IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

WEDNESDAY, THE 8TH DAY OF JULY 2026 / 17TH ASHADHA, 1948

WP(C) NO.4847 OF 2019

PETITIONER:

THURAVOOR MAHAKSHETHRA UPADESHAKA SAMITHY
THURAVOOR MAHAKSETHRAM, THURAVOOR P.O.,
CHERTHALA, REPRESENTED BY ITS PRESIDENT
SUKUMARA MENON.

BY ADV.
SRI. B.PRAMOD

RESPONDENTS:

1 THE TRAVANCORE DEVASWOM BOARD
NANTHANCODE, KAWDIAR POST, THIRUVANANTHAPURAM,
KERALA 695 003, REPRESENTED BY ITS COMMISSIONER.

2 THE ASSISTANT COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, VAIKOM,
VAIKOM 686 141.

3 THE ADMINISTRATIVE OFFICER,
THURAVOOR MAHAKSHETRAM, THURAVOOR P.O.,
CHERTHALA. 688 532.

4 THURAVOOR MAHAKSHETHRA BHAKTHAJANA SAMITHI, REG NO. 878/92 THURAVOOR P.O., CHERTHALA , REPRESENTED BY ITS SECRETARY.

5 ADDL.R5: THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN -695 001

6 ADDL.R6: PRINCIPAL SECRETARY TO GOVERNMENT REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM PIN-695 001

7 ADDL.R7: SECRETARY TO GOVERNMENT
DEPARTMENT OF CULTURAL AFFAIRS, ANANTHAVILASAM PALACE, FORT P.O., THIRUVANANTHAPURAM
PIN -695 023

8 ADDL.R8: DEPUTY DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, VAIKOM PIN -686 141

[ADDITIONAL R5 TO R8 ARE SUO MOTU IMPLEADED AS PER ORDER DATED 31.07.2023 IN WP(C)NO.4847/2019]

9 ADDL.R9: VALSALA @ VALSALAKUMARI,
AGED 60, W/O MOHANDAS, D/O VISWAMBHARAN NAIR, AND PARUKUTTIAMMA @ PARVATHIKUTTIAMMA, RESIDING IN THE ADDRESS NEDUMPALLI HOUSE, ' KARTHIKA ' THANNERMUKKOM PANCHAYATH , MARUTHOORVATTOM P O, CHERTHALA TALUK, ALAPUZHA DISTRICT,
PINCODE: 688 545

[ADDITIONAL R9 IS IMPLEADED AS PER ORDER DATED 27.11.2024 IN I.A.3/2024 IN WP(C)NO.4847/2019]

BY ADVS.
SRI.G.SANTHOSH KUMAR (P).
SRI.RAAJESH S.SUBRAHMANIAN

SRI.G.SREEKUMAR (CHELUR)
SRI.S.RAJMOHAN, SC, TDB
SRI.V.R.RAJESH
SRI.RAJIT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.06.2026, ALONG WITH DBAR. 3/2021 & WP(C) NO. 37917/2024, THE COURT ON 08.07.2026 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

WEDNESDAY, THE 8TH DAY OF JULY 2026 / 17TH ASHADHA, 1948

DBAR NO.3 OF 2021

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD-AUDIT NOTES ON THE AUDIT OF ACCOUNTS OF THURAVOOR MAHAKSHETRA BHAKTAJANASAMITHI ON THEIR ACTIVITIES AS TEMPLE ADVISORY COMMITTEE FOR THE PERIOD FROM 01.04.2013 TO 31.10.2018

PETITIONER:

JOINT DIRECTOR OF KERALA STATE AUDIT DEPARTMENT, TDB, THIRUVANANTHAPURAM

BY ADVS.
SRI. T.K. VIPINDAS, GOVERNMENT PLEADER
SMT. RASHMI K.M., GOVERNMENT PLEADER

RESPONDENT:

SECRETARY, TDB
THIRUVANANTHAPURAM

BY ADV.
SRI. G. SANTHOSH KUMAR, SC, TDB

THIS DEVASWOM BOARD AUDIT REPORT HAVING COME UP FOR ADMISSION ON 03.06.2026, ALONG WITH WP(C) NO. 4847/2019 AND WP(C) NO.37917/2024, THE COURT ON 08.07.2026 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

WEDNESDAY, THE 8TH DAY OF JULY 2026 / 17TH ASHADHA, 1948

WP(C) NO.37917 OF 2024

PETITIONER:

SIVAPRASAD, AGED 62 YEARS
S/O. RAMAN MENON, KANNAMANGALATH, THURAVOOR,
CHERTHALA, ALAPPUZHA, PIN - 688 534

BY ADVS.
SRI.B.PRAMOD
SRI.ATHUL M.V.

RESPONDENTS:

1 THE TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KOWDIAR POST, THIRUVANANTHAPURAM, PIN - 695 003

2 THE ASSISTANT COMMISSIONER
TRAVANCORE DEVASWOM BOARD, VAIKOM, KOTTAYAM,
PIN - 686 141

3 THE ADMINISTRATIVE OFFICER
THURAVOOR MAHAKSHETHRAM, THURAVOOR P.O.,
CHERTHALA, ALAPPUZHA, PIN - 688 532

4 TEMPLE ADVISORY COMMITTEE
THURAVOOR MAHAKSHETHRAM, THURAVOOR P.O.,
CHERTHALA, ALAPPUZHA, PIN - 688 532
REPRESENTED BY ITS SECRETARY

5 **THURAVOOR MAHAKSHETHRA BHAKTHAJANA SAMITHI REG NO. 878/92, THURVAOOR P.O, CHERTHALA, ALAPPUZHA DISTRICT, REPRESENTED BY ITS SECRETARY, PIN - 688 532**

BY ADVS.
SRI.G.SANTHOSH KUMAR (P), SC, TDB
SRI.RAJIT
SMT.SRUTHI RAJIT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.06.2026, ALONG WITH WP(C).4847/2019 AND DBAR NO.3 OF 2021, THE COURT ON 08.07.2026 DELIVERED THE FOLLOWING:

'CR'

COMMON JUDGMENT

Dated this the 8th day of July, 2026

W.P.(C) Nos. 4847 of 2019 & 37917 of 2024 and

DBAR No.3 of 2021

K. V. Jayakumar, J.

All these matters pertain to the administration of Thuravoor Mahakshethram ('the Temple', for the sake of brevity), which is a Temple under the control of the Travancore Devaswom Board ('the TDB' for the sake of brevity).

2. The common issue involved in the Writ Petitions is the acquisition of properties in the name of the Temple Advisory Committee ('TAC' for the sake of brevity) and therefore, we deem it appropriate to dispose of these matters by a common judgment.

3. W.P.(C) No.4847/2019 is taken as the lead case and the parties and the exhibits are hereinafter referred to as stated in that Writ Petition, unless otherwise specifically stated.

Brief facts of W.P.(C) No.4847/2019

4. The petitioner in this Writ Petition is the Thuravoor Mahakshethra Upadeshaka Samithi ('the Upadeshaka Samithi' for the sake of brevity). The respondent No.1 is the Travancore Devaswom Board, respondents 2 and 3 are its officers. The respondent No.4 is Thuravoor Mahakshethra Bhakthajana Samithi (hereinafter referred to as 'the Bhakthajana Samithi' for short).

5. The petitioner, the Upadeshaka Samithi, is represented by its President Sri. Sukumara Menon. The said Samithi is constituted under Section 31A of the Travancore Cochin Hindu Religious Institutions Act, 1950 ('the TCHRI Act', for the sake of brevity) and the rules made thereunder. The Upadeshaka Samithi/TAC was elected as per Ext.P1 Rules framed in the year 2011.

6. According to the petitioner, the 4th respondent, Bhakthajana Samithi, is an association of individuals registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 ('the Societies Registration Act' for the sake of brevity). The petitioner has produced a copy of the bye-law of Bhakthajana Samithi, which is marked as Ext.P2. The petitioner states that as per Ext.P2 bye-law, Bhakthajana Samithi has no independent existence apart from the TDB.

7. The petitioner further stated that in the year 2017, the 4th

respondent, the Bhakthajana Samithi, was recognised by the TDB in lieu of a statutorily constituted Temple Advisory Committee. According to the petitioner, such recognition is illegal and, therefore, challenged before the Ombudsman for Travancore and Cochin Devaswoms. On the basis of the report of the learned Ombudsman, DBP No.52 of 2018 was registered before this Court. This Court, by Ext.P3 judgment dated 05.09.2018, has directed the TDB to constitute a Temple Advisory Committee in terms of Ext.P1 Rules and held that the recognition of the Bhakthajana Samithi as Temple Advisory Committee is unsustainable in law.

