



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2026 / 18TH BHADRA,

1948

WP(C) NO. 31973 OF 2017

PETITIONER:

**M/S. KANDAMKULATHI AYURVEDA VAIDYASALA [P] LTD
48/1717, NEAR BHAVANS SCHOOL, B NO.13/414-A,
KUZHUR P.O., THRISSUR, KERALA,
REPRESENTED BY ITS MANAGING DIRECTOR,
SHRI KANDAMKULATHY FRANCIS PAUL.**

**BY ADVS.
SRI.T.M.RAMAN KARTHA
SMT.GOWRY GOPINATH**

RESPONDENTS:

- 1 REGIONAL DIRECTOR
SOUTHERN REGION, MINISTRY OF CORPORATE
AFFAIRS, 5TH FLOOR, SHASTRI BHAWAN,
26 HADDOWS ROAD, CHENNAI - 600 006.**
- 2 MS.K.P.PATHROSE VADYANS KANDAMKULATHY VAIDYASALA
PVT.LTD.
2/664, KANDAMKULATHY P.O., KUZHUR,
THRISSUR - 680 734,
REPRESENTED BY ITS MANAGING DIRECTOR,
K.PATHROSE WILSON.**
- 3 MS.K.P.PATHROSE VAIDYANS KANDAMKULATHY VAIDYASALA
P.O.KUZHUR, MALA, THRISSUR - 680 734,
REPRESENTED BY ITS PROPRIETOR,
DR.ROSEMARY WILSON.**



2026:KER:68810

BY ADVS.
SHRI.ANISH JAIN, CGC
SRI.S.SREEKUMAR (SR.)
SRI.MATHEW SKARIA
SMT.ANJANA VARGHESE
SHRI.TOMY PAUL MAMPILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 09.09.2026, ALONG WITH WP(C).23427/2018, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2026 / 18TH BHADRA,

1948

WP(C) NO. 23427 OF 2018

PETITIONER:

**KANDAMKULATHI FRANCIS VAIDYAN'S AYURVEDA
VAIDYASALA PRIVATE LIMITED
48/1717, NEAR BHAVANS SCHOOL, B NO.13/414-A,
KUZHUR P.O., THRISSUR, KERALA,
REPRESENTED BY ITS MANAGING DIRECTOR,
SHRI KANDAMKULATHY FRANCIS PAUL.**

**BY ADVS.
SRI.T.M.RAMAN KARTHA
SMT.GOWRY GOPINATH**

RESPONDENTS:

- 1 REGIONAL DIRECTOR, SOUTHERN REGION, MINISTRY OF
CORPORATE AFFAIRS
5TH FLOOR, SHASTRI BHAWAN,
26 HADDOWS ROAD, CHENNAI - 600006.**
- 2 MS.K.P.PATHROSE VAIDYANS KANDAMKULATHY VAIDYASALA
PVT. LTD.
2/664 KANDAMKULATHY, P.O. KUZHUR,
THRISSUR - 680 734,
REPRESENTED BY ITS MANAGING DIRECTOR,
K.PATHROSE WILSON**

**BY ADVS.
O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA**



2026:KER:68810

**SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA
SHRI.P.VIJAYAKUMAR, ASG OF INDIA
SRI.GIRISH KUMAR.V., CGC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 09.09.2026, ALONG WITH WP(C).31973/2017, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**BECHU KURIAN THOMAS, J.**

W.P.(C) Nos. 31973 of 2017 & 23427 of 2018

Dated this the 09th day of September, 2026

JUDGMENT

Two companies, registered with a name containing the word “Kandamkulathi”, have been directed to rectify their names by an order issued under Section 16 of the Companies Act, 2013 (for short, “the Act”). Those two companies are the petitioners in these two writ petitions and are assailing the said orders, contending that the applications itself were not maintainable.

2. The petitioner in W.P.(C) No. 31973 of 2017 was registered on 25.10.2016, while the petitioner in W.P.(C) No. 23427 of 2018 was registered on 28.11.2017, the former with the name “M/s. Kandamkulathi Ayurveda Vaidyashala (P) Ltd.” and the latter with the name “Kandamkulathi Francis Vaidyan's Ayurveda Vaidyasala (P) Ltd.”. Since, at the time, another company by name M/s. K. P. Pathrose Vaidyan's Kandamkulathy Vaidyasala Pvt. Ltd. had been in existence from the year 1995, two separate applications were filed by the said entity, seeking rectification of the names of the two companies under Section



16(1)(b) of the Act. The 1st respondent, by the impugned orders, allowed both those applications and directed the names of both the companies to be changed within six months and aggrieved by those orders, these writ petitions have been preferred.

