

**C.R.**

**P.B.SURESH KUMAR & JOHNSON JOHN, JJ.**

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**Special Jurisdiction Case No.6 of 2023**  
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**Dated this the 8<sup>th</sup> day of November, 2023**

**J U D G M E N T**

**P.B.Suresh Kumar, J.**

This Court is called upon in this proceedings to decide the scope of the limits of the jurisdiction retained by this Court to adjudicate the disputes relating to the affairs of Sree Narayana Trusts (the Trust) in terms of the scheme settled for its administration.

2. The Trust is a public trust of charitable nature. It runs several educational and other institutions. A suit was instituted as O.S.No.2 of 1969 before the District Court, Thiruvananthapuram under Section 92 of the Code of Civil Procedure (the Code) for framing of a scheme for the administration of the Trust. In the appeals preferred against the decree in the suit, this Court modified the scheme framed by

the District Court in the suit and the Trust is being administered thereafter in terms of the scheme framed by this Court as amended from time to time. As per the scheme, hereinafter referred to as "the Scheme" for short, the Trust is governed by a Board of Trustees composed of persons referred to in clause 3 of the Scheme. Clause 3 of the Scheme reads thus:

- “3) There shall be a Board of Trustees composed of:-
- a) All persons (or their representatives approved by the Board of Trustees) who have contributed to the SREE NARAYANA COLLEGE FUND or who contribute to this TRUST a sum not less than Rs. 200000/- (Rupees Two lakhs only) and their successors. Provided that among successors, only one person will be entitled, with the approval of the Board of Trustees, to be a Trustee.
  - b) One representative of every organisation of institution has contributed to the SREE NARAYANA COLLEGE FUND or that contribute to this TRUST a sum not less than Rs. 200000/- (Rupees Two lakhs only)
  - c) All persons (or their representatives approved by the Board of Trustees) who have contributed to the SREE NARAYANA COLLEGE FUND or who contribute to this TRUST a sum not less than Rs. 100000/- (Rupees one lakh) but less than Rs. 200000/- (Rupees Two lakhs) to hold office for their life.

- d) Representatives elected by persons who has subscribed to the SREE NARAYANA COLLEGE FUND or who subscribed to THIS TRUST a sum of not less than Rs. 5000/- (Rupees five thousand) but less than Rs. 100000/- (Rupees one lakh) provided that the number so elected shall be one-tenth of the total number of such subscribers and provided that in calculating the one-tenth so elected any fractions shall be treated as one.
- e) Representatives elected by persons who has subscribed to the SREE NARAYANA COLLEGE FUND or who subscribed to this TRUST a sum of Rs. 100/- (Rupees one hundred) and more but less than Rs. 5000/- (Rupees Five thousand), PROVIDED that in ascertaining the number of such representatives from each. Region as provided for herein below the aggregate of all subscriptions below Rs. 5000/- (Rupees Five thousand) will be taken into account and there shall be one representative for each unit of Rs. 25000/- (Rupees twenty five thousand) subscribed from that area, AND PROVIDED further that such representatives shall be chosen from among individuals who have contributed Rs. 500/- (Rupees five hundred) and more to the College Fund or who contribute to this TRUST a similar sum.
- f) The President and the General Secretary of the S. N. D. P. Yogam for the time being in office.
- g) Seven persons nominated by the Board of Directors of the S. N. D.P. Yogam.
- h) One representative nominated by the SREE NARAYANA DHARMA SANGHAM and
- i) Three persons elected by the other members of the

Board of Trustees.

PROVISO:- No person shall be eligible to become a TRUSTEE under this para who is a minor, or an insolvent or a person of unsound mind or a paid servant under the TRUST or any of the institutions under the TRUST or a student in any of the institutions under the TRUST or convicted by a Criminal Court for an offence involving moral turpitude.

Explanation:- 1. Individuals, Institutions or organisations who have made contributions to the SREE NARAYANA COLLEGE FUND but who have not qualified themselves by such contributions to become members or electors under Clauses (a) to (c) under this para can qualify themselves by contributing the balance amount to THE TRUST FUND.

Explanation: 2. The polling of votes for election of representatives by persons falling under Clause (e) above shall be held at convenient centers to be fixed by the Board of Trustees in the area of each Regional Development Council and at Quilon. The Board Of Trustees shall frame rules not inconsistent with the provisions of this scheme for the conduct of elections.

