2026 (8) KLR 172
High Court of Kerala
K. Natarajan & Johnson John; JJ.
M/s. Hotel Palace Inn v. Town Brethren Assembly, Angamally
WA NO. 771 OF 2026; 17 August, 2026

Foreign Liquor Rules, 1953 - Rule 13(3), Note (1) - Determination of 'Church' status - Interpretation of 'Public Place' and Statutory Purpose.

For determining whether an assembly hall constitutes a "church" under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953, the ownership, possession, or administrative setup of the religious institution is irrelevant. The sole criterion is whether the assembly hall is a public place where prayers are offered by Christians. The term "public place" includes any property accessible to the public, not exclusively public property. Legislative provisions like the distance rule should be interpreted purposively to fulfill the object of the statute—preventing disturbance to religious worship—rather than through a narrow, technical lens. The definition of a "church" in the Rules must be read conjunctively, requiring it to be a place of public prayer for Christians. *[Para 21, 22, 24, 25, 27, 28, 30]*

An appeal challenging a single Judge's order which declared the respondent's (Town Brethren Assembly) hall a "church" under the Foreign Liquor Rules, 1953. The appellants contended that the hall could not be classified as a church because it was not a "public place," citing that participation in holy sacraments was restricted to their own members. They further challenged the maintainability of the writ petition, arguing that the Assembly was not a registered society. The High Court dismissed the appeal, ruling that the status of the Assembly Hall as a "church" is based on its function as a place of worship for Christians, regardless of its administrative or ownership structure. Relying on the principle of purposive interpretation, the Court held that the intent of the distance rule is to protect places of worship from disturbances caused by nearby bars. The Court clarified that "public place" denotes accessibility to the public, not state ownership, and noted that the Brethren Assembly Hall is indeed accessible for prayer by those of the Christian faith. The challenge regarding the maintainability of the petition was rejected as the issue had already attained finality in previous proceedings.

Referred Cases

1. *Gaurav Jain v. Union of India* (1997) 8 SCC 114 = 1998 SCC (Cri) 25.
2. *Chacko v. Mariakutty and others* [1987] KHC 25.

Judgment Dated 10.09.2025 In Wp(C) No.20901 Of 2010 Of High Court Of Kerala

For Appellants / Respondents 6 & 7: Advs. A.Sudhi Vasudevan (Sr. Advocate) & George Sebastian

For Respondents : Advs. T.Sethumadhavan (Sr.Advocate), V.Bovan Cherian Varkey, Wilson Urmese & Saneej E.S. (Government Pleader)

J U D G M E N T

Johnson John, J.

Respondents 6 and 7 in W.P.(C) No. 20910 of 2010 filed this intra court appeal challenging the judgment of the learned single Judge dated 10.09.2025, wherein it was held that the assembly hall of the petitioner is a church as mentioned in Note (1) of the first proviso to Rule 13(3) of the Foreign Liquor Rules, 1953 ('Rules, 1953' for short) and thereby, setting aside Exhibit P37 Government Order that the Brethren Assembly Hall of the petitioner is not a church as defined under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953.

2. Heard Sri. A. Sudhi Vasudevan, the learned Senior Counsel assisted by Sri. George Sebastian for the appellants, Sri. T. Sethumadhavan, the learned Senior Counsel assisted by Sri. V. Bovan Cherian Varkey for the first respondent, Sri. Saneej E.S., the learned Government Pleader for respondents 2 to 6 and Sri. Wilson Urmese, the learned counsel for respondent No.7. For the sake of convenience, the parties are referred to as per the rank mentioned in the writ petition unless otherwise mentioned.