8. Pursuant to Ext.P3 judgment of this Court, the present TAC was constituted and approved by the TDB on 17.10.2018 vide Ext.P4 order. The petitioner stated that from 17.10.2018, the Bhakthajana Samithi ceased to exist and therefore, all the assets of the Samithi stood vested with the petitioner Upadeshaka Samithi, being the successor in office.

9. The petitioner, Upadeshaka Samithi, asserts that the 4th respondent, Bhakthajana Samithi, had created a lot of valuable assets and acquired landed properties utilising the contributions received from the devotees. The said Bhakthajana Samithi had conducted annual festivals of the temple, various development works such as renovation of structures, gold covering of

flag masts, and so on and so forth. The petitioner asserts that though there were extensive collection drives from the public and the devotees, there was no proper accounting or auditing of the funds of the Bhakthajana Samithi. The Vigilance Wing of the TDB has commenced enquiry proceedings pursuant to Ext.P3 judgment against the non-transparent functions, misappropriation and corruption of the Bhakthajana Samithi.

10. The petitioner further alleges that utilising the funds collected from the devotees, the Bhakthajana Samithi had purchased 46 cents of land from one Valsala Kumari by virtue of sale deeds bearing Nos.263/1/2014, 461/2018, 489/I/2018 of SRO Kuthiyathodu. The petitioner has placed on record true copies of the deeds as Exts.P5 to P7, respectively. It is further stated that the 4th respondent secured three items of property having a total extent of 87 cents and a residential building therein from one Gowriamma by virtue of sale deed bearing No.217/2011 of SRO Pattanakad. Ext.P8 is the true copy of the title deed. According to the petitioner, the Bhakthajana Samithi managed to procure all the properties because of its status as the Temple Advisory Committee actively involved in the affairs of the Temple.

11. It is further contended in the Writ Petition that apart from the immovable properties, the Bhakthajana Samithi is in possession of about 100

sovereigns of gold, which was the surplus after the gold plating of the temple masts. Ext.P9 is the list of valuables in the possession of the 4th respondent.

12. It is further alleged in the Writ Petition that the Bhakthajana Samithi is maintaining numerous accounts in various banks. Ext.P11 is the list of names of banks wherein the 4th respondent maintains accounts. As per the terms of Ext.P1 bye-law, a joint account shall be maintained in the names of the Assistant Devaswom Commissioner and the office bearers of the TAC. The said stipulation was also given a go-by, and the accounts were opened and operated by the office bearers of the 4th respondent Bhakthajana Samithi by themselves.

13. The 4th respondent, the Bhakthajana Samithi, was functioning in a room in the precincts of the Temple. Even though the Bhakthajana Samithi vacated the office, it did not hand over the keys of the seven almirahs kept in the room. It is further contended that the 4th respondent is still using the same name as 'Thuravoor Mahakshethra Bhakthajana Samithi', thereby creating a mistaken impression among the devotees and the general public that it is still the Temple Advisory Committee. The 4th respondent, Bhakthajana Samithi, still refuses to part with the assets, movables and immovables. It is in the said backdrop that the petitioner, Upadeshaka Samithi, approached this Court, seeking the following reliefs :-

"(i) Issue a writ of mandamus or any appropriate writ, order or direction commanding the respondents 1 to 3 to ensure that the 4th respondent samithi hands over to the petitioner all the assets, valuables and properties which were created by it and also came into its possession, forthwith;

(ii) Issue a writ of mandamus or any other appropriate writ or order directing the 4th respondent samithi to hand over the originals of Ext.P5 to P8 title deeds to the petitioner and put it in possession of the properties covered by these documents;

(iii) Issue a writ of mandamus or any appropriate writ, order or direction commanding the 4th respondent samithi to hand over to the petitioner the movables/valuables mentioned in Ext.P9 list;

(iv) Issue a writ of mandamus or any appropriate writ, order or direction commanding the 4th respondent to pay to the petitioner the entire amount available in the accounts in the banks mentioned in Ext.P11 list on the date of Ext.P3 judgment;

(v) Issue a writ of mandamus or any appropriate writ, order or direction commanding the 4th respondent not to use the term/phrase "Thuravoor Mahakshethram" as part of its name;"

14. The TDB and its officers have placed on record a counter affidavit as directed by this Court. In the counter, it is stated that the 4th respondent, Bhakthajana Samithi, ceased to exist as the TAC when a new TAC was constituted on 17.10.2018. When the new TAC was constituted, the former TAC handed over the articles in the office, such as vessels, gas stove, etc. However, the former TAC has not handed over the keys of seven almirahs and a locker. It is further stated in the counter that while the 4th respondent was functioning as TAC, one Gowriamma Teacher and her son Vijayakumar had transferred 87 cents

of land. The 4th respondent, Bhakthajana Samithi, on 16.12.2018, published an advertisement in Mathrubhoomi daily stating that all these properties belonged to the Bhakthajana Samithi.

15. It is further stated in the counter that in connection with the 'Thiruvulsavam' of the Temple, two silver pots and two silver hanging lamps were accepted by the Administrative Officer from the 4th respondent. These articles were donated by certain devotees.

16. The Devaswom Commissioner has issued Ext.R1(a) letter to the District Registrar, Registrar of Charitable Societies, Alappuzha, to cancel the registration of the Samithi with the name 'Thuravoor Mahakshethra Bhakthajana Samithi'. Notices were issued to the President and the Secretary of the Bhakthajana Samithi to do the needful within 15 days.

17. On 02.09.2019, the TDB and its officers filed an additional counter stating that the 4th respondent, Bhakthajana Samithi, has instituted a suit before the Munsiff Court, Cherthala as O.S. No.264/2019, claiming right over the disputed property. Ext.R1(d) is the copy of the plaint, and Ext.R1(e) is the copy of the injunction application (I.A. No.1742/2019 in O.S. No.264/2019).

18. On 30.01.2020, the TDB filed yet another additional counter contending that as per Ext.R1(g) proceedings No.ROC.22699/18/NS-2 dated

29.01.2020, the Commissioner had dissolved the TAC constituted at Thuravoor Temple. It is contended that in the light of Ext.R1(g), the Writ Petition has become infructuous and may be closed.

19. On 01.06.2019, the 4th respondent, Bhakthajana Samithi, has placed on record a counter affidavit as directed by this Court. In the counter, it is stated that the Writ Petition is not maintainable against the 4th respondent Samithi, which is a charitable society registered and governed under the Societies Registration Act. Only a civil suit is maintainable against the 4th respondent, Bhakthajana Samithi, which is no longer an advisory committee.

20. It is asserted that the Bhakthajana Samithi is the absolute owner and is in possession of the properties covered by Exts.P5 to P8 title deeds. The 4th respondent, Bhakthajana Samithi, obtained those properties for a valid consideration. Even if the original title deeds were handed over to the petitioner, they will not get title over the properties.

21. It is further stated in the counter that the 4th respondent was actively involved in the developmental activities of the temple, in the conduct of poojas, rituals and festivals of the temple from 1992 onwards. At the same time, the Bhakthajana Samithi was also involved in various religious and charitable activities, including religious discourses, Annadhanam, and the conduct of

medical camps, etc. The Bhakthajana Samithi was registered in the year 1992. Bhakthajana Samithi, with the permission of TDB, undertook various developmental and renovation works in the temple. The 4th respondent was at the forefront of organising Bhagavatha Sathram, Kodi Archana, Soma Yagam, etc. Due to the earnest efforts of the 4th respondent, the revenue of the temple increased substantially.

22. It is asserted in the counter that the Bhakthajana Samithi is the absolute owner of the property acquired by virtue of the settlement deed bearing No.217/2011 of Pattanakadu SRO. Bhakthajana Samithi is the owner and in possession of the properties by virtue of Sale Deed Nos.263/I/2014, 489/I/2018, and 461/2018 of Kuthiyathodu SRO. Those sale deeds were executed for valid consideration. According to the 4th respondent, Bhakthajana Samithi, false complaints were filed against it before the Ombudsman by certain persons with vested interests.

23. The 4th respondent, Bhakthajana Samithi, continues to function as per its bye-laws. Bhakthajana Samithi intends to construct shelter homes in the properties available to the Samithi. It is further contended that the petitioner Advisory Committee is misinterpreting the orders of the Ombudsman and this Court and trying to prevent the 4th respondent from carrying on its religious and

charitable activities. It is asserted that the petitioner is trying to destroy the goodwill of the 4th respondent, Bhakthajana Samithi.

24. On 10.02.2020, the 4th respondent filed an additional counter affidavit and placed on record Exts.R4(a) to R4(d). Ext.R4(a) is the copy of the certificate of registration dated 30.12.1992. It is contended that in the year 1993, the TDB issued Ext.R4(b) No Objection Certificate dated 05.01.1993 permitting the 4th respondent, Bhakthajana Samithi, to undertake developmental and renovation works in the temple in coordination with the Devaswom Board. It is asserted in the additional counter that in the year 2015, the Assistant Devaswom Commissioner submitted a detailed report before the Devaswom Commissioner about the activities done by this Samithi with a request to permit the Bhakthajana Samithi to continue its functions without any hindrance. Ext.R4(c) is the true copy of the report dated 19.02.2015. It is stated in the counter that Ext.R4(c) report permitted the 4th respondent to function as the Advisory Committee. Ext.R4(d) is the true copy of the order of the Devaswom Commissioner dated 24.03.2015.