Explanation: 3. "Only those persons whose names are borne in the list of votes of the Regional Development Councils prepared in the manner prescribed in Clause 27 and 28 shall be entitled to vote in the election of the representative referred to in Clause 3 (e) from the respective regions".

Clause 34 of the Scheme as it was at the time of framing of the Scheme was that any member of the Board of Trustees may move this Court for appropriate modifications of the Scheme or for other direction, if any difficulty arises in the working of this Scheme or if it is found necessary and expedient for the effective functioning of the Trust. The said clause was, however, amended later by limiting the jurisdiction retained by this Court only to make appropriate modifications in the Scheme. The effect of the said amendment was that even the jurisdiction retained by this Court to issue general directions for effective functioning of the Trust was taken away. Later, in terms of the order passed by a Division Bench of this Court in I.A.No.368 of 2016 in the appeal dated 15.12.2016, a new clause conferring jurisdiction to this court to deal with grievances against the office bearers of the Trust, if they violate the provisions of the Trust or commit any breach of Trust, was permitted to be introduced as Clause 34A in the Scheme. Clause 34A reads thus:

“34A. If any 10 members of the Board of Trustees or 100 voters electing the representatives of any denomination other than clause (a) to (c) of clause 3 shall have the right to approach the High Court in the event of the office bearers of

the Trust or the executive committee violates the provisions of the Trusts Scheme or commit any breach of trust.”

3. The petitioners are persons who made contributions to the Trust in terms of Clauses 3(d) and 3(e) of the Scheme and thereby acquired membership in the Board of Trustees. They have approached this Court invoking Clause 34A of the Scheme for redressal of their grievances against the office bearers of the Trust. The grievances voiced by the petitioners, in essence, are the following:

(i) The third respondent is the Secretary of the Trust since 1996. He prescribed a form which mandates the recommendation by a member of the Board of Trustees for making contributions to the Trust and acquiring membership in the Board of Trustees on that basis. The said procedure has been devised to ensure that only the henchmen of the third respondent become members of the Board of Trustees so as to enable the third respondent to continue as the Secretary of the Trust perpetually. Contributions made by a large number of well-wishers of the Trust have been rejected in the recent past for want of recommendation in the form prescribed. The action aforesaid of the third respondent is against the interests of the Trust and would amount to breach of trust.

(ii) During 1997, the executive committee of the Trust had decided to raise the contribution payable by

persons aspiring to obtain membership in the Trust under Clause 3(c) from rupees one lakh to two lakhs and authorised the Secretary to move this Court for appropriate modification in the Scheme. Similarly, on 02.08.2014, the executive committee of the Trust had decided to raise the contribution payable by the persons aspiring to obtain membership in the Trust under the said Clause further. Till date, the third respondent has not moved this Court for appropriate modification in the Scheme to give effect to the decisions of the executive committee. The third respondent is deliberately not giving effect to the said decisions so as to enable his henchmen to acquire membership in the Board of Trustees as contributors under that clause by paying lesser amount so as to safeguard his position as the Secretary of the Trust and has accepted contributions from several such persons to ensure that they become members of the Trust before the decisions of the executive committee are given effect to. There were only 43 trustees under Clause 3(c) and 200 trustees under Clause 3(e) during 1995 and there has been an enormous increase now in their number. There are at present 821 trustees under Clause 3(c) and 751 trustees under Clause 3(e), of which most of them are close associates and relatives of the third respondent who were enrolled as members of the Board of Trustees after the third respondent became the Secretary of the Trust in the manner indicated above. The conduct aforesaid of the

third respondent resulted in huge monetary loss to the Trust. The said conduct is also against the interests of the Trust and would amount to breach of trust.

(iii) Annexure A6 is the notification issued on 05.08.2023 for election to office bearers of the Trust. The notification is issued in such a manner, so as to conduct the election stage by stage starting from the election of the representatives of the Board of Trustees falling under clause 3(e) of the Scheme. The voters list published by the Trust for conduct of the election in terms of Annexure A6 notification is vitiated on account of several reasons such as inclusion of ineligible persons, dead persons, persons whose identity cannot be ascertained etc. There is no time gap between the last date for submission of the nominations and the election to enable the voters to find out persons who are contesting the election and exercise their voting right effectively and to ensure the purity of the election. Even though the fifth petitioner submitted an objection to the election notification, the same was turned down by the Returning Officer without affording him an opportunity of hearing.

