

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE

Friday, the 8th day of March 2019/17th Phalgun, 1940

IA.1/2019 IN REA No.110/2019

OS No.21/2013 of the I ADDITIONAL DISTRICT COURT, ERNAKULAM

PETITIONER/APPELLANT

1. FR.ISSAC MATTAMMEL COR-EPISCOPIA, AGED 67 YEARS,
S/O MATHAI, RESIDING AT MATTAMMEL HOUSE, MULAMTHURUTHY P.O, KANAYANNUR
TALUK, ERNAKULAM DISTRICT, VICAR, ST.MARY'S ORTHODOX SYRIAN CHURCH,
KANDANAD.
2. V.K.GEORGE, AGED 77, S/O V.C. KURIAKOSE, VAISYAMPARAMBIL HOUSE,
KANDANADU P.O. ERNAKULAM DIST.
3. SALU DAVID, AGED 63,
S/O DAVID, MATTAMMEL HOUSE, KANDANADU P.O., ERNAKULAM DISTRICT NOW
RESIDING AT MATTAMMEL HOUSE, ERUVELI, CHOTTANIKKARA P.O., ERNAKULAM
DISTRICT.

RESPONDENTS/RESPONDENTS

1. ST.MARYS ORTHODOX SYRIAN CHURCH,
KANDANADU, REPRESENTED BY ITS TRUSTEE, PIN - 682 305.
2. FR.JOHN PUNNCHALIL, AGED 66, S/O. LATE VARGHESE, RESIDING AT PUNNAVELIL
HOUSE, KANDANADU, MANAKUNNAM VILLAGE, KANDANADU DESOM, KANAYANNUR
TALUK, ERNAKULAM DISTRICT. PIN - 682 305.
3. THAMPU GEORGE, AGED 50, S/O T.V.GEORGE, RESIDING AT PULIYATTUTHUKALAN,
MULAMTHURUTHY DESOM, MULAMTHURUTHY VILLAGE, KANAYANNUR TALUK, ERNAKULAM
DISTRICT. PIN - 682 314.
4. K.C.SABU, AGED 46 YEARS
S/O CHACKO, KATTADIYIL HOUSE, KUREEKKAD DESOM, KUREEKKAD VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT. PIN - 682 305.
5. WILSON PAULOSE, S/O. PAULOSE, AGED 46 YEARS,
NEDUMPURATHUKUDILIL HOUSE, KUREEKKAD DESOM, KUREEKKAD VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT PIN- 682 308.
6. JOY KURIAN,
(FATHER'S NAME AND AGE NOT KNOWN) TO THE APPELLANT RECEIVER, ST. MARY'S
ORTHODOX SYRIAN CHURCH, KANDANAD RESIDING AT BLESSY VILLAYIL,
MALLAPPALLY P.O., MALLAPPALLY, KOTTAYAM DIST. PIN - 689 585.

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Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to restrain respondents 2 or any other Vicar/Priests/prelates, who are not appointed under 1934 Constitution from conducting any religious services in the 1st respondent Church or its institutions, chapels and cemetery scheduled in the plaint and further restrain the respondents 2 to 5 their men or agents or anybody claiming under them from causing any obstructions to the 1st plaintiff/1st appellant or any other Vicar/Priests/Prelates appointed under 1934 Constitution from conducting religious services in the 1st respondent Church and its institutions pending disposal of the Appeal.

This application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of SRI.S.SREEKUMAR (SENIOR) along with M/S.P.MARTIN JOSE, PRIJITH P., GITHESH R., THOMAS P.KURUVILLA, AJAY BEN JOSE, ^{SACHIN JACOB AMBAT} and MANJUNATH MENON Advocates for the petitioners and of SRI. K.J.KURIACHAN, Advocate for R4 and R5, the court passed the following:

p.t.o

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Dated this the 8th day of March, 2019

ORDER

Heard the learned Senior counsel for the petitioners and learned counsel appearing for the contesting respondents 4 and 5. Issue notice by special messenger to other respondents in the appeal.

2. Prayer in the petition reads as follows :

“ For the reasons stated in the accompanying affidavit, it is respectfully prayed that this Hon'ble court may be pleased to restrain respondents 2 or any other Vicar/Priests/Prelates, who are not appointed under 1934 Constitution from conducting any religious services in the 1st respondent Church or its institutions, chapels and cemetery scheduled in the plaint and further

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restrain the respondents 2 to 5, their men or agents or anybody claiming under them from causing any obstructions to the 1st plaintiff/1st appellant or any other Vicar/Priests/Prelates appointed under 1934 Constitution from conducting religious services in the 1st respondent Church and its institutions pending disposal of the Appeal.”

3. It is submitted by the learned Senior counsel that prayers in the church hither to have been done by each faction of the Malankara Church in turns. It is also submitted by the learned Senior counsel that in view of the decision in *K.S. Varghese v. St. Peters and Pauls Syrian Orthodox Church (2017 (3) K.L.T 261 (S.C))*, no parallel service can be allowed in the church and therefore it is asserted by the appellants that they are the only persons entitled to conduct religious services in the church as they are doing it in accordance with 1934 Malankara Church Constitution.

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4. According to the learned counsel for the contesting respondents, till 4.00 p.m on 09-03-2019 (Saturday), it is the turn of the appellants' faction to conduct the religious services and thereafter for the next week it is the turn of the contesting respondents (patriarch faction).

This arrangement was continuing in the Church for a long time as the church was in custodia legis.

5. Learned counsel for the respondents prays a short time for filing counter statement to the application and for presenting his arguments. Till then, this arrangement may be continued is the submission.

Having regard to the facts and circumstances, the arrangement shall continue for a period of three weeks from today.

Post the case after 15 days.

TRUE COPY


8/3/19

ASSISTANT REGISTRAR


8/3/19