25. It is further contended that the Bhakthajana Samithi, by collecting amounts from the devotees and other organisations, purchased 1 Acre of land in the name of the Devaswom Commissioner and the said land is now used for the

purpose of the temple. The accounts of the Bhakthajana Samithi are periodically audited, and the allegations of misappropriation are false. The properties covered by Exts.P5, P6, and P7 documents were purchased with the exemption granted by the Government in respect of stamp duty. Ext.P8 is a gift deed executed in favour of the Bhakthajana Samithi. In Ext.P8 gift deed, it is specifically stated that the properties were given for the purpose of conducting spiritual, religious, and charitable purposes for the elderly persons, widows, etc. Those properties were purchased in the name of the trust for carrying out the charitable activities.

Brief facts of W.P.(C) No.37917/2024

26. The petitioner, Sri. Sivaprasad, states that he is an ardent devotee of the deities consecrated at the Thuravoor Mahakshethram. It is stated in the Writ Petition that no TAC has been constituted in the said Temple in terms of Section 31A of the TCHRI Act. Instead, the 5th respondent, Thuravoor Mahakshethra Bhakthajana Samithi, an association of individuals registered under the Societies Registration Act, is functioning in the temple. Recognition was given to the 5th respondent, Bhakthajana Samithi, to function as TAC in the year 2017.

27. By the judgment in DBP No.52 of 2018 (Ext.P1 in this writ petition),

this Court has directed the TDB to constitute a TAC, holding that the recognition of Bhakthajana Samithi as TAC is unsustainable.

28. The petitioner contended that the Bhakthajana Samithi had acquired five items of immovable property, including 4.05 Ares (10 cents) of land comprised in Survey No.171/11C of Thuravoor South Village for a total sale consideration of ₹32 lakhs. Ext.P2 is the true copy of the sale deed bearing No.914/2021 dated 01.09.2021.

29. It is asserted that during the pendency of W.P.(C) No.4847 of 2019, the Bhakthajana Samithi acquired property covered by Ext.P2 sale deed. The said property is on the western side of the Temple and is lying contiguously with the large extent of land of the Devaswom. The petitioner further contended that the Bhakthajana Samithi had purchased the property solely with the funds of the devotees, and they have no other source of income. It is with these assertions that the petitioner approached this Court seeking the following reliefs:-

> "i) Issue a writ of mandamus or any other appropriate writ or direction commanding the respondents 1 to 4 to prevent the 5th respondent samithy from dealing with the property covered by Ext.P-2 sale deed in any manner including leasing out of the same for running trade/business during the festival in the temple.
>
> ii) Issue a writ of mandamus or any other appropriate writ or direction commanding the respondents 1 to 4 not to permit any kind of trade

or business in the property covered by Ext.P-2 sale deed."

30. The 5th respondent, the Bhakthajana Samithi, filed a counter contending that the 5th respondent is an organisation registered under the Societies Registration Act on 13.12.1992. As per the order dated 24.03.2015, the Board permitted the Samithi to function as TAC. The Samithi is carrying on various charitable services, particularly to old-age persons, widows, etc. A civil suit filed by the Samithi is pending before the Munsiff Court, Cherthala as O.S. No.264 of 2018. The property covered by Ext.P2 was purchased on 01.09.2021 after the termination of the Bhakthajana Samithi by the TDB as per Ext.P4 order dated 17.10.2018. It is further stated that the Writ Petition is not maintainable as the civil rights with regard to the derivation of title, transfer of property, etc., cannot be decided in a Writ Petition filed under Article 226 of the Constitution of India.

Brief facts of DBAR No.3 of 2021

31. The State Audit Department has conducted the audit of the accounts of the Bhakthajana Samithi for the period from 01.04.2013 to 31.10.2018, pursuant to the order of this Court in DBP No.104 of 2018 dated 12.03.2019. The team of auditors, after verifying the records, has noted various

irregularities in the functioning of the Bhakthajana Samithi. The audit team opined that the activities of Bhakthajana Samithi in its capacity as TAC in the Thuravoor temple are far from satisfactory.

Submissions advanced by the counsels

32. Sri. B. Pramod, the learned counsel for the writ petitioner would submit that the 4th respondent, Bhakthajana Samithi, has ceased to be the TAC and, therefore, is under a legal obligation to hand over the assets as well as the properties, both movable and immovable, to the present TAC. The learned counsel pointed out that, as per Clause (20) of Ext.P1 Rules, all the assets and the deposits would become the property of the TDB when the tenure of a TAC is completed or is terminated.

33. According to the learned counsel for the petitioner, the 4th respondent, Bhakthajana Samithi, had acquired land covered by Exts.P5 to P8 in W.P.(C) No.4847/2019 and Ext.P2 in W.P.(C) No.37917/2024 by collecting funds from the devotees. Therefore, the Bhakthajana Samithi cannot stake any claim over those properties. The 4th respondent is legally bound to hand over the original title deeds and the possession of the properties to the writ petitioner, Upadeshaka Samithi.

The submissions of the learned Standing Counsel for the TDB

34. Sri. G. Santhosh Kumar, the learned Standing Counsel for the TDB, submitted that the 4th respondent, Bhakthajana Samithi, had ceased to exist on 07.10.2018, and thereafter, a new TAC was constituted. The TDB has issued Ext.R1(a) communication to the District Registrar of Charitable Societies, Alappuzha to cancel the registration of the Samithi with the name 'Thuravoor Mahakshethra Bhakthajana Samithi'. The learned counsel has pointed out that in view of Ext.R1(g) proceedings dated 29.01.2020, whereby the TAC constituted in the year 2018 was also dissolved and therefore, the Writ Petition has become infructuous.

The submissions of the counsel for the Bhakthajana Samithi

35. Sri. Rajit, the learned counsel for the Bhakthajana Samithi submitted that the Writ Petition is not maintainable and the issues involved can only be decided by a civil suit. He pointed out that a civil suit as O.S. No.264 of 2018 is pending before the Munsiff Court, Cherthala.

36. The learned counsel argued that Bhakthajana Samithi is the absolute owner of the immovable properties acquired by it and covered by Exts.P5 to P8. The Samithi obtained those properties for a valid consideration.

According to the learned counsel, the Bhakthajana Samithi was registered in the year 1992 and it undertook various developmental activities in the temple. The learned counsel argued that the Bhakthajana Samithi was functioning in two capacities: ie., in the capacity of a TAC and the Samithi has been carrying out various charitable activities as per Ext.P2 by-laws. The properties covered by Exts.P5 to P8 documents were purchased utilizing their independent funds and not by the amounts collected from the devotees.

The submissions of the additional respondent No. 9

37. Sri. G. Sreekumar (Chelur), the learned counsel for the additional respondent No.9 submitted that the Writ Petition is not maintainable. Smt. Valsala Kumari has sold the properties to the Bhakthajana Samithi for charitable purposes like the construction of old-age home, etc.

38. We have heard the submissions of Sri. B. Pramod, the learned counsel appearing for the petitioners in W.P.(C) No. 4847 of 2019 and 37917 of 2024, Sri. G. Santhosh Kumar, the learned Standing Counsel for the Travancore Devaswom Board, Sri. Rajesh S. Subramanian, the learned counsel for the Thuravoor Mhakshethra Bhakthajana Samithi, Sri. G. Sreekumar, the learned counsel for the 9th respondent in W.P.(C) No. 4847 of 2019, Sri. Rajit, the learned counsel for the 5th respondent in W.P.(C) No. 37917 of 2024 and Smt.

Rashmi K.M. the learned Government Pleader.

39. Before we proceed further with the discussion, it would be apposite to refer to the relevant provisions of the TCHRI Act, the Rules and the law laid down by the Apex Court in this regard.

40. Relevant provisions of the TCHRI Act - Sections 24, 30, 31, 31A - are extracted hereunder:

> **24. Maintenance of Devaswoms etc., out of Devaswom Fund.-**
>
> The Board shall, out of the Devaswom Fund constituted under Section 25, maintain the Devaswoms mentioned in Schedule I, keep in a state of good repair the temples, buildings, and other appurtenances thereto, administer the said Devaswoms in accordance with recognised usages, make contributions to other Devaswoms in or outside the State and meet the expenditure for the customary religious ceremonies and may provide for the educational uplift, social and cultural advancement and economic betterment of the Hindu community.
>
> **30. Unincorporated Devaswoms.-**
>
> The properties and funds of the unincorporated Devaswoms shall be kept distinct and separate as heretofore and shall not be utilised except for the purposes of those Devaswoms.
>
> **31. Management of Devaswoms.-**
>
> Subject to the provisions of this Part and the rules made thereunder, the Board shall manage the properties and affairs of the Devaswoms, both incorporated, and unincorporated as heretofore, and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.
>
> **31A. Formation of Temple Advisory Committees.-**
>
> (1) A Committee for each temple in the name "Temple Advisory

Committee" (name of the temple) may be constituted in order to ensure participation of Hindu devotees.