(iv) Even though the office of the Trust is at Kollam, the election to the office bearers of the Trust who fall under Clause 3(e) is always conducted at Cherthala, the home town of the third respondent where the third respondent can gather his musclemen to tame anybody who talks or expresses any opinion against him. There



were instances where the members of the Board of Trustees were attacked by the musclemen of the third respondent when questions were raised during general body meetings.

(v) Clause 34B of the Scheme provides that if an office bearer is involved in a criminal offence of breach of trust or in an offence in relation to the property of a trust and, his continuation in the office is having conflict with the interests of the trust or is detrimental to the interests of the trust, the office bearer shall abstain to hold the office till he is discharged or acquitted in such case. The third respondent who is involved in several criminal cases has not abstained himself from holding the office on account of his involvement in the criminal cases.

The reliefs sought for in this proceedings for redressal of the grievances aforesaid are the following:

- “a) Issue an order of injunction restraining the respondents from conducting election pursuant to Annexure-A6 notification:
- (b) Appoint an Administrator/Receiver to conduct the affairs of the SN Trust until further orders,
- (c) Issue a declaration to the effect that admission of persons as members to SN Trust on the recommendation of a Trustee is an anathema to the existing scheme of the Trust and that any person is entitled to make a contribution to SN Trust and such person is entitled to vote.
- (d) Issue a declaration to the effect that the present Trustees had committed acts of breach of trust and therefore they are ineligible to participate in the

election.

- (e) Direct the Administrator/Receiver appointed by this Hon'ble Court to redraw the voters list after eliminating dead persons from the list and also giving full particulars of the details of the voters
- (f) Declare that election rules now framed are in violation of the Scheme of the Trust.
- (g) Such other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

4. As the members of the Board of Trustees who are not parties to the proceedings are likely to be affected by the reliefs sought for in the proceedings, the petitioners took out notice to them also by publication in newspaper and several persons have got themselves impleaded in the proceedings, pursuant to the said notice.

5. A counter affidavit has been filed by the third respondent on his behalf and also on behalf of respondents 1, 4 and 5 and a counter affidavit has been filed by the sixth respondent, the Returning Officer appointed for the election. We are not referring to the averments in the counter affidavits as we find it unnecessary to refer to the same in the nature of the order we propose to pass in this proceedings.

6. Heard Senior Counsel Sri.S.V.Balakrishna Iyer for the petitioners and Senior Counsel Sri.Udaya Holla,

Sri.N.N.Sugunapalan, Sri.Nandakumara Menon and Adv.A.N.Rajan Babu for the contesting respondents.

7. When this matter was taken up for hearing, the learned Senior Counsel appearing for the contesting respondents contended in unison that the special jurisdiction case instituted claiming the reliefs above mentioned, is not maintainable. The essence of the arguments advanced by the learned counsel for the respondents is that the reliefs sought by the petitioners cannot be granted in terms of Clause 34A of the Scheme.

8. In the light of the said objection, the learned counsel for the parties on either side were heard on the maintainability of the special jurisdiction case.

9. In the context of the contention raised by the respondents as to the maintainability of the special jurisdiction case, the learned Senior Counsel for the petitioners argued that Clause 34A was introduced in the Scheme specifically for the purpose of enabling the members of the Board of Trustees to approach this Court for redressal of their grievances against the office bearers of the Trust in the nature of the grievances espoused by them in this proceedings. It was argued by the

the learned Senior Counsel that going by the plain words used in Clause 34A of the Scheme, it cannot be contended that this Court has no jurisdiction to entertain a proceedings seeking the reliefs aforesaid on the basis of the allegations made against the office bearers of the Trust.

10. The learned Senior Counsel appearing for the respondents resisted the argument aforesaid of the learned Senior Counsel for the petitioners pointing out that the scope of Clause 34A is to be understood in the light of the orders passed by the learned Judges constituting the Division Bench in I.A.No.368 of 2016 in A.S.No.689 of 1972 dated 15.12.2016. It was also pointed out that in the concurring opinion rendered by one of the learned Judges, it is clarified that the said Clause cannot be invoked for seeking reliefs that would fall under clauses (a) to (h) of sub-section (1) of Section 92 of the Code. According to the learned Senior Counsel, if the scope of Clause 34A is understood in that fashion, it could be seen that the reliefs sought for by the petitioners cannot be granted in a proceedings initiated under Clause 34A.

