

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 17TH DAY OF MAY 2022 / 27TH VAISAKHA, 1944

WP(C) NO. 3836 OF 2022

PETITIONER:

P.S. DILEEPKUMAR, AGED 53 YEARS
S/O SANKARA MENON, 'MANGAMADATHIL' TAWARD, SANKARA
MANDIRAM, PANANGAD .P.O, ERNAKULAM-682 506.

BY ADV MAHESH V RAMAKRISHNAN

RESPONDENTS:

- 1 COCHIN DEVASWAM BOARD, REP.BY ITS SECRETARY, COCHIN
DEVASAM BOARD BUILDING, THRISSUR-680 001
- 2 THE INTERIM TRUSTEE, PANANGATTU KAMOTHU DEVASWAM,
PANANGAD.P.O, ERNAKULAM-682 506
- 3 PANANGATTU KAMOTHU DEVASWAM, REPRESENTED BY ITS INTERIM
TRUSTEE, PANANGAD.P.O, ERNAKULAM-682 506.
- 4 ADDL.R4. NAYANA RADHAKRISHNAN, AGED 24 YEARS
D/O.RADHAKRISHNAN, KUZHIKKARA HOUSE, PANANGAD P.O,
ERNAKULAM, 682 506
- 5 ADDL.R5. GAYATHRI UNNIKRISHNAN, AGED 30 YEARS
W/O.SANDEEP , VELIYIL HOUSE, PANANGAD P.O, ERNAKULAM-
682506
- 6 ADDL.R6. BABY GOPINATH, AGED 60 YEARS
D/O.KAMALAKSHI AMMA, KUHHIKKARA HOUSE, PANANGAD P.O,
ERNAKULAM-682 506
- 7 ADDL.R7. RADHAKRISHNAN, AGED 57 YEARS
KUZHIKKARA HOUSE, PANANGAD P.O, ERNAKULAM-682506
- 8 ADDL.R8. SANTHOSH, AGED 49 YEARS
S/O.BABY, KUZHIKKARA HOUSE, PANANGAD P.O, ERNAKULAM-
682506
- 9 ADDL.R9. BINDU RADHAKRISHNAN, AGED 49 YEARS
W/O.RADHAKRISHNAN, KUZHIKKARA HOUSE , PANANGAD P.O,
ERNAKULAM-682506

- 10 ADDL.R10. AJITHAKUMARI, AGED 54 YEARS,
W/O.NANDAKUMAR, ANJALI NIVAS, PANANGAD P.O,
ERNAKULAM-682506
- 11 ADDL.R11. M.G.SATHYAN, AGED 56 YEARS, S/O.GOPALA
PANICKER, ANJALI NIVAS, PANANGAD P.O, ERNAKULAM-
682506
- 12 ADDL.R12. M.G.SURESHBABU, AGED 52 YEARS,
S/O.GOPALAPANICKER, ANJALI NIVAS, PANANGAD P.O,
ERNAKULAM-682506
- 13 ADDL.R13. PADMANABHAN, AGED 70 YEARS, S/O.GOPALA
PANICKER, VELIYIL HOUSE, PANANGAD P.O, ERNAKULAM-
682506
- 14 ADDL.R14. SANDEEP, AGED 40 YEARS,
S/O.PADMANABHAN, VELIYIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506
- 15 ADDL.R15. M.D.BOSE, AGED 60 YEARS, S/O.DAMODARA
MENON, MANGATTIL MADAM, PANANGAD P.O, ERNAKULAM-
682506
- 16 ADDL.R16. GEETHA BOSE, AGED 53 YEARS, W/O.M.D.
BOSE, MANGATTIL MADOM, PANANGAD P.O, ERNAKULAM-
682506
- 17 ADDL.R17. JAYESH P.M, AGED 42 YEARS
S/O.MANI, POKKOLIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506
- 18 ADDL.R18. SATHEESH P.M, AGED 39 YEARS
S/O.MANI, POKKOLIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506
- 19 ADDL.R19. RAJESWARI SATHYAN, AGED 48 YEARS,
W/O.M.G.SATHYAN, ANJALI NIVAS, PANANGAD P.O,
ERNAKULAM-682506
- 20 ADDL.R20. V.G.SREENIVASAN, AGED 58 YEARS,
S/O.P.C.RAJESWARI, KOCHU PARAMBIL HOUSE, PANANGAD
P.O, ERNAKULAM-682506
- 21 ADDL.R21. ARUN KUMAR, AGED 29 YEARS, S/O.ANIL
KUMAR, PANANGA MADATHIL, PANANGAD P.O, ERNAKULAM-
682506
- 22 ADDL.R22. HARIKRISNAN, AGED 25 YEARS, S/O.ANIL
KUMAR, PANANGA MADATHIL , PANANGAD P.O,

ERNAKULAM-682506

- 23 ADDL.R23. PANKAJAKSHA MENON, AGED 75 YEARS
(FATHERS NAME NOT KNOWN TO THE PETITIONER),
MUTTATHIL, PANANGAD P.O, ERNAKULAM-682506
- 24 ADDL.R24. LEELA, AGED 65 YEARS, W/O.PANKAJAKSHA
MENON, MUTTATHIL , PANANGAD P.O, ERNAKULAM-682506
- 25 ADDL.R25. REKHA SOMASHEKHARAN, AGED 45 YEARS,
W/O.SOMASHEKHARAN, PANANGA MADTHIL, PANANGAD P.O,
ERNAKULAM-682506
- 26 ADDL.R26. SREEDEVI, AGED 60 YEARS, D/O.PADMAVATHI
AMMA, PANANGA MADATHIL , PANANGAD P.O, ERNAKULAM-
682506
- 27 ADDL.R27. ANIL KUMAR, AGED 55 YEARS, S/O.
BHASKARAN NAIR, PANANGA MADATHIL , PANANGAD P.O,
ERNAKULAM-682506
- 28 ADDL.R28. SOMASEKHARAN, AGED 52 YEARS,
S/O.PADMANABHAN NAIR, PANANGA MADATHIL, PANANGAD
P.O, ERNAKULAM-682506
- 29 ADDL.R29. SHIVA PRASAD, AGED 45 YEARS,
S/O.VENUGOPALAN NAIR, ANIZHALAYAM, CHEPPANAM,
PANANGAD P.O, ERNAKULAM-682506
- 30 ADDL.R30. LAKSHMI R.NAIR, AGED 40 YEARS,
W/O.SHIVA PRASAD, ANIZHALAYAM, CHEPPANAM,
PANANGAD P.O, ERNAKULAM-682506
- 31 ADDL.R31. SMITHA BABU, AGED 42 YEARS,
W/O.M.G.SURESHBABU, MECHERIL, PANANGAD P.O,
ERNAKULAM-682506
- 32 ADDL.R32. SANTHAKUMARI, AGED 54 YEARS, W/O.
ANILKUMAR, PANANGA MADATHIL , PANANGAD P.O,
ERNAKULAM-682506
- 33 ADDL.R33. CHANDRIKA, AGED 60 YEARS,
W/O.PADMANABHAN, VELIYIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506
- 34 ADDL.R34. DIVYA D.N., AGED 30 YEARS,
D/O.NANDAKUMAR, MECHERIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506
- 35 ADDL.R35. DHANYA D.N, AGED 28 YEARS,