(2) The Temple Advisory Committee constituted under sub-section (1) may be approved by the Board.

(3) The composition of an Advisory Committee under sub-section (1) shall be in such manner as may be prescribed by rules made by the Board, not inconsistent with any practice, prevailing, if any.”

41. The object of the TCHRI Act is to make necessary provisions for the administration, supervision and control of incorporated and unincorporated Devaswoms and other Hindu religious endowments and funds.

42. Section 24 of the Act states that the Board shall administer the Devaswom in accordance with recognised usages and keep the temples in a state of good repair.

43. Section 30 makes it clear that the properties and funds of the unincorporated Devaswoms shall be kept distinct and separate and shall not be used except for the purposes of those Devaswoms.

44. Section 31 mandates that the Board shall manage the properties and affairs of Devaswoms and arrange for the conduct of the daily worship and ceremonies in every temple according to its usage.

45. Section 31A was inserted by Act 5 of 2007 with effect from

12.04.2007. Subsection (1) of Section 31A states that a Temple Advisory Committee may be constituted in every temple to ensure the participation of Hindu devotees. Sub-section (2) says that the Temple Advisory Committee constituted under sub-section (1) may be approved by the Board. Sub-section (3) of Section 31A empowers the Board to frame rules with respect to the composition of TAC.

46. In **A.A. Gopalakrishnan v. Cochin Devaswom Board**[1], a Bench of three judges of the Apex Court observed that the properties of deities, temples and Devaswom Boards are required to be protected and safeguarded by their trustees/archakas/shebaits/employees. Paragraph 10 of **Gopalakrishnan** (supra) reads thus:

> "10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their trustees/archakas/shebaits/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of "fences eating the crops" should be dealt with sternly. The Government, members or trustees of boards/trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation."

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[1] [(2007) 7 SCC 482]

Judicial Evaluation

47. Bearing in mind the relevant statutory provisions and the law laid down by the Apex Court, we shall proceed to examine the facts of the instant case.

48. Section 31A was inserted with effect from 12.04.2007 with a view to constitute a Temple Advisory Committee for each temple to ensure the participation of Hindu devotees. Sub-section (3) of Section 31A empowers the Board to make rules for the composition of the Temple Advisory Committee. Pursuant to sub-section (3) of Section 31A, rules were framed. Ext.P1 is the copy of the said rules. Relevant clauses of Ext.P1 are extracted hereunder:

"2. ഉദ്ദേശ്യ ലക്ഷ്യങ്ങൾ

<u>ക്ഷേത്രത്തിന്റേയും, വിശ്വാസികളുടേയും പുരോഗതിക്കുവേണ്ടി പ്രവർത്തിക്കുക, ക്ഷേത്രാചാരങ്ങളും പൂജാ ക്രമങ്ങളും ശാസ്ത്രവിധിപ്രകാരം നടത്തുന്നതിന് സഹായകരമായ നിലപാടുകൾ സ്വീകരിക്കുക. ക്ഷേത്രത്തിന്റെ പ്രശസ്തിക്കും അഭിവൃദ്ധിക്കും, പുരോഗതിക്കും വേണ്ടി പദ്ധതികൾ ആവിഷ്ക്കരിക്കുകയും ബോർഡിൽ സമർപ്പിക്കുകയും ബോർഡിന്റെ അനുവാദത്തോടുകൂടി പ്രായോഗികമാക്കുകയും ചെയ്യുക. ക്ഷേത്ര ഉത്സവം, ചിറപ്പ്, ആട്ടവിശേഷം, മാസവിശേഷം മുതലായ വിശേഷാൽ അടിയന്തിരങ്ങൾ ഡിപ്പാർട്ടുമെന്റ് ഉദ്യോഗസ്ഥരുടെ അനുമതി വാങ്ങി ഭംഗിയായും ചിട്ടയായും നടത്തുക, ക്ഷേത്ര ദർശനത്തിനെത്തുന്ന ഭക്തജനങ്ങൾക്ക് വേണ്ട സൗകര്യങ്ങൾ ഒരുക്കുന്നതിന് ക്ഷേത്ര അധികാരികളെ സഹായിക്കുക, മനുഷ്യനന്മയ്ക്ക് ഉതകുന്ന തരത്തിൽ സനാതനധർമ്മങ്ങൾ പ്രചരിപ്പിക്കുക. ധ്യാനയോഗങ്ങൾ, നാമജപം, വിശേഷാൽ പൂജകൾ, ഭക്തിപ്രഭാഷണങ്ങൾ തുടങ്ങിയവ ഡിപ്പാർട്ടുമെന്റ് അനുമതിയോടെ സംഘടിപ്പിക്കുക, ഭക്തജനങ്ങൾക്ക് അന്നദാനം തുടങ്ങിയ സേവനം നടത്തുകയും അതിന് പ്രചോദനം നല്കുകയും ചെയ്യുക, ക്ഷേത്രവും പരിസരവും ശുചിയായി സൂക്ഷിക്കുന്നതിന് വേണ്ട നടപടികൾ സ്വീകരിക്കുക, മഹാന്മാരായ ക്ഷേത്രവിശ്വാസികളേയും ക്ഷേത്രകലാകാരന്മാരേയും ആദരിക്കുക, ക്ഷേത്രസംബന്ധമായ പ്രവർത്തനങ്ങളും, ഉത്സവാദി അടിയന്തിരങ്ങളും</u>

<u>സുഗമമാക്കുന്നതിന് ഡിപ്പാർട്ടുമെന്റ് അനുമതിയോടെ മാത്രം സംഭവനകൾ, ഇഷ്ടദാനം എന്നിവ ഭക്തജനങ്ങളിൽ നിന്നും സമാഹരിക്കുക.</u>

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11. കാലാവധി

ക്ഷേത്ര ഉപദേശകസമിതിയുടെ പ്രവർത്തനകാലാവധി സമിതിയെ ഡിപ്പാർട്ടുമെന്റ് അംഗീകരിച്ച തീയതി മുതൽ രണ്ട് വർഷക്കാലമായിരിക്കും. വികസനപ്രവർത്തനങ്ങളുടെ പേരിലോ, ഒഴിച്ചുകൂടാനാകാത്ത ചടങ്ങുകളുടെ പേരിലോ ഉപദേശകസമിതിയുടെ കാലാവധി ഒരു വർഷം കൂടി ദീർഘിപ്പിച്ച് നൽകുവാൻ ദേവസ്വം കമ്മിഷണർക്കും വീണ്ടും ഒരുവർഷം കൂടി ദീർഘിപ്പിച്ചു നൽകുവാൻ ദേവസ്വം ബോർഡിനും അധികാരമുണ്ടായിരിക്കുന്നതാണ്. എന്നാൽ ഉപദേശകസമിതിയുടെ കാലാവധി രണ്ടു വർഷത്തിൽ കൂടുതൽ ദീർഘിപ്പിച്ച് നൽകുവാൻ പാടുള്ളതല്ല.

12. ദേവസ്വം ബോർഡിന്റെ അധികാര അവകാശങ്ങൾ

ഉപദേശകസമിതിയിലെ അംഗങ്ങളുടെ യോഗ്യത നിശ്ചയിക്കുവാനും സമിതിയുടെ കാലാവധി നിശ്ചയിക്കാനും, വ്യക്തമായ കാരണങ്ങളുടെ അടിസ്ഥാനത്തിൽ അംഗങ്ങളെ സമിതിയിൽ നിന്ന് നീക്കം ചെയ്യാനുമുള്ള അധികാരം ദേവസ്വം കമ്മീഷണർക്ക് ഉണ്ടായിരിക്കുന്നതാണ്. ഉപദേശകസമിതിയുടെ പ്രവർത്തനങ്ങൾ ക്ഷേത്രത്തിന്റേയും, ഹിന്ദുമത വിശ്വാസത്തിന്റേയും, ദേവസ്വം ബോർഡിന്റേയും താല്പര്യങ്ങൾക്ക് വിരുദ്ധമായി വരുന്ന അവസര ത്തിലും വ്യക്തമായ സാമ്പത്തിക ക്രമക്കേടുകൾ ശ്രദ്ധയിൽപെടുന്ന അവസരത്തിലും സമിതിയെ പൂർണമായും നീക്കം ചെയ്യുന്നതിനുള്ള പരിപൂർണ്ണ അധികാരം ദേവസ്വം കമ്മീഷണർക്ക് ഉണ്ടായിരിക്കുന്നതാണ്.