3. The main contention urged by Sri.T.M. Raman Kartha, the learned counsel for the petitioner, is that, de hors the factual issues that arise for consideration, legally an application could not have been filed by the 2nd respondent in both the writ petitions, as admittedly the said respondent did not possess any registered trade mark. Referring to the cause title of the applications that resulted in the impugned orders in both writ petitions, it was contended that the companies who were the applicants were never the 'registered trade mark holder' and hence, were not entitled to maintain those applications.

4. Sri. S. Sreekumar, the learned Senior Counsel, on the other hand contended that the issue of non-maintainability has been specifically considered in the impugned orders. It was submitted that in the said orders it was found that the proprietor of the registered trade mark, was one of the Directors of the company that had filed the applications and hence, the applications were maintainable. The learned Senior



Counsel further pointed out that, on facts, the applicant had been the owner of the registered trademark from 1993 onwards and the writ petitioner had attempted to misuse the name by registering a new company in 2016. It was further submitted that factually also, there were no reasons for interfering with the impugned order.

5. Having considered the rival submissions, the main question to be considered is whether the two applications for rectification of the company's name filed by the 2nd respondent were maintainable.

6. Section 16(1) of the Act reads as follows:

"16. Rectification of name of company.— (1) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(a) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such



proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of six months from the issue of such direction, after adopting an ordinary resolution for the purpose.”

7. The petitioner's applications were filed under Section 16(1)(b) of the Act. The words used in the provision leaves no room for doubt that the application has to be filed by a registered proprietor of a trade mark, alleging that the name of the company under question is identical with or too nearly resembles the registered trade mark of such proprietor. The terminology used in the aforementioned section is categorical and does not provide any leeway for including any person other than a registered proprietor of a trade mark.

8. The intention behind Section 16(1)(b) of the Act is clear, that a third party other than the registered proprietor of that name, cannot question the permission granted by the statutory authorities to use a name. If the name allotted



to a company resembles or is identical with another company, the aggrieved person alone is given the liberty of raising a complaint. Of course, it is always open to the Central Government to suo moto initiate proceedings, if it is of the opinion that the grant of the identical or resembling name was by inadvertence or otherwise. However, in the instant case, Section 16(1)(a) of the Act, does not apply, since no proceedings have been initiated by the Central Government till date.

9. Viewed in the above perspective, since it is conceded that the registered proprietor of the trade mark "Kandamkulathy" is Dr. Rosemary Wilson, while the applicant before the 1st respondent was Mr. K. P. Pathrose Vaidyans Kandamkulathy Vaidyasala Pvt. Ltd., the applications were not maintainable under law. Merely because the registered proprietor is a Director of the applicant company, that by itself cannot be a justification for maintaining an application by such third parties. It is elementary that a company is distinct from its share holders and even the Directors constituting it. Therefore, only the proprietor of the registered trade mark, i.e., Dr. Rosemary Wilson, alone could have been an applicant before the 1st respondent. Hence, the impugned orders, Ext.P1 in both



writ petitions, are liable to be set aside.

10. Though the learned Senior Counsel for the 2nd respondent submitted that the time spent in pursuing this writ petition ought to be excluded under Section 14 of the Limitation Act, 1963, to enable the registered proprietor to file a proper application, this Court is of the view that, the registered proprietor having not initiated any proceedings, such exclusion of time cannot be permitted. Nevertheless, it is always open to the Central Government to initiate proceedings under Section 16(1)(a) of the Act, if it so desires, in accordance with law.

In the result, Ext.P1 order in W.P.(C) No. 31973 of 2017 and Ext.P1 order in W.P.(C) No.23427 of 2018 are both quashed.

The writ petitions are allowed.