W.P(C)Nos.3836 & 4184 of 2022

D/O.NANDAKUMAR, MECHERIL HOUSE, PANANGAD P.O,
ERNAKULAM-682506

36 ADDL.R36. VISHNU, AGED 30 YEARS, S/O.SREEDEVI,
PANANGA MADATHIL, PANANGAD P.O, ERNAKULAM-682506.

ADDL R4 TO R36 ARE IMPEADED AS PER ORDER DATED
08-02-2022 IN IA.NO. 1/2022 IN WP(C)3836/2022

BY ADVS.SRI.M.JITHESH MENON
SRI.SAJEEV KUMAR K.GOPAL

SRI K.P. SUDHEER, SC, COCHIN DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17.05.2022, ALONG WITH WP(C).4184/2022, THE COURT ON
05.04.2022 DELIVERED THE FOLLOWING:

W.P(C)Nos.3836 & 4184 of 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 17TH DAY OF MAY 2022 / 27TH VAISAKHA, 1944

WP(C) NO. 4184 OF 2022

PETITIONER:

SASIDHARAN.T.K, AGED 52 YEARS, S/O.LATE
T.S.KRISHNA MENON, THEKKEMANGAMADATHIL HOUSE,
KUMBALAM VILLAGE, PANANGAD AMSOM DESOM, ERNAKULAM
DISTRICT - 682 506

BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SRI.D.S.THUSHARA
SRI.H.PRAVEEN (KOTTARAKARA)
SMT.MAYA S.KUMAR

RESPONDENTS:

- 1 COCHIN DEVASWOM BOARD, THRISSUR, SWARAJ ROUND N,
ROUND NORTH, THRISSUR, KERALA 680 001,
REPRESENTED BY ITS SECRETARY,
- 2 SPECIAL DEVASWOM COMMISSIONER, COCHIN DEVASWOM
BOARD, TRIPUNITHURA, ERNAKULAM DISTRICT - 682 301
- 3 INTERIM TRUSTEE, KAMOTH DEVASWOM, PANANGAD (PO)
ERNAKULAM, KOCHI-682 506
- 4 KAMOTH BHAGAVATHI DEVASWOM, PANANGAD, (PO)
ERNAKULAM, KERALA 682 506, REPRESENTED BY ITS
INTERIM TRUSTEE,
- 5 THE ELECTION OFFICER, (INTERIM TRUSTEE) KAMOTH
BHAGAVATHI DEVASWOM, PANANGAD (PO), ERNAKULAM
DISTRICT - 682 506
- 6 ADDL.R6. NAYANA RADHAKRISHNAN, AGED 24 YEARS,
D/O.RADHAKRISHNAN, KUZHIKKARA HOUSE, PANANGAD
P.O., ERNAKULAM - 682 506.

- 7 ADDL.R7. GAYATHRI UNNIKRISHNAN, W/O.SANDEEP, AGED 30 YEARS, VELIYIL HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 8 ADDL.R8. BABY GOPINATH, D/O.KAMALAKSHI AMMA, AGED 60 YEARS, KUHHIKKARA HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 9 ADDL.R9. RADHAKRISHNAN, S/O.DEVAKI AMMA, AGED 57 YEARS, KUZHIKKARA HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 10 ADDL.R10. SANTHOSH, S/O.BABY, AGED 49 YEARS, KUHIKKARA HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 11 ADDL.R11. BINDU RADHAKRISHNAN, W/O.RADHAKRISHNAN, AGED 49 YEARS, KUZHIKKARA HOUSE, PANANGAD P.O., ERANAKULAM - 682506.
- 12 ADDL.R12. AJITHAKUMARI, W/O.NANDAKUMAR, AGED 54 YEARS, ANJALI NIVAS, PANANGAD P.O., ERANAKULAM - 682 506.
- 13 ADDL.R13. M.G.SATHYAN, S/O.GOPALA PANICKER, AGED 56 YEARS, ANJALI NIVAS, PANANGAD P.O., ERANAKULAM - 682 506.
- 14 ADDL.R14. M.G.SURESHBABU, S/O.GOPALA PANICKER, AGED 52 YEARS, ANJALI NIVAS, PANANGAD P.O., ERANAKULAM - 682 506.
- 15 ADDL.R15. PADMANABHAN, S/O.GOPALA PANICKER, AGED 70 YEARS, VELIYIL HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 16 ADDL.R16. SANDEEP, S/O.PADMANABHAN, AGED 40 YEARS, VELIYIL HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 17 ADDL.R17. M.D.BOSE, S/O.DAMODARA MENON, AGED 60 YEARS, MANGATTIL MADAM, PANANGAD P.O., ERANAKULAM - 682 506.
- 18 ADDL.R18. GEETHA BOSE
W/O.M.D.BOSE, AGED 53 YEARS, MANGATTIL MADAM, PANANGAD P.O., ERANAKULAM - 682 506.
- 19 ADDL.R19. JAYESH P.M.
S/O.MANI, AGED 42 YEARS, POKKOLIL HOUSE, PANANGAD

- P.O., ERANAKULAM - 682 506.
- 20 ADDL.R20. SATHEESH P.M.
S/O.MANI, AGED 39 YEARS, POKKOLIL HOUSE, PANANGAD
P.O., ERANAKULAM - 682 506.
- 21 ADDL.R21. RAJESWARI SATHYAN
W/O.M.G.SATHYAN, AGED 48 YEARS, ANJALI NIVAS,
PANANGAD P.O., ERANAKULAM - 682 506.
- 22 ADDL.R22. V.G.SREENIVASAN
S/O.P.C.RAJESWARI, AGED 58 YEARS, KOCHU PARAMBIL
HOUSE, PANANGAD P.O., ERANAKULAM - 682 506.
- 23 ADDL.R23. ARUN KUMAR
S/O.ANILKUMAR, AGED 29 YEARS, PANANGA MADATHIL,
PANANGAD P.O., ERANAKULAM - 682 506.
- 24 ADDL.R24. HARIKRISNAN
S/O.ANILKUMAR, AGED 25 YEARS, PANANGA MADATHIL,
PANANGAD P.O., ERANAKULAM - 682 506.
- 25 ADDL.R25. PANKAJAKSHA MENON
(FATHERS NAME NOT KNOWN TO THE PETITIONER) AGED
75 YEARS, MUTTATHIL, PANANGAD P.O., ERANAKULAM -
682 506.
- 26 ADDL.R26. LEELA
W/O.PANKAJAKSHA MENON, AGED 65 YEARS, MUTTATHIL,
PANANGAD P.O., ERANAKULAM - 682 506.
- 27 ADDL.R27. REKHA SOMASHEKHARAN
W/O.SOMASHEKHARAN, AGED 45 YEARS, PANANGA
MADATHIL, PANANGAD P.O., ERANAKULAM - 682 506.
- 28 ADDL.R28. SREEDEVI
D/O.PADMAVATHI AMMA, AGED 60 YEARS, PANANGA
MADATHIL, PANANGAD P.O., ERANAKULAM - 682 506.
- 29 ADDL.R29. ANILKUMAR
S/O.BHASKARAN NAIR, AGED 55 YEARS, PANANGA
MADATHIL, PANANGAD P.O., ERANAKULAM - 682 506.
- 30 ADDL.R30. SOMASHEKHARAN
S/O.PADMANABHAN NAIR, AGED 52 YEARS, PANANGA
MADATHIL, PANANGAD P.O., ERANAKULAM - 682 506.
- 31 ADDL.R31. SHIVA PRASAD
S/O.VENUGOPALAN NAIR, AGED 45 YEARS, ANIZHALAYAM,

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CHEPPANAM, PANANGAD P.O., ERANAKULAM - 682 506.