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20. ആസ്തികൾ

<u>ഉപദേശക സമിതികൾ സ്വയം പിരിഞ്ഞ്പോകുകയോ, പിരിച്ചുവിടുകയോ, പ്രവർത്തനരഹിതമാകുകയോ പ്രവർത്തനകാലാവധി അവസാനിയ്ക്കുകയോ ചെയ്യുമ്പോൾ ആസ്തികളും ധനനിക്ഷേപങ്ങളും തിരുവിതാംകൂർ ദേവസ്വം ബോർഡ് ഫണ്ടിന്റെ ഭാഗമായി തീരുന്നതാണ്. പ്രസ്തുത നിക്ഷേപങ്ങൾ അതാതു ക്ഷേത്രത്തിന്റെ ആവശ്യത്തിനുമാത്രം പിൻവലിക്കുന്നതിന് ദേവസ്വം കമ്മീഷണർക്ക് അധികാരമുണ്ടായിരിക്കുന്നതാണ്. ഇപ്രകാരമുള്ള ആസ്തികളും, നിക്ഷേപങ്ങളും അതാത് ക്ഷേത്രങ്ങളുടെ അഭിവൃദ്ധിക്കുവേണ്ടി ഉപയോഗപ്പെടുത്തേണ്ടതാണ്.</u>

21. ദേവസ്വം ബോർഡിന്റെ പ്രത്യേക അധികാരം

ഏതെങ്കിലും ക്ഷേത്രങ്ങളിൽ ഉപദേശകസമിതികൾ രൂപീകരിക്കുന്നതിന്

പ്രായോഗികമായി ബുദ്ധിമുട്ടുള്ള പക്ഷം ഉപദേശകസമിതികൾ വേണ്ടെന്ന് നിശ്ചയിക്കാനുള്ള അധികാരം ദേവസ്വം ബോർഡിന്റെ അംഗീകാരത്തിനു വിധേയമായി ദേവസ്വം കമ്മീഷണറിൽ നിക്ഷിപ്തമായിരിക്കുന്നതാണ്."

(Emphasis supplied)

49. Sub-clause (2) of Ext.P1 states the aims and objectives of TAC. As per the said clause, the objective of TAC is to work for the progress of the temple and devotees, and to facilitate the conduct of the rituals and poojas in the temple. Moreover, it is stated that the TAC can formulate and carry out developmental activities in the temple with the permission of the TDB.

50. Clause (2) further states that the TAC is also permitted to conduct the monthly and annual festivals of the temple in a befitting manner with the permission of the TDB. They can also assist the TDB in arranging necessary facilities for the devotees and in the conduct of various activities such as Dhyana Yogam, Nama Japam, Bhakthi Prabhashanam, etc. The members and office bearers of TAC may also assist the TDB to ensure cleanliness and sanitation in and around the Temple premises.

51. Clause (11) of the rules states that the tenure of the TAC is two years, which can be extended by two more years at the maximum. Clause (12) of the rules empowers the Devaswom Commissioner to fix the qualifications of the members of TAC and to remove them from TAC. It is further provided that if the activities of the members of the TAC are against the interests of the TDB and

the devotees, or where there are financial irregularities, the Devaswom Commissioner has the power to terminate the TAC.

52. Clause (20) mandates that when the tenure of the TAC is over, or it is terminated, or it has become defunct, the assets and deposits of the Samithi would become the property of the Devaswom Board Fund. It is further stated that the assets and the deposits of the TAC shall be utilised for the development of the respective temples alone.

53. Clause (21) empowers the TDB to recognise any other Samithi in lieu of the Temple Advisory Committee in certain special circumstances. This clause specifically states that the TDB is empowered to examine all the matters of the Samithi so recognised, including the financial dealings.

54. Ext.P2 is the copy of the bye-law of the Bhakthajana Samithi. Clause 1 of Ext.P2 by-law states the name of the Samithi as 'Thuravoor Mahakshethra Bhakthajana Samithi'. Clause II specifies the objects of the Bhakthajana Samithi. The important clauses of Ext.P2 are extracted as under:-

> "II. THE OBJECTS FOR WHICH THE SAMITHI IS ORGANISED ARE:-
>
> a) <u>The renovation and restoration of the Thuravoor Nrisimha and Maha Sudarsana Devasthanam to its pristine glory working in co-ordination with the Travancore Devaswom Board.</u>

b) <u>Consecration of the two new gold covered flag staffs (Garuda Dwhajas) in front of the two deities it., Nrisimha Moorthy and Maha Sudarsana Moorthy, in place of the present flag staffs.</u>
c) <u>Building residential accommodation and other necessary facilities for stay and worship at the temple for the public generally.</u>
d) <u>Conducting of rituals sanctioned and approved by tradition and scriptures.</u>
e) <u>Construction of prayer halls, auditoriums, Conference Halls etc. useful to the public with special reference to the temple.</u>
f) Any other activity that would entail social, educational and cultural service to the devotees and the public at large.
g) To promote activities for relief to the poor, service mindedness understanding and tolerance.
h) Conducting festivals with splendour from time to time with the co-operation of the General Public and the Travancore Devaswom Board.
i) Carrying out the activities for promoting temple arts and culture and the establishment of institutions for giving training in them.
j) To run, aid or establish, takeover or collaborate with any institution or school or association for educational development, physical, mental, spiritual, upliftment of intelligence or its development.
k) To establish and maintain Hospital and to carryout medical research and development of all fields or medical sciences, and in all fields of medical treatment, so as to afford medical relief in a better way for the benefit of the Public.
l) To arrange and supply such medical aid, medicines and such other assistance necessary for living to the needy persons who are otherwise incapable or handicapped and financially uplift any person of poor class.
m) To edit, print, publish all the books, periodicals,

souveniers, and other communication medial in furtherance of the objectives of the Samithi.

n) To construct, maintain, found libraries, reading rooms for the use and convenience of the general public.

o) To conduct or render help for encouraging and promoting celebrations of national, cultural, social and such other festivals etc, in furtherance of the objects of this society.

p) To organise and conduct meetings, seminars, conference, debates, Vedic and Puranic classes, cultural festivals etc. for the benefit of the members and other general public.

q) To provide facilities for carryingout research work in scriptures and social literature.

r) To promote and give instructions on the Vedas, Upanishads and other ancient scriptures.

s) To enter into any agreement or arrangement with any other organisation, society, trust or association having objects similar to those of the institute and join any such organisation, society, trust or association and to ger affiliated or grant affiliation to any such organisation, society, trust or association having similar objects.

t) To seek legal remedy on any problem of general nature faced by any or all members or general public in the interest of justice.

u) To provide all helps for the plantation and protection of Teak and for the cultivation of flowering plants.

v) To purchase movable and immovable properties.

w) Provided that the Income of the Samithi shall not be applied directly or indirectly for the benefit of any person referred to under section 13 (3) of the Income Tax Act, 1961.

x) To do all other acts necessary for the benefit of the members and public as well, as decided by the Samithi from time to time.

III. <u>MEMBERSHIP:-</u>

a) Any male or female above 18 years of age who lives permanently or a domicile in Kerala, and who has faith in temple worship shall become a member of a Samithi. However the managing committee of the Samithi shall have the right to enroll any person outside the extent of activities of the Samithi.
b) There are two kinds of membership.
   i. Life Membership:- Life Membership is allotted on payment of Rs.1,000/- by way of fee.
   ii. Ordinary Membership: - To obtain ordinary membership a person has to remit Rs. 10/- as the membership fee together with an application fee of Rs.2/-. Each member has to remit a monthly fee of Rs.1/- or an amount of Rs.12/- as annual fee which should be remitted before 30th November in default of which his/her membership will automatically cease.
c) Travancore Devaswom Board shall be a member of the Samithi.

IV. ACCUMULATION OF FUNDS AND THEIR SOURCES:-

a) Application fee

b) Membership fee

c) Subscription

d) Devaswom Board Grant

e) Donations from individuals and institutions

f) Miscellaneous funds

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XV. AUDIT OF ACCOUNTS:

a) The account shall be audited by internal auditor/auditors appointed by the General Body.
b) The Annual Accounts and statements shall be audited and certified a chartered accountant.

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XIX. DISSOLUTION:

In the event of dissolution of the Samithi or ceasation of the activities of funds/assets of the Samithi shall vest with organisations/ institutions of similar nature or with the Government."