Sd/-

**BECHU KURIAN THOMAS,
JUDGE**

APPENDIX OF WP(C) NO. 23427 OF 2018**PETITIONER EXHIBITS**

- EXHIBIT P1.** TRUE COPY OF THE IMPUGNED ORDER DATED 28.03.2018 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P2.** TRUE COPY DATED NIL OF THE GENEALOGY OF KANDAMKULATHY FAMILY
- EXHIBIT P3.** TRUE COPY OF THE RECTIFICATION APPLICATION NUMBERED AS TRADEMARK APPLICATION NO. 593035.
- EXHIBIT P4.** TRUE COPY OF THE RECTIFICATION APPLICATION ALONG WITH ITS EXHIBITS FILED BY THE 2ND RESPONDENT COMPANY BEFORE THE 1ST RESPONDENT.
- EXHIBIT P5.** TRUE COPY OF THE COUNTER FILED BY THE PETITIONER COMPANY IN THE RECTIFICATION APPLICATION BEFORE THE 1ST RESPONDENT.
- EXHIBIT P6.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY DIALIV FORTE' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P7.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY KUMKUMA CHANDANADI' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P8.** TRUE COPY F THE ADVARTISEMENT DATED NIL OF THE MEDICINE KANDAMKULATHY ELADI BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P9.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY THENGIN POOKKULADI' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P10.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY KUMKUMADI LEPAM'BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P11.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINIE 'KANDAMKULATHY NEELIKA HARI TONE' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P12.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY



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**BRAHMI RICH' BRANDED UNDER THE 3RD
RESPONDENT FIRM.**

**EXHIBITS P13. TRUE COPY OF THE ADVERTISEMENT DATED
NIL OF THE MEDICINE 'KANDAMKULATHY
BONOCARE BRANDED UNDER THE 3RD
RESPONDENT FIRM.**

APPENDIX OF WP(C) NO. 31973 OF 2017**PETITIONER EXHIBITS**

- EXHIBIT P1.** TRUE COPY OF THE IMPUGNED ORDER DATED 03.07.2017 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P2.** TRUE COPY DATED NIL OF THE GENEALOGY OF KANDAMKULATHY FAMILY.
- EXHIBIT P3.** TRUE COPY OF THE RECTIFICATION APPLICATION NUMBERED AS TRADEMARK APPLICATION NO.293035.
- EXHIBIT P4.** TRUE COPY OF THE RECTIFICATION APPLICATION ALONG WITH ITS EXHIBITS FILED BY THE 2ND RESPONDENT COMPANY BEFORE THE 1ST RESPONDENT.
- EXHIBIT P5.** TRUE COPY OF THE REPLY FILED BY THE PETITIONER COMPANY IN THE RECTIFICATION APPLICATION BEFORE THE 1ST RESPONDENT.
- EXHIBIT P6.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY DIALIV FORTE' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P7.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY KUMKUMA CHANDANADI' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P8.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY ELADI' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P9.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY THENGIN POOKKULADI' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P10.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY KUMKUMADI LEPAM' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P11.** TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY TNEELKA HARI TONE' BRANDED UNDER THE 3RD RESPONDENT FIRM.
- EXHIBIT P12.** TRUE COPY OF THE ADVERTISEMENT DATED



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	NIL OF THE MEDICINE 'KANDAMKULATHY BRAHMI RICH' BRANDED UNDER THE 3RD RESPONDENT FIRM.
EXHIBIT P13.	TRUE COPY OF THE ADVERTISEMENT DATED NIL OF THE MEDICINE 'KANDAMKULATHY BONOCARE' BRANDED UNDER THE 3RD RESPONDENT FIRM.
EXHIBIT P14.	TRUE COPY OF THE PLAINT DATED 12.06.2017 FILED BEFORE THE DISTRICT COURT NUMBERED AS O.S.NO.21 OF 2017.
Exhibit P15	TRUE COPY OF THE EXAMINATION REPORT DT. 11.11.1998 ISSUED BY THE REGISTRAR OF TRADE MARKS
Exhibit P16	TRUE COPY OF THE REPLY DT.25.12.1998 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE REGISTRAR OF TRADE MARKS, CHENNAI
Exhibit P17	TRUE COPY OF THE CIRCULAR/OFFICE MEMORANDUM DATED 09.04.2026 ISSUED BY THE GOVERNMENT OF INDIA
Exhibit P18	TRUE COPY OF OFFICE MEMORANDUM DATED 29.05.2026 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF AAYUSH
Exhibit P19	TRUE COPY OF THE COMMUNICATION DATED 23.07.2026 OF THE DEPUTY DRUGS CONTROLLER AYURVEDA OF THE STATE OF KERALA