

IN THE COURT OF THE DISTRICT JUDGE, ERNAKULAM
Present: -Sri. Biju Menon K., B.A.(Law), LL.B. I Addl. District Judge
Wednesday, the 4th day of September, 2019/13th Bhadra 1941

I.A. 4734/2019 in O.S.No. 17/2016

Petitioners/ Addl. 12th Defendant sought to be impleaded

Peter N. Chacko, S/o. N.K. Chacko, aged 60 years, Nedumattathil house, Chethikode P.O., Kanjiramattom, Ernakulam.

By Advs . Biju Abraham & Isha B. Thomas.

Respondents/Plaintiffs & Defendants 1 to 11

- 1.** P.J.Paulose, S/o. John, aged 58 years, Puthuppillil House, Kanjiramattom.P.O., Amballur village,Ernakulam District.
- 2.** Dianatius Cherian, S/o. Cherian, aged 39 years, Pathanimattathu House, Kanjiramattom P.O., Amballoor village, Kanjiramattom Taluk, Ernakulam District.
- 3.** St.Ignatius Church Kanjiramattom, Amballur village, Kanjiramattom Taluk, Ernakulam District, represented by its Vicar Very Rev. Fr.Mathew Pulimoottil Cor Episcopa.
- 4.** Very Rev.Fr. Mathew Pulimoottil, Cor Episcopa Vicar, aged 93 years, S/o. Puravath, St.Ignatius Church Kanjiramattom, residing at Pulimoottil House, Kanjiramattom.
- 5.** Fr.C.I.John, aged 76 years, S/o. Ittira, Chathoth House, Kanjiramattom P.O., Amballoor village, Kanjiramattom Taluk, Ernakulam District.(died)
- 6.** P.J.Markose, aged 63 years, S/o. Ulahannan, palakkunnel house, Kanjiramattom P.O., Amballoor village, Kanjiramattom Taluk, Ernakulam District.

7. Varkey Varkey, aged 59 years, S/o. Varkey, Chathanattu, Perumbilly P.O., Mulamthuruthy village, Ernakulam (died)
8. George Varghese, aged 55 years, Pandiyamyalil House, Kanjiramattom P.O., Amballoor village, Kanjiramattom Taluk, Ernakulam District.
9. M T issac, aged 73 years, S/o. Thomas, Mulamkizhiyil House, Kanjiramattom P.O., Amballoor village, Kanjiramattom Taluk, Ernakulam District.
10. M.K.George, aged 75 years, S/o. Kuriakose, Vazhakkalayil house, Chethikode P.O., Edakkattuvayal village, Kanjiramattom Taluk, Ernakulam District.
11. Fr. Joshy Mathew, Chitteth, S/o. Mathew, aged 45 years, Chitteth house, Kulayattikara P.O., Kanjiramattom -682315.
12. Madhu K. Joseph, S/o. Joseph Kurian, aged 54 years, Kaniyamparambil house, Mariathazham P.O, Kanjiramattom
13. Shibi E.C. S/o. Chacko, aged 44 years, Edampadath house, Kanjiramattom , Amballur village, Kanayannur Taluk, Ernakulam District.

R1 by Adv. N.M. Haridas

R2 by Adv. Paul Kuriakose K. & Anish K.A.

R3 and R4 by Adv. M/s. Martin P. Jose, Eldho cherian
& Hani P.Nair.

R6 to 11 by Adv. K.J. Kuriachan.

R12 by Adv. P.S.Sidharthan & V.V. Sadanandan..

R13 by Adv. Saji Varghese.

This Petition filed under Order 1 Rule 10(2) Read With Section 151 of CPC

This petition came up for hearing on 4-9-2019 and the court on this day passed the following:-

ORDER

The suit is filed by two parishioners of St. Ignatious Orthodox Syrian Church, Kanjiramattom for reliefs related to the administration and management of the church and its properties scheduled to the plaint. According to the plaintiffs, the church is a constituent of Malankara Saba liable to be governed under its 1934 Constitution. It is alleged that the contesting defendants who belong to the rival patriarch faction are not permitting the affairs of the church to be carried on in accordance with the said Constitution. Hence, the suit seeking the following reliefs:

- A. A mandatory injunction removing defendants 3 to 5 and all those persons who claim to be their successors in office and are not elected in accordance with the Malankara Sabha Constitution of 1934 from the posts of Vicar, stewards/trustees respectively of the 1st defendant-church;
- B. A mandatory injunction removing the 6th defendant and all those persons who claim to be his successors in office and are not elected in accordance with the Malankara Sabha Constitution of 1934 and the approved Constitution of the St. Ignatius School from the post of

the Manager of St. Ignatius School belonging to the 1st defendant-church;

- C. A permanent prohibitory injunction restraining defendants 3 to 5 or their agents, servants, supporters, their henchmen and all those persons who claim to be their successors in office and are not elected in accordance with the Malankara Sabha Constitution of 1934 from functioning and discharging the duties as the Vicar, stewards/trustees respectively of the 1st defendant-church and from interfering in any manner with the lawful administration of the 1st defendant-church and the management of its assets, in accordance with the Malankara Sabha Constitution of 1934.
- D. A permanent prohibitory injunction restraining defendants 3 to 8, their agents, servants, supporters and their henchmen from causing any obstruction to the plaintiffs, their supporters who are parishioners of the 1st defendant-church, the 2nd defendant and his successors-in-office, Bishops, prelates and other functionaries under the Malankara Sabha Constitution of 1934 from conducting and attending to religious sacraments and any other functions in the 1st defendant-church, its institutions, its cemetery, and its other buildings and properties.
- E. A permanent prohibitory injunction restraining defendants 3 to 8, their agents, servants, supporters and their henchmen from inducting or allowing entry into the 1st defendant-church, its institutions, its cemetery, and its other buildings and properties for any purpose whatsoever, of any priest, high priest, Bishop or Metropolitan who is not appointed under 1934

Constitution.

- F. A mandatory injunction directing the defendants 3 to 5 to hand over, the administration of the 1st defendant-church and other buildings together with all the movable properties and all the records retained by them belonging to the 1st defendant-church including the accounts containing the incomes and expenditure of the 1st defendant-church to the 2nd defendant or his successor-in-office and the Managing Committee of the 1st defendant-church elected in accordance with the Malankara Sabha Constitution of 1934.
- G. A mandatory injunction directing the defendants 3 to 5 and all those persons who claim to be their successors in office to account for the income received by them from the 1st defendant-church
- H. A declaration that only those parishioners who abide by the clause 4 and 7 of 1934 Constitution and confess before the Vicar or priest appointed under 1934 Constitution alone are entitled to participate in the Parish Assembly of the 1st defendant-church;
- I. Allowing such other reliefs as may be prayed for and deemed fit by this court.
- J. Awarding the costs of the suit.

There is a dispute regarding the managership of the school and prayer B is for a mandatory injunction to remove D6 from the post. The case of the plaintiffs is that the administration of the school can only be in accordance with the 1934 constitution. The learned counsel appearing for the plaintiffs argued that his client is the person elected as Manager under the 1934 Constitution and a request to accept him as the Manager

was accepted from the Education Department. But proceedings pursuant thereto was stand stayed by Hon'ble High Court of Kerala in WP(C)No.2719/2016. The learned counsel appearing for the contesting defendants argued that in the written statement filed by his clients, the application of the 1934 Constitution to the plaint church is not disputed and there is absolutely no reason for including the petitioner in the party array. As stated, the petitioner is a person who claims eligibility to become the Manager based on the 1934 Constitution. I find no reason for denying him permission to take part in the proceedings as a party. In other words, his presence is necessary for a complete adjudication of the dispute involved in the case. The petition is only to be allowed.

The petition is allowed and the petitioner is impleaded as the addl.12th defendant. The office shall carry out necessary amendments to the cause title of the plaint without delay. The parties shall bear their respective costs in the petition.

Dictated to the Confidential Asst. in open court transcribed and typed by her, corrected and pronounced by me on this the 04th day of September 2019.

Biju Menon K.,
I Addl. District judge.

Appendix:- Nil

I Addl. District judge.

I.A.No.4734 of 2019 in
O.S.No.17 of 2016
O R D E R
Dated:04.09.2019