(Emphasis supplied)

55. On going through the objects of the Bhakthajana Samithi, it is seen that the prime objective of the Bhakthajana Samithi is the renovation and restoration of the Thuravoor Nrisimha and Maha Sudharsana Devasthanam to its pristine glory, in coordination with the TDB. Furthermore, the consecration of two new gold-covered flag staffs (garuda dwhajas) in front of the two deities, namely Nrisimha Moorthi and Maha Sudharsana Moorthy. On a careful reading of the objectives of the Bhakthajana Samithi, it is discernible that the renovation and restoration of the Temple and the developmental activities in the Temple in coordination with the TDB are the prime objectives of the Bhakthajana Samithi. Apart from that, certain charitable activities such as establishing hospitals, construction of libraries, the conduct of spiritual classes, etc., were also stated as the objectives.

56. Clause III(ii)(c) specifically provides that the TDB shall be a member of the Samithi. In Clause IV(d), the Grant from the Devaswom Board is shown as a source of funds. Likewise, donations from individuals and institutions are shown as a source of funds in Clause (e). Clause XV mandates that the

accounts of the Bhakthajana Samithi shall be audited by an internal auditor or auditors appointed by the General Body.

57. Clause XIX states that in case of dissolution of the Samithi or its cessation, the assets of the Samithi shall vest with organisations or institutions of similar nature or with the Government.

58. Ext.P3 is the judgment of a coordinate bench of this Court in W.P.(C) No.20676 of 2016 and DBP No.52 of 2018. In Ext.P3 judgment dated 05.09.2018, this Court has directed the Board to constitute a TAC as per the by-laws.

59. Pursuant to Ext.P3 judgment, Ext.P4 order was passed on 17.10.2018, whereby a new TAC was constituted. Admittedly, the Bhakthajana Samithi ceased to exist from 17.10.2018. The crux of the allegation is that even after the cessation of the Bhakthajana Samithi, the said Bhakthajana Samithi has failed to hand over the movables and the immovable properties acquired by the Bhakthajana Samithi, which started developmental activities and renovation of the Temple from 1992 onwards till 17.10.2018. The learned counsel for the petitioner argued that the Bhakthajana Samithi is bound to hand over the original title deeds (Exts.P5 to P8) to the present TAC and to put the committee in possession of the properties as per Clause (20) of Ext.P1 bye-law.

60. On the other hand, the learned counsel appearing for the Bhakthajana Samithi would contend that the said Bhakthajana Samithi was registered in the year 1992 and the properties covered by Exts.P5 to P8 title deeds were acquired in the name of the Bhakthajana Samithi utilising its independent funds. The Bhakthajana Samithi would continue to be the owner of the said properties. The TDB or the present TAC has no right to claim those immovable properties.

61. Ext.P5 sale deed was executed by one Valsala Kumari, additional respondent No.9, in favour of Thuravoor Mahakshethra Bhakthajana Samithi on 31.01.2014. The sale consideration as per document No.263/1/14 is ₹35,00,000/-. In the said title deed, the purpose of the transfer is mentioned as the rehabilitation of orphans and old-age people by constructing an old-age home (Vridhasadanam). Likewise, Ext.P6 sale deed was executed by the aforesaid Valsala Kumari on 08.03.2018 in favour of Bhakthajana Samithi for a consideration of ₹ 36,62,000. Ext.P7 sale deed was executed in favour of the Bhakthajana Samithi on 13.03.2018 for a sale consideration of ₹83,500/-. Ext.P8 settlement deed was executed in the name of the Bhakthajana Samithi by one Gowriamma on 16.02.2011, whereby 22.66 Ares of property were settled in favour of the Bhakthajana Samithi. In Ext.P8 document, it is clearly mentioned that the said property shall be utilised for charitable, social, and religious

activities. It is further stipulated in the document that in case the Bhakthajana Samithi fails to carry out the charitable activity or the Bhakthajana Samithi ceases to exist, the property described in the schedule shall be vested in the Temple.

62. It is pertinent to note that the Bhakthajana Samithi has purchased the properties covered by Exts. P5 to P8 title deeds, while the Samithi was performing the role of a Temple Advisory Committee. The name of the Committee itself suggests the close relation of the Samithi with the Temple. The Bhakthajana Samithi was housed in a room within the premises of the temple.

63. However, Ext.P2 document in W.P.(C) No.37917/2024 was executed in favour of Bhakthajana Samithi on 01.09.2021, much after the termination of the Bhakthajana Samithi on 17.10.2018 by Ext.P4 order.

64. The claim of the Bhakthajana Samithi is that they are the absolute owner of the properties covered by Exts.P5 to P8 title deeds. According to the Bhakthajana Samithi, they are actively involved in the developmental activities of the Temple, the conduct of poojas, rituals and festivals of the temple from 1992 onwards.

65. According to the 4th respondent, Bhakthajana Samithi, the TDB has issued Ext.R4(b) No Objection Certificate dated 05.01.1993 permitting the

Bhakthajana Samithi to undertake developmental and renovation works in the temple in coordination with the Devaswom Board. Ext.R4(c) is the copy of the report dated 19.02.2015, whereby the Assistant Devaswom Commissioner reported to the Devaswom Commissioner to permit the Bhakthajana Samithi to continue its functions without any hindrance. In Ext.R4(c), it is mentioned that the 4th respondent is permitted to function as the advisory committee. Pursuant to Ext.R4(c) report, Ext.R4(d) order was passed by the Commissioner dated 24.03.2015.

66. On going through Exts.R4(a) to R4(d) documents, it is clear that the Bhakthajana Samithi was functioning in the temple from 1993 onwards till 17.10.2018 and they were terminated by the TDB by Ext.P4 order pursuant to Ext.P3 judgment of this Court.

67. The crucial question to be decided is whether the immovable properties acquired by the Bhakthajana Samithi while it was functioning as a Samithi can stake an independent claim over such properties or whether they would be transferred to the Board? The answer to the question is an emphatic No.

68. Admittedly, the immovable properties covered by Exts.P5 to P8 were purchased in the name of the Bhakthajana Samithi during the period in

which it functioned as an advisory committee for the renovation and development of the temple. Clause 20 of Ext.P1 by-law mandates that all the properties of TAC shall be handed over to the Board when the TAC is terminated or defunct or on the expiry of the committee.

69. On going through Ext.P2 by-law of the Bhakthajana Samithi, it is discernible that the main objective for which the Samithi is created is to carry out the renovation and development works of the Thuravoor Mahakshethra in coordination with the Devaswom Board. The main sources of funds for the activities of the Bhakthajana Samithi include the collection of funds from the public and institutions, and also the grant from the Devaswom Board.

<u>The Role of a Temple Advisory Committee</u>

70. The role of a TAC essentially is to assist the Board in the conduct of the daily rituals and the conduct of the festivals of the temple, as evident from the rules. Normally, it is elected for a period of two years and may continue up to four years in special circumstances as per the orders of the Commissioner or the Board. In other words, the said committee has only a supporting role to assist, aid, and advise the Board in the smooth functioning of the various activities of the temple. Such a committee, in our considered opinion, does not

have a separate entity and separate existence. Therefore, the assets acquired by a Bhakthajana Samithi or a TAC, by whatever name called, during their tenure can only be considered as the property of the deity. In Ext.P8 settlement deed executed by Gowriamma in favour of the Bhakthajana Samithi, there is a specific clause to the effect that if the Samithi ceases to exist, the properties will be vested in the temple. Even though they have purchased the property in the name of the Bhakthajana Samithi, those properties would enure to the temple/deity. If the Bhakthajana Samithi claims that those properties are their independent properties and they have absolute right over those properties, the burden is upon them to prove that they have acquired the properties utilising their independent funds. No documents were produced by the Bhakthajana Samithi to show that they have an independent source of income.

71. The contention of the additional 9th respondent is that the property is covered by Exts. P5 to P7 documents were transferred to the Bhakthajana Samithi with an express condition that the properties shall be used for charitable activities like the construction of old age homes, etc. Therefore, the parties to the transfer never intended that the properties should vest in the temple. Before we address this issue, it would be useful to extract the relevant provisions of the Transfer of Property Act, 1882.

> **"10. Condition restraining alienation**.—Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.
>
> **11. Restriction repugnant to interest created**.—Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.
>
> Where any such direction has been made in respect of one piece of immovable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof."

72. Section 10 of the Transfer of Property Act specifically declares that a condition or clause which limits or restrains the transferee from disposing of his interest in the property is void, except in the case of a lease, where the condition is for the benefit of the lessor.

73. Section 11 of the Transfer of Property Act provides that where an absolute interest in property is transferred, any direction requiring the transferee to enjoy the property in a particular manner is ineffective. The transferee is

entitled to deal with the property as if no such direction had been imposed.

74. Sections 10 and 11 of the Transfer of Property Act make it amply clear that the transferor of an immovable property cannot impose conditions restraining the alienation of the property and restricting or limiting the enjoyment of the property in one way or the other.

