

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 31ST DAY OF JANUARY 2020 / 11TH MAGHA, 1941

FAO.No.16 OF 2020

AGAINST THE ORDER IN I.A.NO.622/2019 IN OS 3/2018 DATED 05-08-2019 OF
ADDITIONAL DISTRICT COURT NORTH PARAVUR

APPELLANTS/RESPONDENT NO.6/DEFENDANT NO.3:

K.C.BENNY
AGED 54 YEARS
S/O. CHACKO, MANNAPPILLI VEETIL, NEAR KURISUPALLI,
PERUMBAVOOR P.O, VATTAKKATTUPADY KARA, PERUMBAVOOR VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT PIN 683542

BY ADVS.
SRI.MATHEW KURIAKOSE
SRI.K.C.BIJU

RESPONDENTS/PETITIONER AND RESPONDENT NOS.1, TO 5 & 7 TO 9/PLAINTIFFS AND
DEFENDANTS NO.1,2 & 4 TO 7:

- 1 BATHEL SULO KO ORTHODOX SYRIAN CHURCH
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE, REPRESENTED BY VICAR
FR. ELDHO KURIAKOSE, AGED 38 YEARS, S/O.
KURIAKOSE, PADINJAREKKUDY, NEAR MANJINADU BRIDGE, NELLADU KARA,
NELLADU P.O, MAZHUVANNUR VILLAGE, KUNNATHUNADU TALUK 686 669
- 2 C.M BABY,
S/O. MATHAI, CHEMBAKASSERY POIKATTIL, NEAR AIMURY JUNCTION,
AIMURY EAST P.O, AIMURY KARA, KOOVAPPADY VILLAGE,
KUNNATHUNADU TALUK, 68 3542
- 3 SEEJI GEORGE,
S/O. GEORGE, CHILAMBIKKODAN HOUSE, NEAR VILAVATH TEMPLE,
PERUMBAVOOR P.O, IRINGOLE KARA, PERUMBAVOOR VILLAGE 683542
- 4 JOY VARGHESE,
S/O. VARGHESE, MOOLEKUDY NEAR, KUNNATHUSSERY TEMPLE,
VALAYANCHIRANGARA P.O, PULLUVAZHY KARA, RAYAMANGALAM VILLAGE
683556
- 5 AJI PAUL,
S/O. PAULOSE. PATHIKKAL, NEAR JAYAKERALAM SCHOOL, PULLUVAZHY
P.O, PULLUVAZHY KARA, RAYAMANGALAM VILLAGE 683541
- 6 M.P BABY,
S/O. PAIY, MUNDAKKAL, NEAR MARYLAND, INDUSTRIES, IRINGOLE
P.O, IRINGOLE KARA, PERUMBAVOOR VILLAGE 683545
- 7 BINU PAUL,
S/O. M.A PAUL, MANJOR VEETIL, NEAR GRACE BUILDING,
KOOVAPPADY P.O, AIMURI KARA, KOOVAPPADY P.O, AIMURI KARA,

KOOVAPPADY VILLAGE 683545

- 8 SAJI JOSEPH,
S/O. JOSEPH, PARVELIKKUDY HOUSE, NEAR K.S.R.T.C GUARAGE,
PERUMBAVOOR P.O, THOTTUNGAL LANE, PERUMBAVOOR KARA,
PERUMBAVOOR VILLAGE 683542
- 9 FR. SAJI JOB,
S/O. JACOB, MUNDAKKAL HOUSE, NEAR GOVERNMENT HOSPITAL,
AIRAPURAM P.O, AIRAPURAM KARA, MAZHUVANNOOR VILLAGE 683542

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON
31.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The 3rd defendant in O.S.No.3/2018 has filed this appeal against the order issued by the Additional District Court, Paravoor, in I.A.No.622/2019 in O.S.No.3/2018.

2. The appellant says that the Suit in question had been filed by the plaintiffs, who are respondents 2 to 5 herein, essentially seeking that the "Bathel Suloko Orthodox Syrian Church" is to be governed only by the 1934 Constitution of the Malankara Orthodox Syrian Church, of which it is a constituent and also for certain consequential reliefs.

3. The appellant alleges that the Court below, without considering his contention that the Suit is not maintainable, has now issued the impugned order appointing and authorizing a Receiver to be in charge of the Church. He asserts that the Church in question is not a constituent of the Malankara Orthodox Syrian Church and that it belongs to the faction to which he belongs and therefore, that no Receiver could have even been appointed, even before the preliminary issue of jurisdiction of the Court below had not been considered. He thus prays that the impugned order be set aside.

4. I have heard Sri.Mathew Kuriakose, learned counsel appearing for the appellant.

5. Sri.Mathew Kuriakose made submissions in tune with the

afore assertions of the appellant, adding that the Church in question has been in the possession of the Jacobite faction for the last several decades and that the plaintiffs cannot be allowed any right over it, through the medium of a civil litigation instituted with a prayer that the Church should be governed by the 1934 Constitution. He says that this is clearly an attempt by the Orthodox faction to take control over the Church and that the court below, by issuing the impugned order, has allowed the Receiver to take charge over it, thus virtually allowing the suit. He, therefore, reiteratingly prays that this appeal be allowed.

6. Even when I hear Sri.Mathew Kuriakose on the afore lines, the fact remains that with respect to the Churches under the Malankara Orthodox Syrian Church, the Hon'ble Supreme Court has already declared emphatically, through the judgments in **P.M.A.Metropolitan v. Moran Mar Marthoma [AIR 1995 SC 2001]** and **Varghese v. St.Peter's & Paul's Syrian Orthodox Church [2017 (3) KLT 261 (SC)]**, that they will be governed and managed only under the 1934 Constitution. Whether the Church is a constituent of the Malankara Church or otherwise are issues that cannot be considered by me at this stage since these are the primary issues to be decided by the Court below.

7. Therefore, the only question before me is whether the

Court below has erred in any manner in having appointed a Receiver, which has the effect of divesting both sides of the management of the Church temporarily, pending an adjudication of the issues in the Suit. I am afraid that I cannot, find the contentions of Sri.Mathew Kuriakose to be tenable in any manner because, according to me, this is the best way forward that the Court could have adopted, particularly when it has been emphatically declared by the Hon'ble Supreme Court as afore with respect to the Churches which are constituents of the Malankara Orthodox Syrian Church.

8. I, consequently, cannot find any reason to intervene or to interdict the order now impugned before me and therefore, dismiss this FAO at the threshold.

In the nature of the factual circumstances noticed herein, I make no order as to costs.

SD/-

DEVAN RAMACHANDRAN

JUDGE

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