32 ADDL.R32. LAKSHMIN R.NAIR
W/O.SHIVA PRASAD, AGED 40 YEARS, ANIZHALAYAM,
CHEPPANAM, PANANGAD P.O., ERANAKULAM - 682 506.

33 ADDL.R33. SMITHA BABU
W/O.M.G.SURESHBABU, AGED 42 YEARS, MECHERIL,
PANANGAD P.O., ERANAKULAM - 682 506.

34 ADDL.R34. SANTHAKUMARI
W/O.ANILKUMAR, AGED 54 YEARS, PANANGA MADATHIL,
PANANGAD P.O., ERANAKULAM - 682 506.

35 ADDL.R35. CHANDRIKA
W/O.PADMANABHAN, AGED 60 YEARS, VELIYIL HOUSE,
PANANGAD P.O., ERANAKULAM - 682 506.

36 ADDL.R36. DIVYA D.N.
D/O.NANDAKUMAR, AGED 30 YEARS, MECHERIL HOUSE,
PANANGAD P.O., ERANAKULAM - 682 506.

37 ADDL.R37. DHANYA D.N.
D/O.NANDAKUMAR, AGED 28 YEARS, MECHERIL HOUSE,
PANANGAD P.O., ERANAKULAM - 682 506.

38 ADDL.R38. VISHNU
S/O.SREEDEVI, AGED 30 YEARS, PANANGA MADATHIL,
PANANGAD P.O., ERANAKULAM - 682 506.

[ADDL.R6 TO R38 ARE IMPEADED AS PER ORDER DATED
15.02.2022 IN I.A.1/2022 IN WP(C)4184/2022.]

BY ADVS.

M.JITHESH MENON

SAJEEV KUMAR K.GOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 17.05.2022, ALONG WITH
WP(C).3836/2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

Anil K. Narendran, J.

The common challenge made in these writ petitions is against an election notification dated 17.01.2022 issued by the Interim Trustee of Panangad Kamoth Devaswom. Since common issues are raised, these writ petitions were heard together and are being disposed of by this common judgment.

2. W.P.(C)No.3836 of 2022 is one filed by a general body member of Panangad Kamoth Devaswom, seeking a writ of certiorari to quash Ext.P10 communication dated 24.01.2022 of the 2nd respondent Interim Trustee of Panangad Kamoth Devaswom; a declaration that Ext.P8 election notification dated 17.01.2022, issued by the 2nd respondent, which was published in Mathrubhumi daily dated 18.01.2022, and all further proceedings pursuant thereto, are not sustainable, since it is in violation of the relevant provisions of Ext.P1 Scheme for administration of Panangad Kamoth Devaswom dated 22.08.1955, published in the Gazette dated 13.09.1955 of Government of Travancore-Cochin, and the findings and directions of this Court in Ext.P2 judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008, Ext.P3 judgment dated 11.07.2017 in W.P.(C)No.21797 of 2017 and Ext.P5 order dated 31.08.2017 in

W.P(C)Nos.3836 & 4184 of 2022

R.P.No.732 of 2017 in W.P.(C)No.21797 of 2017; a writ of certiorari to quash Ext.P8 election notification dated 17.01.2022, issued by the 2nd respondent; a writ of mandamus commanding the 2nd respondent to re-notify the election to the managing committee of Panangad Kamoth Devaswom, the 3rd respondent herein, afresh, by strictly complying with the relevant provisions of Ext.P1 Scheme and the findings and directions contained in Exts.P2, P3 and P5 judgments; and a writ of mandamus commanding the 2nd respondent to revise Ext.P11 final voters' list of Panangad Kamoth Devaswom published by the 2nd respondent on 26.01.2022, as mandated by Ext.P1 Scheme and the findings and directions in Exts.P2, P3 and P5 judgments, after affording an opportunity of being heard to all persons, including the petitioner, by submitting objections and by ensuring that only the members who belong to four "Nair grihams" as mentioned in Exts.P1 and P2 are included in the final voters' list.

2.1. On 04.02.2022, when this writ petition came up for admission, the learned Standing Counsel for Cochin Devaswom Board pointed out that, apart from the question of maintainability, none of the affected persons are parties to this writ petition. After arguing for sometime, the learned counsel for the petitioner sought adjournment to 08.02.2022. On

W.P.(C)Nos.3836 & 4184 of 2022

08.02.2022, the petitioner filed I.A.No.1 of 2022, seeking an order to implead the ineligible persons (according to the petitioner), who are included in Ext.P11 final voters' list. That application was allowed.

3. W.P.(C)No.4184 of 2022 is one filed by the former Secretary of Panangad Kamoth Devaswom, the 4th respondent herein, seeking a writ of certiorari to quash Ext.P2 election notification dated 17.01.2022 published by the 3rd respondent Interim Trustee of Panangad Kamoth Devaswom [which is Ext.P8 notification in W.P.(C)No.3836 of 2022] and also Ext.P8 communication dated 24.01.2022 of the 3rd respondent; a writ of mandamus commanding respondents 3 to 5 to include the name of the petitioner in the final voters' list for election to the Managing Committee of Panangad Kamoth Devaswom and permit him to submit nomination and take part in the election process; a writ of mandamus, commanding respondents 3 to 5 not to proceed with any further steps pursuant to Ext.P2 election notification dated 17.01.2022; a writ of mandamus commanding the 3rd respondent to publish a draft voters' list in terms of Ext.P1 Scheme for administration of Panangad Kamoth Devaswom and conduct the election in terms of the said Scheme, after following

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the procedures contained therein, and to form the Managing Committee of Panangad Kamoth Devaswom.

