondents to proceed with the election process in violation of the byelaws. There is a significant difference between challenging the election process and challenging the very authority of the defendants to conduct the elections. Therefore, this court is of the opinion that the election commissioner is not a necessary party to the present suit and thus the said contention is also liable to be discarded. It is also contended that the managing committee consist of 11 members and they were not made parties to the suit and that the 1st respondent society has 1345 members and the suit filed without arraying all the interested parties in the array of respondents is unsustainable. The petitioners have contended that the 1st respondent is a registered society under the societies Registration Act 1955. It is well settled that permission under O 1 R. 8 is not necessary for instituting suit against a Registered Society. The petitioners are suing a registered society and the president and secretary of the society are made parties to the suit. Thus the society is adequately represented. Thus the said contention is also devoid of merits.

10. As already stated the petitioner wants to injunct the defendants from conducting the election of the 1st respondent scheduled to be held on 26.10.2025 without first obtaining prior approval from the Special General Body or the General Body meeting for the continuation of the existing committee as mandated under Rule 27 (1) of the bylaw. The said bylaw was produced by the Petitioners and was marked as Ext A4. The said by law was also produced by the respondents and was marked as Ext B3. It is relevant to consider Section Rule 27 (1) of Ext A4 and the same is reproduced hereunder. "ഏതെങ്കിലും തക്കതായ കാരണത്തിന്മേൽ തെരഞ്ഞെടുപ്പ് യഥാകാലം നടത്തുവാൻ സാധിക്കാതെ വന്നാൽ നിലവിലുള്ള ഭരണ സമിതിക്ക് പരമാവധി ആറുമാസം വരെ ഇടക്കാല ഭരണസമിതി എന്ന നിലയിൽ താഴെപ്പറയുന്ന വ്യവസ്ഥകൾക്ക് വിധേയമായി അധികാരത്തിൽ ഇടരാവുന്നതാണ്.

(1) യഥാർത്ഥ കാലാവധി തീരുന്ന മുറയ്ക്ക് 1 മാസത്തിനകം വിശേഷാൽ പൊതുയോഗം വിളിച്ചുകൂട്ടി ഇടക്കാല ഭരണസമിതിയായി തുടരുന്നതിന് അംഗീകാരം തേടേണ്ടതാണ്."

11. It is thus evident that if election could not be conducted within the period of the existing governing body, the governing body is entitled to form a caretaker committee for a maximum period of 6 months, provided that Special General Body is convened for the said purpose and permission is granted in the said General Body. It is contended by the petitioner that no general body or special general body meeting was convened within one month of the term of the expiry of the present governing body and that no ratification or approval was obtained from the special general body or any general body meeting and that the committee continues to function without legal or statutory authority. It is based on this contention that the petitioners contend that the notification issued by the present governing body is ultra vires the provisions of the byelaw.

12. The respondents had contended that the general body held on 20-07-2025 had granted permission to the existing governing body to continue in office for a period of 6 months as an interim committee and that the permission was also granted to conduct elections. Ext. B4 is the minutes book for the 1st defendant which would show that a general body was convened on 20-07-2025. Page 162 of Ext. B4 would show that the governing body had sought for 6 months time to continue in Office. Page 163 of Ext. B4 would show that an interim governing body was formed and that they were directed to convene elections within the period granted to them. A conjoint reading of the same would indicate that the governing body was granted 6 months time to function as an interim governing body. The learned counsel for the petitioner had contended that the numeral '6' was inserted in Ext. B4 fraudulently for the purpose of the present suit and that such permission was not granted. The relevant portion of Ext. B4 does not contain any interlineations. So that it could be prima facie concluded that 6 months time not granted. Moreover, the same is a matter of evidence. At present,

Ext. B4 would show that 6 months period was granted to the governing body to function as a care taker governing body.