75. It is pertinent to note that in the audit conducted by the Joint Director, Kerala State Audit Department, Travancore Devaswom Board Audit, several irregularities were reported in the accounts of the Bhakthajana Samithi. Certain irregularities noted by the Audit Department are as follows:

i) The maintenance and upkeep of registers is poor.

ii) The Samithi is not maintaining stock registers for the items received from the public as offerings, and its utilisation is not transparent.

iii) Huge amounts were spent for Annadhanam without proper accounting.

iv) Huge amounts were expended without any vouchers.

76. After a careful analysis of the accounts of the Bhakthajana Samithi, the Joint Director has concluded his report in the following manner:

> **"Conclusion**
>
> The activities of the Thuravoor Mahashethra Bhakthajana Samithi in the role of Temple advisory committee in Thuravoor

> Mahakshethram is far from satisfactory. In many areas lack of transparency is evident. It was happened due to lack of supervision and timely inspection from the part of Devaswom authorities. The Samithi is seen collecting funds through their own receipt books apart from the sealed coupons issued by the Board. They are also not remitting the share of the said receipts to the Devaswom Fund. The improper maintenance of the most important registers regarding valuables, fixed assets is a serious lapse from the part of the Samithi. Due to the general disagreement with the Samithi from the part of devotees they formed the new Temple advisory committee (comprised of local devotees) and demanded thatall records related to the Samithi, valuables, accumulated funds, fixed assets movables and immovables utensils, if any, maybe transferred to Devaswom."

77. The audit report would clearly indicate that there is no transparency in the accounting practice followed by the Bhakthajana Samithi. In **Suo Motu v. State of Kerala**[2] this Court held as under:

> "71. In **Arjunan T. N. v. President, Temple Advisory Committee and Others**[3], the facts were that 20 cents of land in front of Kaippillikkavu Bhagavathi Temple was purchased utilizing money collected from the devotees. The Temple Thanthri inaugurated that collection scheme 'കൈപ്പിള്ളിക്കാവിലമ്മയ്ക്ക് ഒരടി മണ്ണ്' (Meaning - One foot land for Kaippillikkavilamma). Money was collected from the devotees by a temple advisory committee consisting of three members. However, one Somanathan, who was dealing with the affairs of the Temple Advisory committee, and Sri.Madhusoodanan drew up and registered a Trust in the name 'Sree Bhagavathi Seva Trust' and the land was purchased in the name of that Trust utilizing the aforesaid funds. A division Bench of this Court after appreciating the facts and circumstances held as under:

[2] 2026 KHC 310
[3] 2012 (4) KHC 155

4. The substance emanating out of the materials available in this case is that collections were made by issuing receipts with the caption 'ക്ഷേത്രത്തിന്റെ മുൻവശത്തുള്ള സ്ഥലം വാങ്ങുന്നതിനുള്ള ധനശേഖരണാർത്ഥം'. The receipts available at Annexures A and B along with the report of the learned ombudsman are issued on 08/09/2006 by the 'Convenor, Land Endowment Scheme'. Obviously, such amounts were collected on the premise and by making the public believe that the collection is a 'ഭൂസമർപ്പണ പദ്ധതി' in favour of the deity. Ext. R3(a) deed by which Somanathan and Madhusoodanan constituted a Trust is dated 05/11/2006. we see that the Advocate, who prepared it, has signed it only on 30/11/2006, going by the endorsement under his signature. Thus, even the registration and formation of the so-called Trust is more than two months after the collection of funds as evidenced by Annexures A and B. It was only on 30/11/2006 that the property was got conveyed in favour of Madhusoodanan, Somanathan and Raveendran on behalf of the Perumballoor Sree Bhagavathi Seva Trust. The acquisition on behalf of that Trust is, obviously, in the form of a dedication to the deity of the temple concerned and such dedication has been made utilizing funds collected from the public at large, that too, by an entity acting on behalf of the people who were prepared to make such dedication. For such collection, receipts have been issued by the Convenor of the 'Land Endowment Scheme', a conglomeration of well-minded devotees. It has to be presumed that the benefit of such collection is for the purpose of the deity. Under such circumstances, we cannot but hold that the extent of 20 cents of land covered by Ext. R3 (b) document No. 6540/2006, is an item of property which stands dedicated in favour of the deity and the purchase of the land utilizing the amounts was only for the sake of; in favour of; and, in the course of dedication to, the deity. Travancore Devaswom Board holds all properties of the temples under its control, in terms of the provisions of the Travancore-Cochin Hindu Religious Institutions Act, 1950. Necessary governance consequences would follow.

5. In the result, in exercise of authority under Art.226 of the Constitution and by virtue of the supervisory control being exercised by this Court in relation to the

> Devaswom Boards and properties of Devaswoms and Temples, it is declared that the land covered by the aforesaid document No. 6540/2006 dated 30/11/2006 and all structures standing thereon vests absolutely in the deity of the Kaippillikkavu Bhagavathi Temple and those properties can be managed only by the Travancore Devaswom Board. Any person occupying such property, including the Perumballoor Sree Bhagavathi Seva Trust, shall cease to occupy that parcel and it will be exclusively under the management and control of the TDB on behalf of the deity. By reason of this declaration, the revenue authorities concerned shall issue necessary orders effecting mutation in favour of the TDB or the deity, as the case may be, to have that parcel included in the appropriate revenue records."

78. In **Suo Motu** (supra), we had occasion to consider a similar issue. In that case, the Temple Advisory Committee of Ernakulathappan Temple had purchased immovable properties in the joint names of the deity and the Advisory Committee. This Court observed that the Samithi, while functioning as the Temple Advisory Committee, discharged fiduciary functions and was, therefore, subject to the obligations of a trustee, precluding it from directly or indirectly dealing with or acquiring temple property for its own benefit. The relevant paragraphs of **Suo Motu**(Supra):

> "60. The entire purchase consideration had been collected from devotees, rich and poor alike, through donations mobilised by coupons, with the Samithi playing a leading role in the collection of funds. In such circumstances, the inclusion of the Samithi as a co - owner of property purchased solely with offerings made in the name of the deity is wholly inexplicable and strikes at the very sanctity of temple ownership. The Devaswom Board, being statutorily entrusted with the administration of temple properties, is not authorised to share such ownership with private

bodies or associations. Where land is acquired entirely with funds donated for the deity, there can be no justification whatsoever for conferring co - ownership rights on a private entity. The fact that the Samithi, for reasons that remain unexplained, was vested with such status is a direct affront to the settled principle that temple property belongs exclusively to the deity and must remain under the legal and fiduciary control of the Board. The Board, while producing documents before this Court, has failed to provide any reason why they also gave implied assent to execute a joint deed and as to why they did not raise any objection over the same.

Xxxxxxxxxxxxxxxxxxxx

69. We have already adverted to the statutory scheme, including S.68 of the Act, which casts a clear obligation upon the Board to administer Devaswoms and institutions under its control in its capacity as a trustee. The Board is bound to manage such institutions in accordance with the objects of the trust, established usages and customs, and to ensure that the funds and properties are applied strictly for the purposes for which they are held. In the present case, the Samithi was, in effect, functioning as the Temple Advisory Committee, and it was at its instance that permission was granted by the Board, with the approval of this Court, to collect funds from devotees. In such circumstances, the Samithi was also discharging fiduciary functions and must be regarded as acting as a trustee in respect of the temple and its properties. "

79. After having careful consideration of the various statutory provisions, the principles laid down by the Apex Court and this Court, in the above circumstances, and having regard to the findings recorded herein, we deem it appropriate to exercise the jurisdiction of this Court under Article 226 of the Constitution of India, as well as the supervisory control vested in this Court over Devaswom Boards and the properties of temples and Devaswoms. Accordingly, in order to restore the position in accordance with law and to

safeguard the interests of the deity, the following directions are issued:

> We declare that the land covered by Sale Deed Nos.263/I/2014, 461/2018, and 489/I/201 of SRO Kuthiyathodu, executed by Valsala Kumari, and settlement deed No.217/2011 of SRO Pattanakad, executed by Gowriamma, together with all structures standing theron, constitutes temple property and vests absolutely in the deity of 'Thuravoor Mahakshethra'. Consequently the said property can be administered and managed only by the Travancore Devaswom Board, in its Capacity as trustee of the deity.
>
> In consequence of the above declaration, the concerned revenue authorities shall take immediate steps to effect mutation of the property in favour of the Travancore Devaswom Board or, as the case may be, in the name of the deity, and incorporate the same in the relevant revenue records, in accordance with law. Necessary entries to that effect shall be carried out in all relevant records.
>
> We further direct the Sub Registrar, Kuthiyathodu and Pattanakad, to carry out the necessary entries in the registration records to reflect the above position. The Registry shall forward a copy of this judgment to the Sub-Registrar concerned forthwith, to enable compliance without delay.
>
> We further direct the 4th respondent, Bhakthjana Samithi, to handover the valuables and other movable properties to the Officer of the Board within 30 days from the date of receipt of a copy of this judgment.