4. On 08.02.2022, when W.P.(C)Nos.3836 of 2022 and 4184 of 2022 came up for admission, this Court noticed that the common challenge made in the writ petitions is against the election notification dated 17.01.2022 issued by the Interim Trustee of Panangad Kamoth Devaswom [Ext.P8 in W.P.(C)No.3836 of 2022 and Ext.P2 in W.P.(C)No.4184 of 2022]. The main contention raised in the writ petitions, in order to challenge the said election notification, is by placing reliance on Clause (46) of the Scheme for management of Panangad Kamoth Devaswom, which is placed on record as Ext.P1 in both writ petitions. As per the said clause, the Election Special Officer has to publish the notification for the conduct of election, at least 30 days before the date of election, which has to be published in the Devaswom Office and also in a malayalam daily having circulation in the area. The petitioners contended that the said election notification dated 17.01.2022 was published in Mathrubhumi Daily only on 18.01.2022. Since the date of election notified is 13.02.2022, there is a clear violation of Clause (46) of Ext.P1 Scheme.

5. The learned standing counsel for Cochin Devaswom Board pointed out the pendency of O.S.No.16 of 2017, filed by the petitioner in W.P.(C)No.4184 of 2022, before the competent Civil court. Having considered the preliminary arguments by the learned counsel for the petitioner in W.P.(C)Nos.3836 of 2022 and 4184 of 2022 and also the submissions made by the learned Standing Counsel for Cochin Devaswom Board, we found it appropriate to admit the writ petitions on file and grant an order staying the operation and further proceedings pursuant to the election notification dated 17.01.2022. Accordingly, the writ petitions were admitted on file. The learned Standing Counsel for Cochin Devaswom Board took notice for the official respondents and urgent notice by special messenger was ordered to additional respondents 4 to 36 in W.P.(C)No.3836 of 2022, returnable by 11.02.2022. This Court granted an interim stay of operation and all further proceedings pursuant to the election notification dated 17.01.2022 [Ext.P8 in W.P.(C)No.3836 of 2022 and Ext.P2 in W.P.(C)No.4184 of 2022] for a period of two weeks.

6. On 11.02.2022, when these writ petitions came up for consideration, additional respondents 4 to 20 and also additional respondents 21 to 36 entered appearance through counsel, who

W.P.(C)Nos.3836 & 4184 of 2022

sought time to file counter affidavit. In W.P.(C)No.4184 of 2022, the learned counsel for the petitioner sought time to file an application to implead additional respondents and accordingly, both these writ petitions were ordered to be listed on 15.02.2022.

7. On 15.02.2022, I.A.No.1 of 2022 in W.P.(C)No.4184 of 2022 filed for impleading additional respondents 6 to 38 was allowed and the additional respondents entered appearance through counsel. As requested by the learned counsel on both sides, the writ petitions were ordered to be listed on 03.03.2022 and the interim order was also extended till that date.

8. On 03.03.2022, it was pointed out by the learned counsel on both sides that the temple festival is scheduled to commence on 07.03.2022. By the order dated 03.03.2022, both sides were directed to submit a panel of seven persons for inclusion in the Ad-hoc Committee for conducting temple festival. On 04.03.2022, when these writ petitions came up for consideration, the learned counsel for the petitioner in W.P.(C) Nos.3836 of 2022 and 4184 of 2022 and also the learned counsel for the additional respondents 4 to 20 furnished the list of members who can be included in the Ad-hoc Committee. After considering the submissions made by the learned counsel

W.P(C)Nos.3836 & 4184 of 2022

on both sides, on consensus, an Ad-hoc Committee was constituted for the conduct of temple festival, consisting of the following persons:

- 1) The Interim Trustee, Panangad Kamoth Devaswom
- 2) Sri.K.P.Gopinathan, Kottanatt, Kovilakathum Veedu
- 3) Anilkumar, Mecheril
- 4) Sreedhara Menon, Edathikovil
- 5) Nandhakumar, Panangamadam
- 6) Nandakumar K.N., Kuzhuthiriyal
- 7) Jayan, Pokolichirayil

The Ad-hoc Committee was directed to elect one person from among them as Chairman, on 05.03.2022 itself.

9. In W.P.(C)No.3836 of 2022, additional respondents 4 to 20 have filed a counter affidavit dated 03.03.2022, opposing the reliefs sought for in that writ petition, raising various legal and factual contentions. In W.P.(C)No.4184 of 2022, additional respondents 6 to 22 have filed a counter affidavit dated 03.03.2022, raising similar contentions.

10. On 05.04.2022, when these writ petitions came up for consideration, detailed arguments were heard. The learned counsel for the petitioner in the respective writ petitions, the learned standing counsel for Cochin Devaswom Board and also the learned counsel for the additional respondents submitted that the annual festival of the temple has already been conducted by

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the Ad-hoc Committee constituted as per the order of this Court dated 04.03.2022. Now the issue that has to be considered is regarding the conduct of election to the Managing Committee of Panangad Kamoth Devaswom. The election has to be conducted in terms of Ext.P1 Scheme for administration of Panangad Kamoth Devaswom and taking note of the findings and directions of this Court contained in the judgment dated 15.12.2010 in W.P. (C)No.2809 of 2008, the judgment dated 11.07.2017 in W.P. (C)No.21797 of 2017 and the order dated 31.08.2017 in R.P.No.732 of 2017 in W.P.(C)No.21797 of 2017.

11. In so far as the challenge made in these writ petitions against the election notification dated 17.01.2022 published by the Interim Trustee of Panangad Kamoth Devaswom is concerned, as already noticed in the order dated 08.02.2022, the said notification is one issued in violation of the provisions under Clause (46) of Ext.P1 Scheme, which provides that the Election Special Officer has to publish the notification for the conduct of election, at least 30 days before the date of election, which has to be published in the Devaswom Office and also in a malayalam daily having circulation in the area. Admittedly, the election notification dated 17.01.2022 was published in Mathrubhumi daily, only on 18.01.2022. When the date of election notified was

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13.02.2022, the election notification dated 17.01.2022, published by the Interim Trustee is in violation of Clause (46) of Ext.P1 Scheme and as such, the process of election conducted by the Interim Trustee, in his capacity as the Election Special Officer, cannot be sustained in law.

12. The conduct of election to the Managing Committee of Panangad Kamoth Devaswom is governed by the provisions under Chapter V of Ext.P1 Scheme for administration of Panangad Kamoth Devaswom. As per Clause (40) of the Scheme, election to the Managing Committee has to be conducted once in three years in the manner specified therein. Clause (41) deals with the publication of a preliminary notification by the Election Special Officer and Clause (42) deals with preparation of voters' list. As per Clause (42), all males and females of 21 or more years of age in the "Nair grihams" in Panangad Desom in Kumbalam Village will be entitled to be members of the general body and would be eligible to vote. A Division Bench of this Court had occasion to consider the issue relating to the effect of the provisions contained in Clause (42) of Ext.P1 Scheme and its modulation as per Ext.P2 proceedings No.E.1625/1994 dated 12.07.1994, issued by the Cochin Devaswom Board, in W.P. (C)No.2809 of 2008. In the proceedings dated 12.07.1994, it

