

IN THE COURT OF MUNSIFF, WADAKANCHERY
Present:- Sri. Yahya. T.K., Munsiff
Tuesday, the 27th day of May, 2025/ 6th Jyaishtam 1947 SE

I.A. 12/2025 IN O.S. 224/2019

Petitioner/Plaintiff:

Fr. Sunny, aged 59 years, S/o Kuriyakose, Pulikkakudiyil House,
Elanadu Post & Village, Thrissur District.

By Adv. Sunil Konnanath.

Respondents/Defendants:

1. Fr. Basil Paulose, aged 32 years, Kollarmali House, Elavampadam Post, Kakkanchery, Pin Code: 678 684.
2. Fr. Abraham Chakkalakkal, aged 65 years, Chakkalakkal House, Pangarappilli Post and Village, Pin Code: 680 586, Thrissur.
3. Alias, aged 60 years, (Father's name not known to the plaintiff), is calling himself as Alias Mar Athanasious, Getseamon Aramana, Simhasana Valiyapally, Thuruthissery, Kariyad Post, Angamali, Ernakulam.
4. Thomas Dionysious, aged 90 years, S/o Mathu, styling himself as Beselious Thomas. I, residing at Partriachal Centre, Puthuncruze Village, Ernakulam District.
5. Mebin Baby, aged 30 years, S/o Baby, Kumbalampuzhayil House, Kaliya Road Post, Pangarappilly Village, Thrissur, Pin Code: 680 586.
6. Varghese, aged 58 years, S/o Varghese, Kandathil House, Elanadu Village and Post, Pin Code: 680 586, Thrissur.
7. James Baby, aged 63 years, S/o Baby, Kuppamala Puthenpurayil, Kaliya Road Post, Pangarappilly Village, Thrissur, Pin Code: 680 586.
8. Joseph Chacko, aged 71 years, S/o Nambelil Chacko,

Kalappara Kaliyaroadd Post, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.

9. George. K. U., aged 65 years, S/o Kandamchirayil Ulhannan,
Pangarappilly Village, Kalappara, Kaliyaroadd Post, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
10. Joy. M. M., aged 58 years, S/o Mandapattel Mathai,
Kalappara Kaliyaroadd Post, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
11. Roy Kuriakose, aged 58 years, S/o Kosseryil Kuriakose,
Kalappara Kaliyaroadd Post, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
12. Bijoy Kuriakose, aged 50 years, S/o Kosseryil Kuriakose,
Kalappara Kaliyaroadd Post, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
13. Saju. P. A., aged 63 years, S/o Paingattukunnel Abraham,
Pangarappilly Village, Kaliyaroadd Post, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
14. Joy. V. C., aged 63 years, S/o Vallikkattil Chacko,
Kalappara Kaliyaroadd Post, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
15. Kuriakose. E. P., aged 69 years, S/o Ermanagalath Paily,
Panamkutty, Pangarappilly Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.
16. Saju P Paulose, aged 68 years, S/o Paingattukunnel Paulose,
Thrikanyakkara, Elanad Post and Village, Talappilly Taluk,
Thrissur District, Pin Code: 680 586.

Adv. Priyanka. T. B., for R1 to R4.

Adv. Vasantha. M. G., for R5.

Adv. P. V. Elias., for R6 to R7.

Adv. Pradeep Kattalath., for R8 to R16.

This petition is coming on this day for hearing, the Court passed the following:

ORDER

This is an application filed by plaintiff in the suit under Order 6 Rule 17 C.P.C, for amending the pleadings in the plaint and also to incorporate a schedule.

2. **Summary of the application** ; The plaintiff is the Vicar of Thrikkanaya St. George Orthodox Galeelikunnu Church. The church was represented in Malankara Association meeting held in 2002 at Parumala. Attendance register thereof is produced before the Court. However, name of the church has been shown as “Thrikkanaya St. George” in the attendance register. Also, church is included as serial No.861 in the list appended to the plaint in O.S.147/1974 before Sub Court, Kottayam. The defendants have raised dispute regarding the name of church in their written statement. In order to avoid confusion, it has become necessary to amend the plaint to include the other names of the church as well. Also there is no schedule appended to the plaint. Hence the plaint may be allowed to be amended as sought in the petition.

3. **D1 to D4 filed counter affidavit as follows** ; The proposed amendment will alter the nature and character of suit. It is barred by Law of Limitation. The church never known with a name Chelakkara suffixed to it as it is situated in Pazhayannur. There was no representation for the

church at the meeting in Perumala in 2002. The church never known as an Orthodox church. It was consecrated as Jacobite church and continued so till this date. The schedule is an imaginary one. The petition is highly belated. Hence it is prayed that the petition may be dismissed.

4. D5 filed separate counter statement objecting the petition saying that the proposed amendment would change the nature and character of the suit.

5. D6 and D7 also filed counter affidavit with the same objections.

6. D8 to D16 also objected the application on the same lines.

7. Heard both sides.

8. The following point arose for consideration :

- i. Whether the proposed amendment is necessary to decide the real question in controversy between the parties ?*
- ii. Whether the proposed amendment would change the nature and character of the suit ?*
- iii. Whether the petition is highly belated ?*

9. **All points** : The suit is one for injunction simplicitor. Plaintiff claims to be the Vicar of the disputed church. Name of the church as per the original pleadings, is Thrikkanaya St.George Orthodox Galeelikunnu Church. Now the plaintiff wants to add certain additional pleadings saying that Thrikkanaya St.George Orthodox Galeelikunnu Church is also known as St. George Church, Chelakkara. The plaintiff wants to establish that it is the same church entered as serial No.861 in the list appended in the plaint in O.S.147/1974 of Sub Court, Kottayam. The plaintiff also wants to

establish that the church described in the plaint is the same church shown as serial No.33 in the attendance register dated 20.03.2002 in the Malankara Association Election held at Parumala. The plaintiff further says that the church is also known as “St.George Yacobaya Suriyani Church, Thrikanaya”. So, he wanted to amend the pleadings to incorporate all these things.

10. The defendants seriously objected the application saying that attempt of the plaintiff is to change the nature and character of the suit. Learned counsel for D1 to D4 vehemently argued that allowing the plaintiff to incorporate the details would create so many further complications.

11. I have perused the material on record. Essence of the dispute is touching the identity of the church. Apprehension of the plaintiff is that in some of the documents particularly the attendance register of 2002 and the list appended to the plaint in O.S. 147/1974, name of the disputed church has been shown in a different style. The question is whether this apprehension is genuine or not. For that purpose an issue can be raised at the trial. Thus, apprehension raised by the defendant can be addressed at the trial. As a matter of Law, the Court should be liberal in the matter of amendments. Even if the proposed amendment is allowed, nature of the suit will remain infact as a suit for injunction simplicitor. Thus, I finds that the proposed amendment will not change the nature and character of the suit. No serious points were argued before me regarding the limitation.

Hence, further discussion on that aspect is unnecessary. These points are answered in favour of the plaintiff.

In the result,

The application is allowed. The plaintiff is directed to carry out amendment on or before 31.05.2025.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 27th day of May, 2025)

Sd/-
YAHYA. T. K.
MUNSIFF