11. In order to appreciate the arguments advanced by the learned counsel for the parties, it is necessary

to refer to Section 92 of the Code, which reads thus:

**“92.Public charities.** (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained [the leave of the Court,] may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree:

(a) removing any trustee;

(b) appointing a new trustee;

(c) vesting any property in a trustee;

[(cc) directing a trustee who has been removed or a person who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;]

(d) directing accounts and inquiries;

(e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require.

(2) Save as provided by the Religious Endowments Act, 1863 (20 of 1863), [or by any corresponding law in force in [the territories which, immediately before the 1st November, 1956, were comprised in Part B States]], no suit claiming any

of the reliefs specified in sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

[(3) The Court may alter the original purposes of an express or constructive trust created for public purposes of a charitable or religious nature and allow the property or income of such trust or any portion thereof to be applied *cy pres* in one or more of the following circumstances, namely :

(a) where the original purposes of the trust, in whole or in part,-

(i) have been, as far as may be, fulfilled; or

(ii) cannot be carried out at all, or cannot be carried out according to the directions given in the instrument creating the trust or, where there is no such instrument, according to the spirit of the trust; or

(b) where the original purposes of the trust provide a use for a part only of the property available by virtue of the trust; or

(c) where the property available by virtue of the trust and other property applicable for similar purposes can be more effectively used in conjunction with, and to that end can suitably be made applicable to any other purpose, regard being had to the spirit of the trust and its applicability to common purposes; or

(d) where the original purposes, in whole or in part, were laid down by reference to an area which then was, but has since ceased to be, a unit for such purposes; or

(e) where the original purposes, in whole or in part, have, since they were laid down,-

(i) been adequately provided for by other means, or

(ii) ceased, as being useless or harmful to the community, or

(iii) ceased to be, in law, charitable, or

(iv) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the trust, regard being had to the spirit of the trust.]”

There cannot be any doubt to the proposition that a suit under Section 92 of the Code would come to an end when a scheme is framed for the administration of the trust [See **Raje**

**Anandrao v. Shamrao**, (1961) 3 SCR 930]. But it has been clarified consistently in various judicial pronouncements that the finality of the decree does not preclude the court settling the Scheme from making the scheme resilient by modifying the same and such modifications can be made even in the absence of an express enabling provision in the Scheme for the said purpose. Of course, a fresh suit under Section 92 is required in cases where a substantial alteration or effacing the basic structure of the Scheme is sought for. Similarly, it is long settled that the finality of the decree does not preclude the court settling the scheme from issuing directions for the effective functioning of the trust in the interest of the administration of the trust. But it has to be remembered that as the suit comes to an end when the decree is passed, the authority of the court to amend the scheme and to issue directions for the effective functioning of the trust is derived from the scheme itself and the court has no general power outside of or independent of the scheme in dealing with such matters [See **(Bava C.) Vythelinga Mudaliar v. R. Mahadeva Iyer**, 1924 SCC OnLine Mad 589]. The proposition aforesaid has been reiterated by the Madras High Court in **V.Ramalinga**

**Mudaliar v. E. Sundara Sastrigal**, 1928 SCC OnLine Mad 327. (Bava C.) **Vythelinga Mudaliar** was a case where the Scheme framed by the Court for the administration of a temple, conferred power on the trustees to appoint a Superintendent. In exercise of that power, the trustees appointed one of the relatives of the trustees. The Court which settled the Scheme interfered with the said appointment and directed the trustees to make a fresh appointment, holding that the appointee being a relative of one of the trustees, he is not qualified. It is the said order that was interfered with by a Division Bench of the Madras High Court holding that the power exercised is a general power which the Court does not have while dealing with applications preferred in terms of the Scheme.

12. As noted, in the Scheme initially framed by this Court, there was a provision to the effect that any member of the Board of Trustees may move this Court not only for appropriate modifications of the Scheme but also for other directions, if any difficulty arises in the working of the Scheme or if it is found necessary and expedient for the effective functioning of the Trust. Clause 34 of the Scheme dealing with the said provision was as follows:



“34. Any member of the Board of Trustees may move the Honourable High Court of Kerala for appropriate modification of the scheme or for other directions, if any difficulty arises in the working of this scheme or if it is found necessary and expedient for the effective functioning of the Trust.”

