

IN THE COURT OF THE MUNSIFF, IRINJALAKUDA
Present: Sri. Eldos Mathew., Principal Munsiff
Wednesday, 25th day of March 2026/4th Chaithra, 1948

IA 1/2026 in O.S. No. 1825/2017

Petitioners/1,2,3,12,14,15 Defendants:-

1. Vasu, S/o Chembiri Kunjikorán, Thottippal Village, Desom, Mukundapuram Taluk.
2. Ramankutty, S/o Komarath Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.
3. Head Load & General Workers Union, CITU Thottippal Unit, Thottippal Village, Desom, rep. by Secretary Vasu.
4. Nakulan, 25 years, S/o Chillayil late Unnichekkán, Thottippal Village, Desom, Mukundapuram Taluk.
5. Mallika, 54 years, W/o Chillayil Mani, Thottippal Village, Desom, Mukundapuram Taluk.
6. Ayyappakutty, 70 years, S/o Aikkara Kunjikorán, Thottippal Village, Desom, Mukundapuram Taluk.
By Adv. P. Pramod

Respondents/ Plaintiffs:-

1. Paulose, 55 years, S/o Vadakkan Porinchu, Thottippal Village, Desom, Mukundapuram Taluk.
2. Sathyan, 57 years, S/o Aikkara Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.

3. Ramakrishnan, 57 years, S/o Koorthuparambil Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.
4. Babu, 47 years, S/o Thozhikkadan Sankaran, Thottippal Village, Desom, Mukundapuram Taluk.
5. Preman, 55 years, S/o Aikkara Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.
6. Sivadasan, 47 years, S/o Thattamparambil Valandy, Thottippal Village, Desom, Mukundapuram Taluk.
7. Kannan, 57 years, S/o Malayattil Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.
8. Chandran, 50 years, S/o Kottikkal Madhavan, Thottippal Village, Desom, Mukundapuram Taluk.
9. Sreenivasan, 46 years, S/o Pulikkal Narayanan, Thottippal Village, Desom, Mukundapuram Taluk.
10. Suresh, 46 years, S/o Ayyandi Velayudhan, Thottippal Village, Desom, Mukundapuram Taluk.
11. Girijan, 51 years, S/o Kolon Kunjayyappan, Thottippal Village, Desom, Mukundapuram Taluk.
12. Vijayan, 49 years, S/o Madathi Kandathan, Thottippal Village, Desom, Mukundapuram Taluk.
13. Sudheesh, 59 years, S/o Chillayi Manikyan, Thottippal Village, Desom, Mukundapuram Taluk.
14. Sasi, 48 years, S/o Malayattil Kochunni, Thottippal Village, Desom, Mukundapuram Taluk.

15. Vinod, 46 years, S/o Chembiri Karappan,
Thottippal Village, Desom, Mukundapuram Taluk.
 16. Ravi, 57 years, S/o Nellaparambil Kumaran,
Thottippal Village, Desom, Mukundapuram Taluk.
 17. Yohannan, 53 years, S/o Eravanthukkaran Anthony,
Thottippal Village, Desom, Mukundapuram Taluk.
 18. Kineesh, 41 years, S/o Aikkara Ayyappakutty,
Thottippal Village, Desom, Mukundapuram Taluk.
 19. Ajithkumar, 42 years, S/o Thozhukadan Velamu,
Thottippal Village, Desom, Mukundapuram Taluk.
By Adv. K. Jagadeesh
- This petition is coming on this day for hearing and the court delivered the following:-

ORDER

Petition under O.VII R.11 CPC for rejecting the suit.

2. Petitioner is the 1st defendant in the suit. He is a Headload Worker and member of CITU Headload and General Workers Union, Thottippal Unit. The respondents also members of this Union, have filed this suit seeking a decree of declaration in respect of the plaint schedule property which belongs to the Headload Workers Union. The plaint schedule property being the common property of the Headload Workers Union, the absolute right is vested with the members of this Union. If the contention of the respondents is

accepted, it would come out that they have purchased the property in the name of the Head Load Workers Union which violate S.4 of the Benami Transactions (Prohibition) Act, 1988

3. The Headload and General Workers Union, Thottippal Unit is not a registered organization. So the suit has to be filed against this Union under O. 1 R. 8 CPC. The suit is also liable to be rejected on the ground of Labour Department not in the party array. Learned counsel produced the rulings in AIR 2022 SC 4558, 2024 KHC 6288 in support of his contentions.