Factual Background:

3. When the petitioner came to know that the 6th respondent is about to start a bar hotel in a building at a distance of about 80 meters from the place of worship and prayers (assembly hall) of the petitioner— Town Brethren Assembly, Angamaly, who are the members of Christian denomination 'Brethren' which is congregational in nature, they filed objections before the Excise Commissioner and the Assistant Excise Commissioner, Ernakulam, stating that running a bar near their place of worship and prayer will be a gross violation of the Rules. Since no action was taken by the concerned authorities, the petitioner approached this Court by filing W.P.(C) No. 12860 of 2008 and the said writ petition was disposed of on 11.04.2008 directing the Secretary, Department of Taxes, to consider the objections. But, the competent authority thereafter closed the matter on the ground that no application for licence from the side of the 6th respondent was pending before the Excise Commissioner.

4. Thereafter, the 6th respondent moved an application seeking licence and the Circle Inspector of Excise recommended that the Brethren Assembly Hall of the petitioner need not be considered as a church. However, the Commissioner of Excise passed an order on 07.12.2008 stating that the Brethren Assembly Hall will fall under the definition of church and thereby, rejected the application of the 6th respondent.

5. Subsequently, the 7th respondent who is the Managing Partner of the 6th respondent— M/s Hotel Palace Inn, filed a revision petition before the Government and the order passed by the Government in revision on 06.10.2009 was challenged by the petitioner in W.P.(C) No. 29167 of 2009 and as per the judgment dated 23.10.2010, the order passed by the first respondent—State of Kerala, in revision was set aside and the first respondent was directed to pass fresh orders after hearing the parties and considering the documents produced.

6. In the meanwhile, the 6th respondent filed a complaint regarding the property tax exemption granted to the petitioner's institution before the 8th respondent Angamaly Municipality and against the order of the Secretary of the Municipality revoking the property tax exemption without notice, the petitioner filed W.P.(C) No. 16025 of 2010 and this court permitted the petitioner to file appropriate objections before the 8th respondent and subsequently, the 8th respondent passed an order on 25.09.2010 confirming the order revoking the property tax exemption.

7. However, the main grievance of the petitioner is against Exhibit P37 Government Order, wherein it is held that the Brethren Assembly Hall is not a church coming within the purview of 'church' as defined under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953.

8. As noticed earlier, the appellants herein are respondents 6 and 7 in the writ petition and their main contention is that the Brethren Assembly Hall is not a church as contemplated under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953 and further, no declaration as sought for in the writ petition can be granted by exercising the jurisdiction under Article 226 of the Constitution of India. It is contended that the Municipality has already revoked the property tax exemption granted to the assembly hall. It is also contended that another bar hotel is functioning within 200 metres from the hall and that a toddy shop is situated within 400 metres and the petitioner has not raised any objection against the said bar hotel and toddy shop.

9. It is further contended that the Brethren Assembly Hall is a place utilized for various purposes by the Brethren mission and it is not an exclusive place used for religious worship and since various authorities, after factual verification, recommended that the hall need not be considered as a church, there is no justifiable grounds to interfere with Exhibit P37 Government Order.

10. The writ petition was earlier disposed of by judgment dated 21.3.2023 and the petitioner filed W.A. No. 1134 of 2023 against the said judgment dated 21.03.2023. W.A. No. 1134 of 2023 was disposed of by judgment dated 17.08.2023 by observing that the learned single Judge ought to have considered the issue whether the writ petitioner is a church as understood in Rule 13(3) of the Rules, 1953 on merits and the matter was remitted to the learned single Judge with a specific direction that the question whether the assembly hall of the writ petitioner is a church as mentioned in Note (1) of the first proviso to Rule 13(3) of the Rules, 1953, ought to be decided on merits, inasmuch as the 6th respondent's entitlement for licence is dependant on the answer to the said question. Subsequently, the learned single Judge heard both sides and passed the impugned judgment dated 10.09.2025.

<u>Arguments A dvanced:-</u>

11. The learned Senior counsel for the appellants herein (respondents 6 and 7 in the writ petition) argued that the question whether the Brethren Assembly Hall is a church or not, cannot be decided without adverting to the disputed questions of fact and therefore, the same cannot be decided in the affirmative in a writ proceedings. It is also argued that the basic requirements to satisfy the definition of 'church' as per Note (1) of the first proviso to Rule 13 (3) of the Rules are that the place in question should be a public place and that it must be a place where prayer is offered by Christians.