13. The petitioners had contended that no permission was granted to the governing body to conduct any election. However, as already stated, Ext. B4 would show that the care taker governing body was directed to convene the election within the period allotted to them. Therefore prima facie it could be seen that the 1st respondent had sufficient authority to commence the process of elections. Ext. B3 also contains the rules for convening the election. The same is in accordance with R. 58 of the Bye law. It would show that a returning officer and a polling officer is to be deputed by the governing body. The respondent had contended that a returning officer was appointed by the interim governing body. Ext. A5 is the copy of the notice issued by the 1st respondent which would show that election is scheduled to be conducted on 26-10-2025. Ext. B1 is the letter issued to Advocate A. Ramesh by the Secretary of the 1st respondent which would show that he was deputed as the Returning Officer for conducting the election. Ext. B2 is the voters list which would show that the election process has already begun. Therefore, it is evident that the process of election has begun.

14. Rule 17 of the bye law would show that the General Body has the authority to elect new Governing body. Rule 10 of Ext A4 would show that the Annual General Body is to be conducted on the month of April. However, Ext. B4 would show that the Annual General Body was conducted only on 20-07-2025. The learned counsel for the petitioner had contended that the meeting held on 20-07-2025 cannot be considered as a Special General Body which was required to be convened for the purpose of appointing a care taker governing body as per Rule 27(1) of the bye law. However as already stated, the rule 10 would show that the Annual General Body is to be conducted in April 2025 and the present General Body is conducted only on 20-07-2025. Rule 10(II) would show that the President can convene a special general body meeting and the meetings convened as per Sub rule 2,3 and 4 are called special

general body meetings. Ext. B4 would show that the President had granted permission to raise the question of extending the period of the existing governing body. Therefore it cannot be prima facie held that the election process is being conducted in violation of the byelaw.

15. More over, it is to be considered that the election process has already begun. The specific relief sought for by the petitioners is to restrain the defendants from conducting the election scheduled to be held on 26-10-2025 without 1st obtaining prior approval from the general body or the special general body meeting for the continuation for the existing committee as mandated under R. 27(1) of the bye law. R. 27(1) of the bye law would show that the permission is to be sought within one month from the date of expiry of the term of the present governing body. The petition averments would itself show that the period of the governing body expired on 17-07-2025. Now that period is already over and it is not possible to convene a special general body in terms of R. 27(1) of the bye law. This would indicate that the balance of convenience tilts in favour of the respondents on that score as it would be imprudent on the part of this court to direct the parties to undertake an action in violation of the by laws. The petitioner has no case that the election process is being conducted in an arbitrary or fanciful manner or that the same is being conducted in violation of the election rules. In such circumstances, this court is of the opinion that irreparable loss and injury would not be caused to the petitioner if the injunction is not granted. The upshot of the above discussion is that the present petition is liable to be dismissed.

16. **Point No. 4:-** Based on the discussion made above the petition is liable dismissed. There is no order as to costs.

In the result, the petition is dismissed. There is no order as to costs.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 21st day of October, 2025.

ARAVIND S.J
MUNSIFF.

APPENDIX

Exhibits marked for Petitioners:-

- A1-Copy of petition dated 10.09.2025
- A2-Postal AD card.
- A3- Copy of General Body notice dated 29.06.2025 held on 20.07.2025.
- A4-Copy of Thiru Erankav Bhavathi Devaswom Bylaws.
- A5-Copy of notice of General body election dated 26.10.2025.

Exhibits marked for Respondents:-

- B1- Letter issued to Adv. A.Ramesh by the Secretary of Thiru Erankavu Bhagavathi Temple.
- B2- Voters list of Thiru Erankavu Bhagavathi Temple.
- B3- Copy of bylaw of Thiru Erankavu Bhagavathi Temple.
- B4-Minutes book for the Thiru Erankavu Bhagavathi Temple.

Id/-
MUNSIFF

Fair/copy of order in IA 01/2025
in OS 305/2025, Dated: 21.10.2025