80. However, we are of the considered view that the reliefs claimed in W.P.(C) No. 37917 of 2024 cannot be granted.

81. The District Registrar, Registrar of Charitable Societies, Alappuzha, shall consider the application submitted by the Devaswom Board to cancel the registration of the Thuravoor Bhakthajana Samithi and pass appropriate orders,

in accordance with law, within two months from the date of receipt of a copy of this judgment, if that is not already disposed of.

In the result,

i. W.P.(C) No.4847/2019 is allowed. The properties covered by Exts.P5 to P8 documents are declared to be the properties of Thuravoor Mahakshethra.

ii. W.P.(C) No.37917 of 2024 is dismissed.

iii. DBAR No.3 of 2021 is closed.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

Sd/-

K. V. JAYAKUMAR

JUDGE

jvt

APPENDIX OF WP(C) NO.4847 OF 2019

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE RULES FRAMED BY THE 1ST RESPONDENT BOARD.**
EXHIBIT P2	**TRUE COPY OF THE BYELAWS OF THE 4TH RESPONDENT.**
EXHIBIT P3	**TRUE COPY OF THE JUDGMENT IN DBP NO. 52/2018.**
EXHIBIT P4	**TRUE COPY OF THE ORDER DATED 17.10.2018 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF THE SALE DEED BEARING NO. 263/1/2014 OF KUTHIATHODU S.R.O.**
EXHIBIT P6	**TRUE COPY OF THE SALE DEED BEARING NO. 461/2018 OF KUTHIATHODU S.R.O.**
EXHIBIT P7	**TRUE COPY OF THE SALE DEED BEARING NO. 489/1/2018 OF KUTHIATHODU S.R.O.**
EXHIBIT P8	**TRUE COPY OF THE GIFT DEED BEARING NO. 217/2011 OF KUTHIYATHODU SRO.**
EXHIBIT P9	**TRUE COPY OF THE LIST VALUABLES IN THE POSSESSION OF THE 4TH RESPONDENT.**
EXHIBIT P10	**TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT REGARDING ITS 25TH ANNUAL GENERAL BODY MEETING.**
EXHIBIT P11	**TRUE COPY OF THE LIST BANKS IN WHICH THE 4TH RESPONDENT MAINTAINS ACCOUNTS.**
EXHIBIT P12	**TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT.**
EXHIBIT P13	**TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER FROM THE KUTHIATHODU GRAMA PANCHAYATH.**
EXHIBIT P14	**TRUE COPY OF THE ORDER DATED 29.03.2018 PASSED BY THE GOVERNMENT OF KERALA.**

EXHIBIT P15	**TRUE COPY OF THE ORDER DATED 27.08.2018 OF THE GOVERNMENT OF KERALA.**
Exhibit P16	**TRUE COPY OF THE SALE DEED DATED 1/9/2021 BEARING NO.914/2021 OF PATTANAKKAD SRO BY WHICH THE SAID PROPERTY WAS PURCHASED BY THE 4TH RESPONDENT**
Exhibit P17	**TRUE COPY OF THE JUDGMENT DATED 7/5/2021 IN WPC NO.10868/2021**
Exhibit P18	**TRUE COPY OF THE JUDGMENT DATED 12/8/2021 IN RP NO.448/2021**
Exhibit P19	**TRUE COPY OF THE MESSAGE WHICH THE 4TH RESPONDENT HAS CIRCULATED OUT REQUESTING FOR DONATION FOR THE WORK**
Exhibit P20	**TRUE COPY OF THE REPLY DATED 13.10.2023 UNDER THE RTI ACT ISSUED FROM THE STATE PUBLIC INFORMATION OFFICER, DEPARTMENT OF TOURISM, GOVERNMENT OF KERALA.**
Exhibit P21	**TRUE COPY OF THE ANNUAL REPORT OF THE 4TH RESPONDENT SAMITHY FOR THE PERIOD 2014-15 PUBLISHED BY THE 4TH RESPONDENT SAMITHY.**
Exhibit P22	**TRUE COPY OF THE ANNUAL REPORT OF THE 4TH RESPONDENT SAMITHY FOR THE PERIOD 2015-16 PUBLISHED BY THE 4TH RESPONDENT SAMITHY.**
Exhibit P23	**A TRUE COPY OF THE ORDER DATED 24.03.2015 OF THE DEVASWOM COMMISSIONER RECOGNIZING THE 4TH RESPONDENT AS THE TAC FOR THURAVOOR MAHAKSHETHRAM**
Exhibit P24	**A TRUE COPY OF THE REPLY DATED 05.05.2018 SUBMITTED BY THE THEN DEVASWOM COMMISSIONER**
Exhibit P25	**A TRUE COPY OF NOTICE DATED 12.07.2011 OF 19TH GENERAL BOARDING MEETING OF THE 4TH RESPONDENT**

Exhibit P26	**A TRUE COPY OF NOTICE DATED 09.07.2015 OF 23RD GENERAL BOARDING MEETING OF THE 4TH RESPONDENT**
Exhibit P27	**A TRUE COPY OF NOTICE DATED 15.07.2016 OF 24TH GENERAL BOARDING MEETING OF THE 4TH RESPONDENT**

RESPONDENT EXHIBITS

EXHIBIT R1(A)	**TRUE COPY OF THE LETTER ROC NO.22699/18/NS.2 DATED 29.03.2019 OF THE DEVASWOM COMMISSIONER.**
EXHIBIT R1(B)	**TRUE COPY OF THE NOTICE ROC NO.22699/18NS-2 DATED 29.03.2019 OF THE DEVASWOM COMMISSIONER TO THE PRESIDENT OF THURAVOOR MAHAKSHETRA BAKTA JANA SAMITHY.**
EXHIBIT R1(C)	**TRUE COPY OF THE ROC NO.22699/18/NS-2 DATED 29.03.2019 OF THE DEVASWOM COMMISSIONER TO THE SECRETARY OF THURAVOOR MAHAKSHETRA BAKTA JANA SAMITHY.**
EXHIBIT R1(D)	**TRUE COPY OF THE PLAINT IN O.S.NO.264/2019 PENDING BEFORE THE MUNSIF COURT, CHERTHALA.**
EXHIBIT R1(E)	**TRUE COPY OF THE INJUNCTION APPLICATION FILED AS I.A.NO. 1742/2019 IN O.S.NO.264/2019 PENDING BEFORE THE MUNSIFF COURT, CHERTHALA.**
EXHIBIT R1(F)	**TRUE COPY OF THE LETTER BEARING NO.398 DATED 23.02.2019 OF THE ASSISTANT DEVASWOM COMMISSIONER, VAIKOM TO THE SECRETARY KUTHIATHODE GRAMA PANCHAYAT.**
EXHIBIT R1(G)	**TRUE COPY OF THE PROCEEDINGS NO.ROC 22699/18NS-2 DATED 29.01.2020 OF THE DEVASWOM COMMISSIONER.**
EXHIBIT R4(A)	**A TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 30-12-1992.**

EXHIBIT R4(B)	**A TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE TRAVANCORE DEVASWOM BOARD DATED 05-01-1993.**
EXHIBIT R4(C)	**A TRUE COPY OF THE REPORT SUBMITTED BY THE ASSISTANT DEVASWOM COMMISSIONER, VAIKOM DATED 19-02-2015.**
EXHIBIT R4(D)	**A TRUE COPY OF THE ORDER ROC NO.178/15/NS DATED 24-03-2015.**

APPENDIX OF WP(C) NO.37917 OF 2024

PETITIONER EXHIBITS

Exhibit P-1	**A TRUE COPY OF THE JUDGMENT DATED 05.09.2018 PASSED IN DBP NO. 52/2018 AND CONNECTED CASE**
Exhibit P-2	**A TRUE COPY OF THE SALE DEED DATED 01.09.2021 BEARING DEED NO. 914/2021 OF PATTANAKKAD S.R.O**
Exhibit P-3	**A TRUE COPY OF THE W.P(C) NO. 4847/2019, SANS EXHIBITS DATED 12.02.2019**
Exhibit P-4	**A TRUE COPY OF THE COUNTER AFFIDAVIT DATED 15.05.2019 FILED BY THE DEVASWOM BOARD IN THE W.P(C) NO. 4847/2019**
Exhibit P-5	**A TRUE COPY OF THE NOTICE DATED 02.10.2024 OF THE ANNUAL FESTIVAL OF THURAVOOR MAHAKSHETHRAM**
Exhibit P- 6	**PHOTOGRAPH OF THE PROPERTY IN WHICH THE PREPARATIONS FOR PUTTING UP SHOPS ARE GOING ON**
Exhibit P-7	**A TRUE COPY OF THE RELEVANT PAGES OF THE NOTICE DATED 12.08.2017 OF 25TH ANNUAL GENERAL BODY MEETING OF THE 5TH RESPONDENT**