12. It is also pointed out that in the reply affidavit filed by the writ petitioner to the counter affidavit filed by the 6th respondent, it is stated that anyone following Christian faith can attend the worship and prayers; but, in order to take part in the holy sacrament, they must follow the believes of the Brethren Christians and therefore, it cannot be held that the Brethren Assembly Hall is a public place. It is argued that the evidence on record is wholly insufficient to conclude that the Brethren Assembly Hall is a public place in order to satisfy the essential ingredients of the definition of 'church' under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953.

13. The learned counsel for the appellants also challenged the maintainability of the writ petition contending that the Town Brethren Assembly, Angamaly, is not a registered society and that the petitioner has not produced the byelaws or the Constitution of the Brethren Assembly and therefore, they have no *locus standi* to represent the Town Brethren Assembly, Angamaly.

14. The learned Senior counsel for the first respondent (writ petitioner) argued that Brethren Assembly Hall is a place of worship for the members of the Christian denomination 'Brethren' and that apart from worship, Sunday school, prayers, Bible study and separate prayer meetings for women and men are held in the assembly hall and therefore, the assembly hall is a place of religious worship within the purview of Note (1) of the first proviso to Rule 13(3) of the Rules, 1953. The learned Senior counsel for the first respondent also pointed out that as per order dated 28.11.2025 of the Secretary, Angamaly Municipality, the property tax exemption granted to the assembly hall is restored by including the property in the category as a place to worship.

15. It is also argued that in the absence of any appeal, the judgment in W.A. No. 1134 of 2023 dated 06.07.2023 has attained finality and therefore, the appellants herein cannot now challenge the findings recorded in the said judgment that the question whether the assembly hall is a church as mentioned in Note (1) of the first proviso to Rule 13(3) of the Rules, 1953, is to be decided on merits and that the learned single judge has decided the question on merits strictly in compliance with the directions in the judgment of the Division Bench in W.A. No. 1134 of 2023.

16. The points that arise for determination in this appeal are the following:

1. Whether the assembly hall of the Town Brethren Assembly, Angamaly, is a church as mentioned in Note (1) of the first proviso to Rule 13(3) of the Rules, 1953?

2. Whether the contentions of the appellants challenging the maintainability of the writ petition is legally sustainable?

<u>Point No.1:</u>

17. Rule 13(3) of the Rules, 1953 is extracted below for convenient reference:

"13(3). **Foreign Liquor 3 Hotel (Restaurant) license**.- License in this form may be issued by the Excise Commissioner under orders of Government, in the interest of promotion of tourism in the State, to hotels which have obtained [three star, four star, five star, five star deluxe, heritage, heritage grand or heritage classic classification from the Ministry of Tourism, Government of India, where the privilege of sale of foreign liquor in such hotels have been purchased on payment of an annual rental of [Rs.35,00,000 (Thirty Five Lakhs only)]]. [However, no such licence shall be issued to hotels having three star classification if located within 200 (Two Hundred) metres and to hotels having four star, five star, five star deluxe and heritage classification if located within 50 (Fifty) metres from any educational institution, temple, church, mosque, burial ground or scheduled caste/scheduled tribe colony]. The applicant shall produce from the Abkari Workers' Welfare Fund Inspector, a Certificate to the effect that he has remitted before the date of application for the license, the arrears of contributions if any payable up to the 31st day of December of the preceding year.

[xxxx]

[xxxx]

[xxxx]

The licensee shall purchase his supplies of Foreign Liquor only from such FL9 Licensees in the State as may be permitted by the Excise Commissioner:

Provided that where the Commissioner is satisfied that the conditions specified in this sub-rule are not capable of being imposed on restaurants situated in airports, railway stations and such other places he may, with the previous sanction of Government, relax any of the said conditions or impose any new conditions.

