

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 26<sup>TH</sup> DAY OF JULY 2021 / 4TH SRAVANA, 1943

WP(C) NO. 14522 OF 2021

**PETITIONER/S:**

**K.N. AJAYAKUMAR**

**AGED 48 YEARS**

**S/O. VIJAYAN K.P., JYOTHIS (MUTHARATH PARAMBA), NARATH  
P.O., KANNUR DISTRICT-670 601.**

**BY ADVS.**

**SHAJI THOMAS**

**K.BABU**

**JEN JAISON**

**RESPONDENT/S:**

- 1      JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)  
CIVIL STATION, KANNUR, KANNUR DISTRICT-670 002.**
- 2      THE NARATH SERVICE CO-OPERATIVE BANK LTD.NO.F.1436  
KATTAMPALLY KANNADIPARAMBA MANDERI ROAD, KANNUR  
DISTRICT-670 604, REPRESENTED BY ITS SECRETARY.**
- 3      THE SECRETARY, THE NARATH SERVICE CO-OPERATIVE BANK  
LTD.NO.F 1436, KATTAMPALLY KANNADIPARAMBA MANDERI  
ROAD, KANNUR DISTRICT-670 604.**
- 4      K.N.VASANTHA KUMARI  
W/O. G.NARAYANANKUTTY, NITHYA, RAMANATTUKARA P.O.,  
KOZHIKODE DISTRICT-673 633.**
- 5      K.N.MURALEEDHARAN  
S/O. P.K.CHANTHUKUTTY NAIR, SREELAKSHMI (KOLANKADA  
NADUVIL HOUSE), NARATH P.O., KANNUR DISTRICT-670 601.**

**SR.GP BIMAL K NATH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
26.07.2021, ALONG WITH WP(C).11922/2021, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:**

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE SUNIL THOMAS**

**MONDAY, THE 26<sup>TH</sup> DAY OF JULY 2021 / 4TH SRAVANA, 1943**

**WP(C) NO. 11922 OF 2021**

**PETITIONER/S:**

- 1 K.N.VASANTHA KUMARI  
AGED 60 YEARS  
W/O. G.NARAYANANKUTTY, NITHYA, RAMANATTUKARA P.O.,  
KOZHIKODE DISTRICT, PIN-673633.**
- 2 K.N.MURALEEDHARAN,  
AGED 57 YEARS  
S/O. P.K.CHATHUKUTTY NAIR, SREELAKSHMI (KOLANKADA  
NADUVIL HOUSE), NARATH P.O., KANNUR DISTRICT, PIN-  
670601.**

**BY ADVS.  
ARJUN RAGHAVAN  
ADITHYA RAJEEV**

**RESPONDENT/S:**

- 1 THE NARATH SERVICE CO-OPERATIVE BANK LTD. NO.F 1436,  
REPRESENTED BY ITS SECRETARY, KATTAMPALLY  
KANNADIPARAMBA MANDERI ROAD,  
KANNUR DISTRICT, PIN-670604.**
- 2 THE SECRETARY  
THE NARATH SERVICE CO-OPERATIVE BANK LTD. NO.F 1436,  
KATTAMPALLY KANNADIPARAMBA MANDERI ROAD,  
KANNUR DISTRICT, PIN-670604.**
- 3 THE MANAGING COMMITTEE,  
REPRESENTED BY PRESIDENT, NARATH SERVICE CO-  
OPERATIVE BANK LTD. NO.F 1436, KATTAMPALLY  
KANNADIPARAMBA MANDERI ROAD, KANNUR DISTRICT, PIN-  
670604.**

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**4      K.N.AJAYAKUMAR,  
         AGED 48 YEARS  
         S/O. VIJAYAN K.P., JYOTHIS (MUTHARATH PARAMBA),  
         NARATH P.O., KANNUR DISTRICT, PIN-670601.**

**BY ADVS.  
K.RAJESH SUKUMARAN  
SHAJI THOMAS  
K.BABU  
JEN JAISON**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 26.07.2021, ALONG WITH WP(C).14522/2021, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING:**

**COMMON JUDGMENT**

In W.P.(C)No.14522 of 2021, the petitioner is the nephew of one Mohanan who died on 11.06.2020. The petitioner claims that, during his life time, he had executed a will enabling the petitioner to claim the amount kept in fixed deposit with the second respondent-Narath Service Co-operative Bank. Respondent Nos.4 and 5 are the siblings of the said Mohanan. The grievance of the writ petitioner is that the second and third respondents are not releasing the fixed deposit amounts of late Mohanan maintained in the second respondent -Narath Service Co-operative Bank along with the deposit in SB account along with the interest accrued in spite of specific request.