The said Clause was, however, amended later in such a fashion that this Court could be approached only for appropriate modifications in the Scheme. The said amendment was made to the Scheme on 31.08.1987 as per order on C.M.P.No.16895 of 1987 in the disposed of appeal. Clause 34 amended as per the said order reads thus:

“34. Any member of the Board of Trustees may move the Honourable High Court of Kerala for appropriate modification of the scheme. ”

It is seen that it is taking the view that Clause 34 of the Scheme as it stood initially has unnecessarily led to enormous litigation which is not conducive for the satisfactory functioning of the trust under the Scheme and that it is unnecessary to enable anyone to approach this Court for interpreting or clarifying any of the provisions in the scheme, that this Court trimmed down the authority reserved with the court in terms of Clause 34 of the Scheme to issue directions. The relevant

finding rendered by this Court reads thus:

“Having regard to the best interests of the Trust, it appears to us wholly unnecessary to enable persons concerned to move this Court for interpreting or clarifying any of its provisions as it is obvious that it is a matter which the authorities functioning under the Trust can do satisfactorily. The existence of Clause 34 in the Scheme enabling any one to seek directions from this Court has unnecessarily led to enormous litigation which is not conducive for the satisfactory functioning of the Trust under the scheme. We have therefore no hesitation in taking the view that having regard to the interests of the Trust, proper functioning of the scheme and to avoid unnecessary litigation it is enough that there is limited scope for approaching the court for the purpose of securing amendment of the Scheme as and when the same becomes necessary. (emphasis supplied) ”

It is thereafter that Clause 34A was added to the Scheme by a Division Bench of this Court in terms of the order passed on 15.12.2016 in I.A.No.368 of 2016 in the disposed of appeal and thereby conferred jurisdiction to the court to grant reliefs in the event of the office bearers of the Trust violating the provisions of the Scheme or committing any breach of trust, which only a court exercising power under Section 92 of the Code can grant. The order rendered by the Division Bench in this regard is reported as **Ray Sudhan v. Sajeendran**, 2017 (1) KLT 371. The order aforesaid was delivered on behalf of the Bench by one

among the Judges comprising of the Division Bench and a concurring opinion was rendered by the other Judge. It is seen that although the learned Judge who delivered the order permitted Clause 34A to be incorporated in the Scheme without any rider, the Judge who rendered the concurring opinion has added a rider to the effect that Clause 34A will not enable anyone to seek any of the reliefs set out in Clauses (a) to (h) of sub-section (1) of Section 92. Paragraphs 40 and 41 of the concurring opinion read thus:

“40. The legal position that emerges from the decisions of the Apex Court referred to above is that, sub-section (2) of Section 92 of CPC does not bar an application for modification for the purpose of administration of a scheme in accordance with the provisions made therein, without the necessity of a separate suit under Section 92 of CPC. Similarly, clause (f) of sub-section (1) of Section 92 does not in any way hamper the ordinary administration of trust properties by the trustees and as such, there can be no invalidity in a provision in the scheme which permit the trustees to obtain directions from the Court as to administration of trust properties. However, if the nature of relief sought for is one set out in clauses (a) to (h) of sub-section (1) of Section 92 of CPC on the allegation of breach of trust, maladministration, etc., such relief can be sought for only in a suit filed under Section 92, subject to the bar under sub-section (2) of Section 92.

41. In the instant case, by incorporation of Clause 34A to Ext.A1 scheme, a sizable number of the members of the

Board of Trustees will only get an opportunity to ventilate their grievances in the administration of the Trust, in the event of the office bearers of the Trust or the Executive Committee violate the provisions of Ext.A1 scheme or commit any breach of trust, by seeking appropriate directions from this Court. However, Clause 34A will not entitle them to seek any reliefs as set out in Clauses (a) to (h) of sub-section (1) of Section 92 of CPC in such an application, which is legally permissible only by way of a regular suit filed under Section 92, subject to the bar under sub-section (2) of Section 92 of CPC. ”

As noted, it is placing reliance on the rider added in the concurring opinion referred to above that the learned Senior Counsel for the respondents contended that the special jurisdiction case is not maintainable.