Note.-(1) "Church" means a public place where prayer is offered by Christians. “Educational Institutions" means schools or colleges under the control of the State Education Department or Central Board of Education and which has been duly recognised by the Government. "Mosque" means public place where prayer is offered by Muslims. "Temple" means a place of public and religious worship by Hindus where deity is installed under a building and includes a mutt also:

Provided that any structure on the road side pavement or in a compound of a private building with or without deity shall not be considered as a Temple, Church, Mosque:

Provided further that if any Educational Institution/Temple/Church/Mosque or Burial Ground comes into existence subsequent to the grant of licence it shall not disentitle such bar attached hotels for continuance.]

Note:(2) In calculating the distance the basis will be shortest pathway/lane street/road generally used by the public [and the same will be measured from gate to gate.]

Provided also that such bar licences, having disputes on distance rules and shifting outside Municipal Corporation area, including those of Approved Restaurants, existing as on 1st April, 2004 shall be regularized:

[x x x x]

Provided also that the licences of any bar hotel that remain defunct for more than [ten months] either during the period of validity of the licence or after its expiry, shall not be renewed:]

Provided also that in the case of hotels which had FL3 licence as on 31st March, 2014 and having valid three star, four star, five star, five star deluxe, heritage, heritage grand or heritage classic classification from the Ministry of Tourism, Government of India, the FL3 license held by such hotels shall be renewed.]”

18. As per Note (1), ‘church’ means a public place where prayer is offered by Christians. The learned counsel for the appellants argued that from the reply affidavit filed by the writ petitioner to the counter affidavit of the 6th respondent in the writ petition, it can be seen that only Brethren Christians can take part in the holy sacraments and therefore, it cannot be said that the assembly hall is a public place. But, the learned counsel for the first respondent pointed out that it is clearly stated in the reply affidavit that anyone following Christian faith can attend the worship and prayer and therefore, entry of the public to the assembly hall to attend the worship and prayers is not restricted and that as in the case of any other churches, anyone following Christian faith can attend the worship and prayers in the Brethren Assembly Hall.

19. It is also pointed out that the appellants herein have no case that the Brethren Assembly is not a Christian religious congregation and further, the fact that the members of Brethren Assembly are using the assembly hall for offering prayer, is also not disputed and in that circumstance, there is no reason to interfere with the conclusion reached by the learned single Judge in the impugned judgment.

20. The contention of the appellants regarding the existence of another bar hotel and a toddy shop within the prohibited distance from the Brethren Assembly Hall and that the petitioner has not filed any complaint against the said bar hotel and the toddy shop, cannot be considered as relevant for the purpose of deciding the question whether the Brethren Assembly Hall of the petitioner is a church or not. Further, the appellants cannot base their claim for licence on the ground of parity by taking such a contention.

21. It is well settled that a statutory provision is to be interpreted with respect to the object and purpose the legislature had in view, in enacting the provision and the context of the setting in which it occurred. It is also well settled that if due to a plain reading of the statute, any doubt or difficulty arises, or the objects and purpose of the statute might get defeated or frustrated, the courts can interpret, with regard to the objects sought to be achieved.

22. The rule of purposive interpretation of statutes permits the reading of a provision consistent with the object and purpose of the Act. It cannot be disputed that the object in bringing about the distance rule is to keep away bar hotels from certain places so as to avoid disturbance to religious prayers and educational institutions.

23. The various provisions of the Abkari Act and the Rules, 1953 shows that manufacture, production, transport, sale and consumption of liquor are controlled and regulated. Section 13 of the Abkari Act limits the quantity of liquor a person can possess and Section 15 prohibits sale of liquor without licence. Section 15C prohibits consumption of liquor in public places and as per explanation I of Section 15C, ‘public place’ means any street, court, police station or other public office or any club or any place of public amusement or resort or on board any passenger boat or vessel or any public passenger or goods vehicle or a dining or refreshment room in a restaurant, hotel, rest-house, travellers' bungalow or tourists' bungalow, where different individuals or groups of persons consume food, but shall not include any private residential room.