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was clarified that those persons who come into the "Nair grihams" referred to in Clause (42) of Ext.P1 Scheme by reason of marriage and the children, who would be born to them, would also with the passage of time, be with the electoral college. In the judgment dated 15.12.2010, in W.P.(C)No.2809 of 2008, a copy of which is placed on record as Ext.P2 in W.P.(C)No.3836 of 2022 and as Ext.P10 in W.P.(C)No.4184 of 2022, the Division Bench found that the use of the phrase "Nair grihams" and not "Nairs" or "members of the Nair Community" is indicative of the conscious decision of the Board, to identify a group as constituting "Nair grihams" for the purpose of Ext.P1 Scheme. Therefore, in construing the effect of the phrase "Nair grihams" in Ext.P1 Scheme, the Court have to necessarily proceed to appreciate it in the light of the relevant materials in that regard. The concepts germane to "Nairs" and "Nair Community" as reflected by the statutory provisions that applied to that community at the relevant time would be a safe yardstick. After considering the rival contentions, the Division Bench concluded in Ext.P2 judgment that the concept of "griham" in the context of Ext.P1 as understood and acted upon in Ext.P2 in 1994, is essentially made with reference to the concept of "tharwad" or joint hindu family. This is why, even when the question was

raised before the competent authority in 1994, it was stated that the persons who come into the families by marriage would also be eligible to be in the electoral college. Obviously, therefore, the identity of the four Nair families in existence at that time, formed the basis of the use of the term "Nair griham" in Clause (42) of Ext.P1. This means that only those four "Nair tharwads" were treated as "Nair grihams" for the purpose of Clause (42). As regards Clause 43(a) of Ext.P1, all that it provides is that there has to be revision of the electoral roll every three years. This means that the voters' list has to be revised by including persons, who have attained the bench mark of age for entry into the voters' list without incurring any of the disqualifications as are prescribed in Clause (45) and by excluding the names of persons who may be dead or otherwise liable to be removed from the electoral roll, including by disqualification. Paragraphs 9 and 10 of that judgment read thus:

"9. We would recall that in 1950, when Ext.P1 was made, the law that governed the Nairs in Kerala was not, in any manner, affected by any disruption of the concept of joint family. That happened only in 1976 by the coming into force of the Kerala Joint Hindu Family System (Abolition) Act, 1976. This means that the cohesiveness of the concept of "Tharwad" was well in the mind of those, who made Ext.P1. It has necessarily to be presumed that this was very much there. Added to this, we find that Ext.P19 issued under the Right to Information Act shows that there were four families, namely, 'Mankamadathil',

'Madathil', 'Edathil' and 'Kovilkovilakathumveedu', which, going by Ext.P19, were "ooranmas" of the temple in question. Though the petitioners dispute as to whether the temple is an "ooranma" temple or not, we need not go into that issue at all for the purpose of deciding the controversy in hand. This is because, whether those families were actual "ooranmas" or were among the founder families, it makes no distinction. All that is to be decided is as to whether those four families were the only "Nair grihams" which is referred in Clause 42 of Ext.P1 or whether every house where a Nair resides with the passage of time, would also be eligible for coverage under Clause 42 of Ext.P1. The concept of "griham" in the context of Ext.P1 as understood and acted upon in Ext.P2 in 1994, is essentially made with reference to the concept of "tharwad" or joint hindu family. This is why, even when the question was raised before the competent authority in 1994, it was stated that the persons who come into the families by marriage would also be eligible to be in the electoral college. Obviously, therefore, the identity of the four Nair families in existence at that time, formed the basis of the use of the term "Nair griham" in Clause 42 of Ext.P1. This means that only those four "Nair tharwads" were treated as "Nair grihams" for the purpose of Clause 42. This is the manner in which we see Clause 42 on its plain reading as also on a contextual construction that could be applied to that provision in the light of Exts.P1 and P2. It is not as if every person belonging to the Nair community, who would migrate and get settled within the Panangad desom of Kumbalam village would get the right to be in the electoral college. The petitioners do not claim to be members of any of those four "Nair grihams".

10. As regards Clause 43(a) of Ext.P1, all that it provides is that there has to be revision of the electoral roll every three years. This means that the voters' list has to be revised by including persons, who have attained the bench mark of age for entry into the voters' list without incurring any of the disqualifications as are prescribed in Clause 45 and by excluding the names of persons who may be dead or otherwise liable to be removed from the electoral roll, including by disqualification. In this context,

the materials tend to suggest that the only available voters' list is that of 1994. Therefore, as of 1994, there is a list with reference to the members of the four "Nair grihams" and all that is required with the passage of time is to ensure that persons referable to those "Nair grihams" in accordance with Clause 42 of Ext.P1 and the clarification - Ext.P2, have to be included subject to their not being disqualified in terms of Clause 45. Similarly, persons who are liable to be deleted from that voters' list have to be deleted. This would keep in order the electoral process as regards the finalisation of the voters' list."

13. Based on the aforesaid finding in Ext.P2 judgment, the Division Bench has found that the petitioners therein are not entitled to be included in the voters' list for election to the Managing Committee of Panangad Kamoth Devaswom and accordingly, that writ petition ended in dismissal.

14. The provisions under Clause (42) of Ext.P1 Scheme came up for consideration before another Division Bench in W.P. (C)No.21797 of 2017, which was filed by the petitioners who are members of three "Nair Grihams" in Panangad desom in Kumbalam village. Their grievance was mainly with regard to the steps taken for conducting election to the Managing Committee of Panangad Kamoth Devaswom, by including persons who are actually not eligible to become members, in terms of the judgment in W.P.(C)No.2809 of 2008. That writ petition was closed by the judgment dated 11.07.2017 [Ext.P3 in W.P.(C)No.3836 of 2022 and Ext.P11 in W.P.(C)No.4184 of 2022].

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This Court appointed an Advocate Commissioner to publish a fresh draft voters' list strictly in terms of Ext.P1 Scheme and the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 and finalise the same after calling for objection from the interested parties. In the said judgment this Court made it clear that only the eligible persons in terms of Exts.P1 Scheme and judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 shall be included in the said list and objection shall be called for, from the interested parties. It will be open for the Advocate Commissioner to cause inclusion of other eligible persons, if any, who have been left out, either in Exts.P4 or P5 lists. The voters' list shall be finalised and election shall be conducted in accordance with the relevant provisions of law. Necessary publication shall be effected as to the date of election proposed to be conducted, giving sufficient time, the date of publication of the draft voters' list, the date for submitting the objection, the date for finalisation and publication of final voters' list, the date for submitting the nominations, the date of scrutiny of the nominations, the date of withdrawal of candidature, if any, the date of final declaration of the list of contesting candidates, the date for counting votes and the date of declaration of the result, etc. Paragraphs 9 to 11 and also the last paragraph of the judgment read as follows:

"9. As per the version of the petitioners, the 4th and 5th respondents are not eligible to become members in terms of Exts.P1 and Ext.P3 and are not liable to be included in the voters" list. Despite the completion of service of notice to the said respondents, they have not chosen to turn up before this Court, to controvert the pleadings raised by the petitioners. The second respondent has asserted in the affidavit dated 04.07.2017 that the matter can be caused to be finalised with the involvement of an Advocate Commissioner to be appointed by this Court, who shall supervise the entire process so that there may not be any grievance for anybody. The only point to be looked into is whether the persons concerned are actually eligible in terms of Ext.P1 Scheme and Ext.P3 judgment.