13. The first and foremost aspect to be considered, in the circumstances, is as to how the order, in terms of which Clause 34A was introduced to the Scheme, is to be construed. We do not think that there can be any doubt at all to the proposition that when a Division Bench considers a matter, the Judges constituting the Bench would exchange their views and it is only when the view expressed by one is acceptable to the other and vice versa, a decision is rendered by one among them on behalf of the Bench. A concurring opinion has to be construed as part of the order itself, and it

has to be presumed that the Judge who delivered the order, agreed to the view expressed in the concurring opinion, for if the Judges mean to differ in their views, the order would not have been rendered at all on behalf of the Bench. We draw support for the said view from two decisions rendered by English Courts in similar situations, namely, one which was rendered in **The Guardians of the Poor of the West Derby Union v. The Guardians of the Poor of the Atcham Union**, 1889 (24) QBD 117 and the other in **Overseers of Manchester v. Guardians of Ormskrik Union**, 1890 (24) QBD 678. The relevant passage in **The Guardians of Poor** reads thus:

“Now we know that each of them considers the matter separately, and then they consider the matter jointly, interchanging their judgment, so that every one of them has seen the judgments of the others. If they mean to differ in their view, they say so openly when they come to deliver their judgments, and if they do not do this, it must be taken that each of them agrees with the judgments of the others.”

The relevant passage in **Overseers of Manchester** reads thus:

“Where in the House of Lords one of the learned Lords gives an elaborate explanation of the meaning of a statute, and some of the other learned Lords present concur in the explanation, and none express their dissent from it, it must be taken that all of them agreed in it”.

The learned Senior Counsel for the petitioners pointed out that the principle laid down by English Courts in the cases referred to above has not been followed by this Court in **G. Anandarajan v. State**, 1993 SCC OnLine Ker 149. We have perused the decision of this Court in **Anandarajan** and we do not find that this Court has expressed any opinion against the said principle. Instead, what we find is that the view taken therein is that the said principle does not have any application to the facts of that case. In short, Clause 34A of the Scheme is one to be understood with the rider that the same does not enable anyone to approach this Court seeking any of the reliefs set out in Clauses (a) to (h) of sub-section (1) of Section 92 of the Code and with the further rider that while exercising the power under that provision, the general power outside of or independent of the scheme will not be available to this court.

14. The question that remains to be considered is whether the reliefs sought for by the petitioners could be granted by this Court, if the scope of Clause 34A of the Scheme is understood in the manner indicated in the preceding paragraph. An order of injunction restraining the

office bearers of the Trust from conducting election to the office bearers of the Trust on the grounds that the voters list published is defective, sufficient time gap has not been provided between the date fixed for submission of the nomination paper and the date of election etc. is the first relief namely, relief (a) sought in the proceedings. Such a relief on the aforesaid grounds, is not one that could be granted even in a properly instituted suit once the election process has started [See **Supreme Court Bar Assn. v. B.D. Kaushik**, (2011) 13 SCC 774]. That apart, the Scheme does not confer on the Court authority to adjudicate election disputes, even after the election, especially when election disputes cannot be decided without the aid of the general powers of the Court. Relief (b) claimed is for an order to appoint an Administrator/Receiver to conduct the affairs of the Trust. Such a relief is one that falls squarely under Clause (a) of sub-section (1) of Section 92 of the Code. Relief (c) claimed is for a declaration that admission of persons as members to the Trust on the recommendation of a Trustee is an anathema to the existing scheme of the Trust and that any person is entitled to make a contribution to the Trust and such person is entitled to vote. Similarly, relief (d)

claimed is for a declaration that the present Trustees had committed acts of breach of trust and therefore they are ineligible to participate in the election. Again, relief (f) claimed is for a declaration that election rules framed by the Trust are in violation of the Scheme of the Trust. The Scheme does not confer on this Court authority to grant declaratory reliefs as prayed for, under any circumstances. That apart, the same can only be done in exercise of the general power of the Court. Relief (e) claimed is again one for appointment of an Administrator/Receiver to redraw the voters list after eliminating dead persons from the list and also giving full particulars of the details of the voters. As indicated, such a relief also will have the effect of removing the trustees from the administration of the Trust which cannot be granted by this Court in the light of the provision contained in sub-section (2) of Section 92. Needless to say, the reliefs claimed in the proceedings are beyond the scope of Clause 34A of the Scheme.

The special jurisdiction case, in the circumstances, is not maintainable and the same is, accordingly, dismissed. It is, however, made clear that this order will not preclude the



petitioners or any one of them from seeking appropriate amendments in the Scheme, so as to prevent the office bearers of the Trust from committing any act which would amount to breach of trust. It is also made clear that this order will not preclude the petitioners or any of them from seeking appropriate reliefs in appropriate proceedings in respect of the matters covered by this case.