4. The respondents 1 to 10, 13 to 17 & 19 filed counter. The respondents 7-9 filed separate counter. The contentions raised in this petition for rejection are not stated in the written statement filed in the suit. There is also no merit in raising the objection on the basis of S.4 of the Benami Transactions (Prohibition) Act, 1988. When the petitioners and the respondents were members of the Union, they purchased the plaint schedule property using their earnings. But property was registered in the name of Headload and General Workers Union, CITU, Thottippal Unit. It was done so, due to the co-operation and longstanding relationship between the members at

that time. In fact, the plaintiffs, defendants and the Union are separate persons and also this Union has no legal entity as it is not a registered organization. The property was registered in the name of Union due to the fiduciary relationship between the Union and members. All the members of the Union at the time of purchase of property are in the party array; so that O.1 R 8 CPC is not attracted in this case. Moreover, this Union has no connection with the Labour Department. So, they need not be unnecessarily brought into the party array. Learned counsel produced the ruling in Marcel Martin v. M. Printer (AIR 2012 SC 1987) to buttress his contentions. The petition is devoid of any merit. Hence, it has to be dismissed.

5. The points for consideration are:-

1. Whether petition under Order 7 Rule 11 CPC can be allowed?
2. Reliefs and costs.

6. Head both sides and perused the records.

7. **Point Nos.1-2:** I have heard the rival contentions of both parties and perused the records. The petition is filed by the 1st defendant seeking rejection of the plaint under Order VII Rule 11

CPC on multiple grounds, including the bar under Section 4 of the Benami Transactions (Prohibition) Act, 1988, non-joinder of necessary parties, and non-compliance with Order I Rule 8 CPC.

8. The main contention of the petitioner is that the suit is barred under Section 4 of the Act on the allegation that the plaintiffs have purchased the property in the name of the Union, thereby making it a benami transaction. So the crucial question is whether a Suit be rejected Under Order 7 Rule 11(d) for Benami Act Violation. The basic intention of the legislature behind the enactment of the provisions of the Act lays special emphasis on the intention behind the transaction. If it is the case of the opposite party herein that the purchase was made by them in order to assert their ownership then they must provide substantial evidence to rebut the presumption of a benami transaction. If they fails to provide sufficient evidence regarding the source of funds and intention behind the purchase then it will definitely be treated as benami transaction.

9. Here, the respondents have specifically contended that the property was held in a fiduciary capacity, which, if proved, would fall within the exception under Section 4(3) of the Act. Such a

contention cannot be decided without trial. In **Pawan Kumar vs. Babu Lal**, ((2019) 4 SCC 367), a similar issue arose in a matter concerning rejection of plaint under Order VII R.11(d) CPC. The Apex Court held that for rejecting a plaint, the test is whether from the statement made in the plaint it appears without doubt or dispute that the suit is barred by any statutory provision. Where a plea is taken that the suit is saved by the exception to the benami transaction, it becomes the disputed question of fact which has to be adjudicated on the basis of the evidence. Therefore, the plaint cannot be rejected at the stage of consideration of application under Order VII R.11 CPC.

10. So this contention cannot be accepted at this stage for the following reasons:

1. There is no direct plea of benami transaction in the plaint. So the plea of benami is essentially a mixed question of fact and law, which requires evidence.
2. Under Section 4(2) of the Act, a defence based on benami is expressly barred.
3. The plaint averments indicate that the property was acquired for the benefit of the members and was

registered in the name of the Union due to mutual understanding and relationship among members.

4. A plaint could be rejected only in the absence of a cause of action or the bar by law is evident on the face of the pleadings.

11. The plaintiffs have stated that all members of the Union at the relevant time are already on the party array. So O.1 R.8 is not applicable in this case. Similarly, no specific legal right or relief is claimed against the Labour Department. So the presence of the Labour Department is not necessary for effective adjudication of this suit. A plaint can be rejected only if it falls strictly within the grounds enumerated under Order VII Rule 11 CPC.

12. In the light of the aforesaid discussion, it cannot be said with conviction that there is any specific content in the plaint which prima facie shows that the suit is barred by any law. Therefore, the question regarding the maintainability of the suit in connection with the bar under S.4 of the Act should be kept open for final adjudication only after thorough appreciation of evidence which can only be achieved through proper trial. The petition is liable to be

dismissed. Hence, Point No.1 is answered against the petitioner.

In the result petition stands dismissed with costs.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and revised by me and pronounced in open court on this the 25th day of March, 2026)

Sd/-
Eldos Mathew,
Principal Munsiff

APPENDIX:- Nil

Sd/-
Principal Munsiff

//True copy//

Principal Munsiff

Copied by: rh
Com. by:

Order in IA 1/2026
in OS 1825/2017
Dated..25.03.2026