10. The learned counsel for the petitioners in I.A.No.10701 of 2017 submits that they are the proposed/contesting candidates and they are already having an entry in Ext.P4 list. But according to the petitioners, they are also not eligible and that the draft list of 'actually eligible persons' has been separately prepared and submitted by the petitioners before the 3rd respondent, as borne by Ext.P5. We are not dealing with the correctness or otherwise of Exts.P5 or P4 in the present proceedings, which has to be considered and dealt with by the competent authorities, particularly the 3rd respondent Electoral Officer, under the supervision of the Advocate Commissioner to be appointed by this Court, in turn to be acted upon by the 2nd respondent. So as to facilitate such exercise, this Court finds it appropriate to appoint Sri.K.S. Manu, a learned Advocate of this Court as the Advocate Commissioner to deal with the issue, to verify all the facts and figures, particularly by scrutinizing Ext.P4 the objections, if any, as well as Ext.P5 and publish a fresh draft voters" list strictly in terms of Ext.P1 Scheme and Ext.P3 judgment. Only the eligible persons in terms of Exts.P1 and P3 shall be included in the said list and objection shall be called for, from the interested parties. It is also open for the Advocate Commissioner to cause inclusion of other eligible persons, if any, who have been left out, either in Exts.P4 or P5. The voters" list shall be finalised and

election shall be conducted in accordance with the relevant provisions of law. It goes without saying that necessary publication shall be effected as to the date of election proposed to be conducted giving sufficient time, the date of publication of the draft voters' list, the date for submitting the objection, the date for finalisation and publication of final voters' list, the date for submitting the nominations, the date of scrutiny of the nominations, the date of withdrawal of candidature, if any, the date of final declaration of the list of contesting candidates, the date for counting votes and the date of declaration of the result, etc. The proceedings as above, shall be finalised at any rate, within 'two months' from today.

11. In the above circumstances, the election already notified to be held on 30.7.2017 will stand altered, to be on the date notified in the aforesaid terms. Considering the facts and circumstances, the Advocate Commissioner shall be paid a Batta Rs.50,000/- by the 2nd respondent, for the time being. It will be enough if the amount is handed over directly to the Advocate Commissioner and a memo be filed before this Court in this regard. All incidental expenses shall be borne by the 2nd respondent. The Advocate Commissioner shall complete the proceedings, who shall submit a report before this Court in this regard.

The writ petition stands closed accordingly. However, it will be posted again before this Bench, once the report is submitted by the Advocate Commissioner within 10 days from the date of declaration of the result, to ascertain whether any further orders are necessary."

15. Seeking review of the judgment dated 11.07.2017 in W.P.(C)No.21797 of 2017, R.P.Nos.719 of 2017 and 732 of 2017 were filed, wherein it was contended that there is an error apparent on the face of the record, insofar as the fact that the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 had already been complied with by pruning the voters' list published

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in the year 2011 itself, and completing the election accordingly, was never brought to the notice of this Court while rendering the judgment dated 11.07.2017 in W.P.(C)No.21797 of 2017, because of collusion between the petitioners therein and the present office bearers of the Managing Committee. Those review petitions ended in dismissal by the order dated 31.08.2017, a copy of which is marked as Ext.P5 in W.P.(C)No.3836 of 2022. In the said order, this Court found that, as per the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 only the eligible members belonging to one of the four "Nair grihams" can participate in the process of election and the voters' list has to be finalised accordingly. There is a universal declaration to this effect and as such, the question is not whether any such exercise was done pursuant to the said judgment dated 15.12.2010 in the year 2011, but, whether it is being done all throughout. In other words, merely for the reason that some persons were deleted in the year 2011 after passing the judgment dated 15.12.2010 itself is not sufficient to hold that the persons remaining as shown in the voters' list of the year 2011 could continue forever, if they are not actually belonging to one of the four families that is four "Nair grihams". This Court made it clear that, if there was any omission on the part of anybody to point out a wrongful

inclusion of an ineligible person in the year 2011 or 2014, it would not confer any right on the persons enlisted to have a place all throughout, if he does not come within the purview of Ext.P1 Scheme or the judgment dated 15.12.2010, in relation to the subsequent process of election, whenever it is conducted. This being the position, the dictum in the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 has to be given effect to all throughout and it has to be ensured by all concerned to see that only the eligible members of one of the four families alone are enlisted with the right to vote, in the voters' list. It is the said exercise which was directed to be done and completed as per the judgment sought to be reviewed, giving appropriate direction to the Electoral Officer/Advocate Commissioner and as such, there is no mistake or error apparent on the face of record, to invoke the power of review. Paragraphs 7 to 10 of that order read as follows:

"7. The sum and substance of the arguments put forth by the review petitioners is that Ext.P3 judgment had already been complied with in the year 2011 and some deletion was made by the Electoral officer as per Annexure A7 proceedings [R.P.No.719 of 2017] dated 04.02.2011. The persons at serial No. 606 to 619 of the final voters' list were found as migrated to Panangad and hence they were removed from the final voters' list, whereas the persons at serial No.693 and 694 were found as eligible to be retained. As it stands so, it is quite wrong on the part of writ petitioners to have contended that Ext.

P3 was not implemented and hence the judgment is liable to be reviewed, submits the learned counsel for the Review Petitioners. It is pointed out that all the persons who were enlisted in the corrected voters" list of 2011 and carried forward in the year 2014 are eligible to be retained for the present election exercise of the year 2017 as well and as such, the draft voters" list published by the advocate Commissioner is not based on the actual facts and figures and hence is not liable to be acted upon.

8. The learned Advocate Commissioner points out that he had done an exhaustive job/scrutiny/verification of the different voters' list and the proceedings right from the year 1994. The voters" list published in connection with the election held in February 2011, and the one published in connection with the election held in the year 2014 and Ext. P4 published in the present year were containing/retaining names of members, but for deleting the persons who bid farewell to this world, or removed based on the request that they were not residing in the area as on date. It is also pointed out that the Electoral officer, as revealed from the Annexure A9 proceedings had made it clear that the final voters" list was published by him on 09.08.2017 and since copy of Ext.P3 judgment was not readily made available to him, he was not in a position to give effect to the same and that necessary steps would be pursued after getting a copy of the judgment. This exercise as to verification whether the persons enlisted in the voters" list were actually belonging to one of the four families mentioned in Ext.P1 Scheme/Ext.P3 judgment, was never done or completed, but for the limited exercise done based on the complaints as referred to in Annexure A7. Despite the opportunity given by this Court and in spite of the specific notice issued by the Advocate Commissioner, the interested parties did not make use of the opportunity and the position was not sought to be substantiated before the Electoral officer/Advocate Commissioner on the dates notified or even thereafter. But for the vague objections that the objectors' names were included in the last voters" list, their status as a member of one of the four families, stands not specifically pleaded or established.