Sd/-  
**P.B.SURESH KUMAR, JUDGE.**

Sd/-  
**JOHNSON JOHN, JUDGE.**

ds 26.10.2023

APPENDIX OF SP.JC 6/2023

PETITIONER ANNEXURES

- Annexure A1 TRUE COPY OF THE SCHEME OF SN TRUSTS,  
QUILON
- Annexure A2 TRUE COPY OF THE JUDGMENT DATED  
13.1.2023 IN SP.JC 3/2020 OF THE  
HON'BLE HIGH COURT OF KERALA
- Annexure A3 TRUE COPY OF THE APPLICATION  
PRESCRIBED SN TRUST AS "MEMBERSHIP  
FORM"
- Annexure A4 TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM  
ISSUED BY INDIAN BANK NO.304900 DATED  
20.02.2018
- Annexure A4 (a) TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM  
ISSUED BY INDIAN BANK NO.304896 DATED  
20.02.2018
- Annexure A4 (b) TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM  
ISSUED BY INDIAN BANK NO.304897 DATED  
20.02.2018
- Annexure A4 (c) TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM  
ISSUED BY INDIAN BANK NO.304898 DATED  
20.02.2018
- Annexure A4 (d) TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM  
ISSUED BY INDIAN BANK NO.304899 DATED  
20.02.2018
- Annexure A4 (e) TRUE COPY OF DEMAND DRAFT IN THE NAME  
OF SECRETARY, S.N. TRUST, KOLLAM

ISSUED BY INDIAN BANK NO.304906 DATED  
20.02.2018

- Annexure A5 TRUE COPY OF THE MINUTES  
NO.3(A)/SNT/934 DATED 2.8.2014 OF SN  
TRUST
- Annexure A6 TRUE COPY OF THE ADVERTISEMENT  
APPEARED IN KERALA KAUMUDI DAILY DATED  
5.8.2023
- Annexure A7 TRUE COPY OF THE OBJECTION SENT BY THE  
PETITIONER NO.5 TO  
SECRETARY/EXECUTIVE, SN TRUST DATED  
16.8.2023
- Annexure A8 TRUE COPY OF THE REPRESENTATION DATED  
22.8.2023 SENT BY 5TH PETITIONER TO  
THE RETURNING OFFICER, SN TRUST  
ELECTION WITH COPY TO THE  
SECRETARY/EXECUTIVE, SN TRUST
- Annexure A9 TRUE COPY OF THE LETTER DATED  
31.8.2023 SENT BY THE RETURNING  
OFFICER, SN TRUST ELECTION TO THE  
PETITIONER
- Annexure A10 TRUE COPY OF THE ELECTION RULES  
PUBLISHED BY SN TRUST
- Annexure A11 TRUE COPY OF THE ORDER OF THIS HON'BLE  
COURT MODIFYING THE SCHEME OF SN TRUST  
BY ORDER DATED 19.8.1985 IN C.M.P.  
NO.8609/1985 IN A.S. NO.689/1972 AND  
A.S. NO.813/1972
- Annexure A12 TRUE COPY OF THE ORDER DATED 31.8.1987  
IN C.M.P. NO.16895/1987 IN A.S.  
NO.689/1972 AND A.S. NO.813/1972  
PASSED BY THE DIVISION BENCH OF THIS  
HON'BLE COURT
- Annexure A13 TRUE COPY OF THE REPRESENTATION DATED

22.6.2023 GIVEN BY V.R. ROY TO THE 3RD  
RESPONDENT, SECRETARY

Annexure A14 TRUE COPY OF THE STATEMENT IN W.P.(C)  
NO.14599/2020 FILED BY THE  
SUPERINTENDENT OF POLICE, VIGILANCE &  
ANTI-CORRUPTION BUREAU, SOUTHERN  
REGION DATED 8.6.2022

Annexure A15 TRUE COPY OF THE SWORN STATEMENT GIVEN  
BY JAYAPRAKASH IN C.M.P. NO.6100/2013  
DATED 8.1.2014 ON THE FILES OF THE  
JUDICIAL FIRST CLASS MAGISTRATE COURT,  
ALAPUZHA

RESPONDENT ANNEXURES

Annexure R6(a) A copy of the said communication dated  
29/7/2023 issued by the executive  
committee

Annexure R6(b) a true copy of the communication dated  
31/7/2023

Annexure R6(c) A copy of the order dated 19/8/2023  
passed by the Chief returning officer

Annexure R6(d) A copy of the objection filed by the  
executive committee members to the  
objections filed to the draft voters  
list