24. The Honourable Supreme Court in ***Gaurav Jain v Union of India*** [(1997) 8 SCC 114=1998 SCC (Cri) 25], while interpreting the provisions of the Immoral Traffic (Prevention) Act 1956, held that ‘public place’ means any place intended for use by, or accessible to the public and includes any public conveyance. It is not necessary that it must be public property. Even if it is a private property, it is sufficient that the place is accessible to the public.

25. In ***Chacko v. Mariakutty and others*** [1987 KHC 25], a Division Bench of this Court, while considering the definition of ‘public place’ as per the provisions of the Motor Vehicles Act held that any place where the public have got a right to access constitutes public place.

26. Note (1) of the first proviso to Rule 13(3) of the Rules, 1953 provides that church means a public place where prayer is offered by Christians. The learned counsel for the appellants contended that two conditions are required to be satisfied and that it is to be first established that it is a public place and then it is to be established that prayer is offered by Christians in the said public place before arriving at a conclusion that the assembly hall of the writ petitioner is a church as contemplated under Note (1) of the first proviso to Rule 13(3) of the Rules, 1953.

27. The words ‘where prayer is offered by Christians’ in the latter part of the Note qualifies the word ‘public place’ in the first part and therefore, Note (1) of the first proviso to Rule

13(3) of the Rules, 1953 can only be read conjunctively and not disjunctively as contended by the learned counsel for the appellants.

28. The learned counsel for the first respondent/writ petitioner pointed out that the specific contention of the writ petitioner is that the Brethren Assembly Hall is a place of worship of the Christian congregation 'Brethren' distinguished from episcopal Christian churches and that apart from worship, sunday school prayers and bible study and prayer meetings are held in the assembly hall and the fact that the Brethren Assembly is a Christian religious congregation and that the members of the said Christian religious congregation are offering prayers in the assembly hall as a place of religious worship, is not seriously disputed by the appellants and therefore, we find no reason to disagree with the findings in the impugned judgment of the learned single judge that the assembly hall of the Angamaly Town Brethren Assembly, where prayer is offered by Christians belonging to Brethren denomination, is a church for the purpose of Rule 13(3) of the Rules, 1953 framed under the Kerala Abkari Act.

Point No.2:

29. The learned counsel for the appellants also contended that the Town Brethren Assembly, Angamaly is not a registered society and the petitioner has not produced the byelaws or constitution of the Town Brethren Assembly and therefore, the petitioner has no *locus standi* to represent the Town Brethren Assembly. But, the learned counsel for the first respondent/writ petitioner contended that the appellants herein cannot raise such a contention at this stage, in as much as they have not challenged the judgment of the Division Bench in W.A. No. 1134 of 2023, wherein the Division Bench has specifically directed the learned single Judge to consider the issue whether the assembly hall of the appellants is a church as mentioned in Note (1) of the first proviso to Rule 13(3) of the Rules, 1953 on merits and the appellants herein has not challenged the said judgment of the Division Bench in appeal and therefore, the same has attained finality.

30. As noticed earlier, the fact that the petitioner, the Town Brethren Assembly is a Christian congregation and that they are offering prayers in the Town Assembly Hall, is not disputed and therefore, we find that for the purpose of deciding as to whether the assembly hall is a church for the purpose of Note (1) of the first proviso to Rule 13(3) of the Rules, 1953, it is not necessary to prove the ownership or possession or the administrative set up of the said Brethren Assembly and the only question is whether the assembly hall is a public place where prayer is offered by Christians and there is satisfactory material to arrive at a conclusion that the assembly hall is a public place where prayer is offered by Christians belonging to Brethren denomination.

31. The appellants herein were respondents in W.A. No. 1134 of 2023 and the judgment in that case has already attained finality and therefore, we find no reason to disagree with the finding of the learned single Judge in this regard and we also find that the challenge raised by the appellants against the maintainability of the writ petition is devoid of merit and therefore, the points are answered against the appellants and hence, this writ appeal is liable to be dismissed.

In the result, this writ appeal is dismissed. No costs.

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