9. After hearing both the sides, this Court finds that there is no dispute as to Ext.P1 Scheme or Ext.P3 judgment, which has become final. As per Ext.P3 judgment only the eligible members belonging to one of the four families mentioned above can participate in the process of election and the voters" list has to be finalised accordingly. There is a universal declaration to this effect and as such, the question is not whether any such exercise was done pursuant to Ext.P3 judgment in the year 2011, but, whether it is being done all throughout. In other words, merely for the reason that some persons were deleted in the year 2011 after passing Ext.P3 judgment itself is not sufficient to hold that the persons remaining as shown in the voters" list of the year 2011 could continue forever, if they are not actually belonging to one of the four families mentioned above. To put it more clear, if there was any omission on the part of anybody to point out a wrongful inclusion of an ineligible person in the year 2011 or 2014, would not confer any right on the persons enlisted to have a place all throughout, if he does not come within the purview of Ext.P1 Scheme or Ext.P3 judgment, in relation to the subsequent process of election, whenever it is conducted. This being the position, the dictum in Ext.P3 has to be given effect to all throughout and it has to be ensured by all concerned to see that only the eligible members of one of the four families are enlisted with the right to vote, in the voters" list. It is the said exercise which was directed to be done and completed as per the judgment sought to be reviewed, giving appropriate direction to the Electoral Officer/Advocate Commissioner and as such, there is no mistake or any error apparent on the face of record, to invoke the power of review. This is more so since, there is no case for the review petitioners that they had appeared before the Advocate Commissioner and submitted any specific objection for getting their names included, also producing the necessary proof to substantiate their status as the member of one of the above four families or that they had appeared for the hearing scheduled on 07.08.2017 fixed by the Advocate Commissioner.

10. Incidentally, it is to be noted that the power of review is to be sparingly exercised, only on establishing that there is an apparent error on the face of the record, which duty has not been discharged by the review petitioners. It has been made clear by the Apex Court on many an occasion, that review is not a substitute for appeal as held in **M/s.Thungabhadra Industries Ltd. v. Government of Andra Pradesh rep. by Deputy Commissioner Commercial Taxes, Anantapur [AIR 1964 SC 1372]**, **Meera Bhanja v. Nirmala Kumari Choudhary [AIR 1995 SC 455]**, **Amalorpava & Ors. v. R.C. Diocese Madhurai & Ors. [(2006) 3 SCC 224]**. It has also been held by the Apex Court that the power of review and the jurisdiction to be exercised is not to provide an opportunity for 'rehearing', as held in **Parison Devi v. Sumitri Devi [(1997) 8 SCC 715]**. Similarly, as made clear by the Apex in **M/s.Northern India Caterers (India) Ltd. v. L.T. Governor of Delhi [(1980) 2 SCC 167]** and **N. Anantha Reddy v. Anshu Kathuria [(2013) 15 SCC 534]**, if the original view taken by the Court is possible, it cannot be said that there is any error apparent on the face of the record. We find that there is no error apparent on the face of the records. There is absolutely no merit or bonafides in the review petitions, they are dismissed accordingly."

16. The order of the Division Bench in R.P.Nos.719 of 2017 and 732 of 2017 was under challenge in SLP(Civil) Nos.35545-35546 of 2017. Those Special Leave Petitions ended in dismissal by the order dated 06.03.2019 of the Apex Court, a copy of which is marked as Ext.P6 in W.P.(C)No.3836 of 2022.

17. The term of the Managing Committee of Panangad Kamoth Devaswom expired on October, 2020. The Devaswom represented by its Secretary filed W.P.(C)No.215 of 2021, challenging the order dated 03.11.2020 of the Special Devaswom

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Commissioner, Cochin Devaswom Board, whereby, an Interim Trustee was appointed for managing the affairs of the Devaswom. That writ petition was disposed of by the judgment dated 09.03.2021, declining interference on the aforesaid order dated 03.11.2020, a copy which is marked as Ext.P7 in W.P. (C)No.3836 of 2022. Though interference was declined, taking note of the rival submissions, the Division Bench disposed of that writ petition with a direction to the respondents to take appropriate action to conduct election to the Managing Committee of Panangad Kamoth Devaswom, expeditiously. By that judgment, the petitioner therein was directed to hand over charge to the Interim Trustee in terms of the order dated 03.11.2020, who was directed to conduct election to the Managing Committee in accordance with Ext.P1 Scheme, within two months from the date of assuming charge. Pursuant to the directions contained in the judgment dated 09.03.2021, the Interim Trustee issued the impugned election notification dated 17.01.2022 for conducting election to the Managing Committee of Panangad Kamoth Devaswom.

18. Having considered the pleadings and materials on record and also the submissions made by the learned counsel on both sides, we find that the election to the Managing Committee

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of Panangad Kamoth Devaswom has to be conducted strictly in accordance with the provisions under Ext.P1 Scheme for administration of the said Devaswom. The Election Special Officer has to conduct election strictly in terms of the provisions contained in Chapter V of Ext.P1 Scheme and the preparation of voters' list has to be carried out in accordance with Clause (42) of the Scheme and also the findings and directions contained in the judgment of this Court dated 15.12.2010 in W.P.(C)No.2809 of 2008, judgment dated 11.07.2017 in W.P.(C)No.21797 of 2017 and the observations contained in the order dated 31.08.2017 in R.P.No.732 of 2017 in W.P.(C)No.21797 of 2017.

19. In such circumstances, these writ petitions are disposed of by setting aside the election notification dated 17.01.2022 issued by the Interim Trustee of Panangad Kamoth Devaswom and also the consequential proceedings, which are under challenge in these writ petitions. Sri.K.B.Pradeep (K/000908/1990), a lawyer of this Court is appointed as the Advocate Commissioner to conduct election to the Managing Committee of Panangad Kamoth Devaswom, who shall conduct election as the Special Election Officer, strictly following the procedures contemplated in Part V of Ext.P1 Scheme, taking note of the findings and directions contained in the judgment of this

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Court dated 15.12.2010 in W.P.(C)No.2809 of 2008, judgment dated 11.07.2017 in W.P.(C)No.21797 of 2017 and the observations contained in the order dated 31.08.2017 in R.P.No.732 of 2017 in W.P.(C)No.21797 of 2017. As held by this Court in the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008, only those four "Nair tharwads" will be treated as "Nair grihams" for the purpose of Clause (42) of Ext.P1 Scheme. As provided in Clause 43(a), the voters' list has to be revised by including persons, who have attained the bench mark of age for entry into the voters' list without incurring any of the disqualifications as are prescribed in Clause (45) and by excluding the names of persons who may be dead or otherwise liable to be removed from the electoral roll, including by disqualification. As noticed in the order dated 31.08.2017 in R.P.No.732 of 2017, in view of the judgment dated 15.12.2010 in W.P.(C)No.2809 of 2008 only the eligible members belonging to one of the four "Nair grihams" can participate in the process of election and the voters' list has to be finalised accordingly. The question is not whether any such exercise was done pursuant to the said judgment dated 15.12.2010 in the year 2011, but, whether it is being done all throughout. In other words, merely for the reason that some persons were deleted in the year 2011

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after passing the judgment dated 15.12.2010 itself is not sufficient to hold that the persons remaining as shown in the voters' list of the year 2011 could continue forever, if they are not actually belonging to one of the four families that is four "Nair grihams". If there was any omission on the part of anybody to point out a wrongful inclusion of an ineligible person in the year 2011 or 2014, it would not confer any right on the persons enlisted to have a place all throughout, if he does not come within the purview of Ext.P1 Scheme or the judgment dated 15.12.2010, in relation to the subsequent process of election, whenever it is conducted. Therefore, the dictum in the judgment dated 15.12.2010 has to be given effect to all throughout and it has to be ensured by all concerned to see that only the eligible members of one of the four families are enlisted with the right to vote, in the voters' list.