2. Prior to this, by W.P.(C)No.11922 of 2021, the writ petitioners, who are the respondents Nos.4 and 5 in W.P.(C)No.14522 of 2021 has approached this court seeking a relief directing the Narath Service Co-operative Bank to release the fixed deposits of Mohanan in their favour claiming themselves to the successors-in-interest, pursuant to the death of said Mohanan. Though, notice was not served on the

respondents 2 to 4, in W.P.(C)No.14522 of 2021, since they have appeared already in W.P.(C)No.11922 of 2021, and parties are represented in both cases which are jointly posted and the bank is represented, I feel that there is no necessity for separate notice for the respondents in W.P.(C)NO.14522 of 2021.

3. It seems that in W.P.(C)No.11922 of 2021, the petitioners have approached this court on a definite premise that Mohanan died intestate. Evidently, there is a dispute regarding the persons who is/are entitled to succeed to the estate of Mohanan as his true legal heirs. It is also reported that a suit for partition of the remaining properties is pending inter se parties. They have a specific case that the will is forged. In the light of the above contention, there is a dispute regarding the genuineness of the will, which has to be decided by due process of law. In this circumstances, the bank cannot be directed to release the amount to either of the parties in the nature of disputed question of facts arises, even regarding the persons who are entitled to succeed the estate and this claim the amount in fixed deposit. In the light of this, I am inclined to dispose of the Writ Petitions declining the relief sought . However, make it

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clear that the bank shall either keep the amount in fixed deposit and shall extent it from time to time and shall release it to the appropriate persons as adjudicated by competent court of civil jurisdiction or if the bank so desires, they will free to deposit the amount in a competent civil court of jurisdiction by filing an inter pleader suit.

Writ Petitions are disposed of as above.

Sd/-

**SUNIL THOMAS, JUDGE**

R.AV

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**APPENDIX OF WP(C) 14522/2021**

**PETITIONER EXHIBITS**

- |                   |   |
|-------------------|---|
| <b>Exhibit P1</b> | <b>TRUE PHOTOCOPY OF THE WILL DATED 9.10.2019<br/>REGISTERED AS 86/2019 OF S.R.O.,<br/>VALAPATTANAM</b>   |
| <b>Exhibit P2</b> | <b>TRUE PHOTOCOPY OF THE DEATH CERTIFICATE<br/>DATED 18.6.2020 ISSUED BY THE REGISTRAR OF<br/>BIRTHS AND DEATHS, THALASSERY<br/>MUNICIPALITY.</b> |
| <b>Exhibit P3</b> | <b>TRUE PHOTOCOPY OF THE PETITION DATED<br/>20.6.2021 SUBMITTED BY THE PETITIONER<br/>BEFORE THE IST RESPONDENT.</b>                              |

**APPENDIX OF WP(C) 11922/2021**

**PETITIONER EXHIBITS**

<b>Exhibit P1</b>	<b>A TRUE COPY OF AADHAR CARD OF THE 1ST PETITIONER.</b>
<b>Exhibit P2</b>	<b>A TRUE COPY OF AADHAR CARD OF THE 2ND PETITIONER.</b>
<b>Exhibit P3</b>	<b>A TRUE COPY OF THE DEATH CERTIFICATE OF SRI.K.N.MOHANAN, ISSUED FROM THE THALASSERY MUNICIPALITY ON 18.6.2020.</b>
<b>Exhibit P4</b>	<b>A TRUE COPY OF THE REQUEST DATED 5.8.2020 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.</b>
<b>Exhibit P5</b>	<b>A TRUE COPY OF LEGAL HEIRSHIP CERTIFICATE DATED 9.3.2021, ISSUED FROM THE OFFICE OF TAHASILDAR, KANNUR TALUK, KANNUR DISTRICT.</b>
<b>Exhibit P6</b>	<b>A TRUE COPY OF REQUEST DATED 20.4.2021 FILED BY PETITIONERS BEFORE THE 1ST RESPONDENT.</b>