Annexure R6(e) A copy of the list showing the details  
of the persons whose objections were  
found unsustainable and which were  
rejected dated 22/8/2023

Annexure R6(f) A copy of the proceedings of the chief  
returning officer in considering the  
objections to the draft voters list  
dated 22/8/2023

RESPONDENT ANNEXURES

- Annexure R7 (a)** TRUE COPY OF THE FINAL VOTERS LIST OF ELIGIBLE PERSONS INCLUDED IN 3(D) CATEGORY PUBLISHED ON 25-8-2023 BY THE 3RD RESPONDENT IN SP.JC
- Annexure R7 (b)** TRUE COPY OF FINAL VOTERS LIST OF ELIGIBLE PERSONS INCLUDED IN CATEGORIES 3(A) , 3(B) AND 3(C) PUBLISHED ON 25-8-2023 BY THE 3RD RESPONDENT IN SP. JC
- Annexure R7 (c)** TRUE COPY OF THE BUILDING PERMIT NO. CLERK C3-BA(5804)/2017 DATED 28.10.2021 ISSUED TO THE 3RD RESPONDENT BY SECRETARY, CHERIYANAD GRAMA PANCHAYATH
- Annexure R7 (d)** TRUE COPY OF THE DEVELOPMENT PERMIT NO. C6-158/2021 DATED 17.9.2021 ISSUED TO THE 3RD RESPONDENT BY SECRETARY, CHERIYANAD GRAMA PANCHAYATH
- Annexure R7 (e)** TRUE COPY OF THE AFFIDAVIT DATED 26.11.2021 FILED BY 3RD RESPONDENT IN SP.JC BEFORE THE DISTRICT GEOLOGIST, ALAPPUZHA
- Annexure R7 (f)** TRUE COPY OF THE RELEVANT PORTION OF AUDIT REPORT AND STATEMENT OF ACCOUNTS FOR THE YEAR ENDED ON 31-3-2023 OF THE 1ST RESPONDENT IN SP. JC DATED 5-8-2023
- Annexure R7 (g)** TRUE COPY OF THE ORDER NO. 236/2021-22/MM/OE/DOA/1201/2021 DATED 30-3-2022 ISSUED BY DISTRICT GEOLOGIST, ALAPPUZHA

**PETITIONER ANNEXURES**

- Annexure R1 (a)** A true copy of the order dated

31/08/1987 in C.M.P. No.16895 of 1987  
in A.S. No. 689 and 813 of 1972 and  
typed copy

**Annexure R1(b)** A true copy of the order dated  
19/01/2016 of this Honourable Court in  
I.A. No. 2322/2015 in I.A.No.  
1873/2014 in I.A. No. 1820/2012 in  
A.S. No. 689/1972

**Annexure R1(c)** A true copy of the order dated  
15/12/2016 of this Honourable Court in  
I.A. No. 368/2016 in A.S.No. 689/1972

**Annexure R1(d)** A true copy of correction notification  
published in Kerala Koumudi daily  
dated 25/09/2023

**Annexure R1(e)** A true copy of election notification  
for the year 2017 published in Kerala  
Koumudi daily dated 13/02/2017

**Annexure R1(f)** A true copy of the election  
notification for the year 2020  
published in Kerala Koumudi daily  
dated 28/06/2020

**Annexure R1(g)** A true copy of the Factual Report in  
further investigation in C.B. Cr.  
119/CB/KLM and PTA/18 (Kollam East  
P.S. Cr. 727/04)

**RESPONDENT ANNEXURES**

**Annexure R119(a)** A TRUE COPY OF THE RULES AND  
REGULATIONS OF THE SREE NARAYANA TRUST  
MEDICAL MISSION

**Annexure R119(b)** THE TRUE COPY OF THE AMENDMENTS  
PROPOSED BY THE TRUST EXECUTIVE  
COMMITTEE HELD ON 16.08.1996 TO THE SN  
TRUST SCHEME

**Annexure R119(c) THE COPY OF THE MINUTES SREE NARAYANA TRUST KOLLAM DATED 16.08.1999**

**Annexure R119(d) THE TRUE COPY OF INTERIM REPORT I.A. 145 OF 2017 IN I.A. 1829 OF 2012 IN A.S. 689 OF 1972 SUBMITTED BY THE CHIEF RETURNING OFFICER BEFORE THIS HON'BLE COURT DATED 20.03.2017**