20. The Advocate Commissioner shall complete the process of election as expeditiously as possible, at any rate, within a period of three months from the date of this judgment. The Interim Trustee of Panangad Kamoth Devaswom shall pay a sum of Rs.50,000/-(Rupees fifty thousand only) to the Advocate Commissioner within a period of two weeks from this date, towards his batta for conducting the election. All incidental

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expenses for conducting election shall be borne by the Interim Trustee. The Advocate Commissioner shall complete the proceedings within the time limit stipulated above and submit a report before this Court, within ten days from the date of declaration of the results.

21. For amending Ext.P1 Scheme, the petitioner in W.P(C)No.4184 of 2022 has already filed O.S.No.16 of 2019 before the District Court, Ernakulam, in which he has filed Ext.R7(a) interlocutory application against the election scheduled on 13.02.2022. It is for both sides to raise appropriate legal and factual contentions before the court below in O.S.No.16 of 2019.

No order as to costs.

Sd/-

**ANIL K NARENDRA,
JUDGE**

Sd/-

**P.G.AJITHKUMAR,
JUDGE**

ssa

APPENDIX OF WP(C) 3836/2022

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE SCHEME OF ADMINISTRATION DATED 22.08.1955 OF PANANGATTU KOMOTHU DEVASWAM PUBLISHED IN THE GAZETTE DATED 13.9.1955 OF THE GOVERNMENT OF TRAVANCORE-COCHIN.
- Exhibit P2** TRUE COPY OF THE JUDGEMENT DATED 15.12.2010 IN WP(C) NO. 2809 OF 2008.
- Exhibit P3** TRUE COPY OF THE JUDGEMENT DATED 11.07.2017 IN WP(C) NO. 21797 OF 2017.
- Exhibit P4** TRUE COPY OF THE VOTERS' LIST DATED NIL PUBLISHED BY THE ADVOCATE COMMISSIONER APPOINTED AS PER JUDGEMENT DATED 11-07-2017 IN WP(C) NO. 21797 OF 2017.
- Exhibit P5** TRUE COPY OF THE JUDGEMENT DATED 31.08.2017 R.P.NO. 732 OF 2017 IN WP(C) NO. 21797 OF 2017.
- Exhibit P6** TRUE COPY OF THE ORDER DATED 06.03.2019 OF THE HON'BLE APEX COURT IN SLP NO. 35545/2017.
- Exhibit P7** TRUE COPY OF THE JUDGEMENT DATED 09.03.2021 IN WP(C) NO. 215 OF 2021.
- Exhibit P8** TRUE COPY OF THE NOTIFICATION DATED 17.01.2022 ISSUED BY THE 2ND RESPONDENT AND PUBLISHED IN MATHRUBHUMI DAILY DATED 18.01.2022.
- Exhibit P9** TRUE COPY OF THE OBJECTION LETTER DATED 21.01.2022 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- Exhibit P10** TRUE COPY OF THE LETTER/ORDER DATED 24.01.2022 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- Exhibit P11** TRUE COPY OF THE FINAL VOTERS LIST DATED NIL PUBLISHED ON 26.01.2022 BY THE 2ND RESPONDENT.

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- Exhibit P12** TRUE COPY OF THE LETTER DATED 31.01.2022
ISSUED BY THE PETITIONER TO THE 2ND
RESPONDENT THROUGH REGISTERED POST.
- Exhibit P13** TRUE COPY OF THE RELEVANT PAGE OF THE SSLC
BOOK OF SRI. SANEESH.P.
- Exhibit P14** TRUE COPY OF THE RELEVANT PAGE OF THE SSLC
BOOK OF SRI.JAYESH P.M.

RESPONDENTS' EXHIBITS: NIL.

APPENDIX OF WP(C) 4184/2022

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE KERALA GAZETTE VOL.VII TRIVANDRUM DATED 13-09-1955, (SCHEME OF THE SREE KAMOTH BHAGAVATH DEVASWOM)
- Exhibit P2** TRUE COPY OF THE ELCTION NOTIFICATION PUBLISHED BY THE INTERIM TRUSTEE, KAMOTH DEVASWOM DATED 17-01-2022
- Exhibit P3** TRUE COPY OF THE DRAFT VOTERS LIST PUBLISHED BY THE INTERIM TRUSTEE
- Exhibit P4** TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 19.01.2022 BEFORE THE INTERIM TRUSTEE
- Exhibit P5** TRUE COPY OF THE CERTIFICATE NO.1591/19 ISSUED BY THE VILLAGE OFFICER, KUMBALAM DATED 23-11-2019
- Exhibit P6** TRUE COPY OF THE RELATIONSHIP CERTIFICATE NO.55080353 ISSUED BY THE KUMBALAM VILLAGE OFFICER, DATED 7-3-2021
- Exhibit P7** TRUE COPY OF THE DEATH CERTIFICATE DATED 11-10-2017 OF THE FATHER OF PETITIONER ISSUED BY THE MARADU GRAMA PANCHAYAT.
- Exhibit P8** TRUE COPY OF THE COMMUNICATION GIVEN BY THE INTERM TRUSTEE DATED 24-1-2022 TO THE PETITIONER
- Exhibit P9** TRUE COPY OF THE FINAL VOTERS LIST PUBLISHED BY THE INTERIM TRUSTEE
- Exhibit P10** TRUE COPY OF THE JUDGMENT IN WRIT PETITION(C)NO.2809/2008 DATED 15-12-2010
- Exhibit P11** TRUE COPY OF THE JUDGMENT IN WRIT PETITION(C)NO.21797/2017 DATED 11-7-2017.

RESPONDENTS (6 TO 22) EXHIBITS

- Exhibit R17(A)** TRUE COPY OF THE INTERLOCUTORY

W.P(C)Nos.3836 & 4184 of 2022

**APPLICATION FILED BY THE PETITIONER
BEFORE THE DISTRICT COURT-3, ERNAKULAM
IN O.S.NO.16/2019 DATED 29.01.202.**