

IN THE COURT OF THE SUB JUDGE, MUVATTUPUZHA

Present:- Sri. Aravind B. Edayodi, Sub Judge
 Tuesday, the 20th day of February 2024/01st Phalguna 1945

I.A. 13/2024 in A.S. 30/2023**Applicant/Appellant:-**

Fr. Thomas Paul Ramban, aged 46 years, S/o Late Paulose and residing at Maracheril House, Kuthukuzhi Kara, Kothamangalam Village, Kothamangalam Taluk.

By Advs. A C Thomas Adhikaram & Bindhu Azeez

Respondents/Respondents:-

1. Marthoman Cheriya Palli, Kothamangalam Kara, Kothamangalam Village, Kothamangalam Taluk, represented by its Trustee Sri. K.V. James, aged about 61 years, S/o Varkey, Kattanganal House, Thankalam Kara, Thrikkariyoor Village, Kothamangalam Taluk-PIN-686691.
2. Fr. Biju Varkey, aged about 42 years, S/o Varkey, Korattiyil House, Mudavoor Kara, Velloorkunnam Village, Muvattupuzha Taluk. PIN-686673.
3. Fr. Moncy. N. Abraham, aged about 54 years, S/o Abraham and residing at Niravathukandathil House, Nellimattom Kara, Kuttamangalam Village, Kothamangalam Taluk-PIN-686693.
4. Fr. Geevarghese. M.T, aged about 54 years, S/o Thomas and residing at Mannarambil House, Aazhakom Kara, Mukkannoor Village, Aluva Taluk- PIN-683577.
5. Fr. Basil. K. Philip, aged about 39 years, S/o Philip and residing at Kottickal House, Padikkappu Kara, Mannamkandom Village, Devikulam Taluk-PIN-685561.
6. Fr. Bibin. C.U, aged about 37 years, S/o Ulahannan and residing at Cherukunnel House, Thekkenmarady Kara, Marady Village, Muvattupuzha Taluk-PIN-686673.
7. Salim Cherian, aged about 62 years, S/o Cherian and residing at Maliyil House, Ilavanadu Kara, Kothamangalam Village, Kothamangalam Taluk-PIN-686691.
8. Johnson Kuriakose, aged about 52 years, S/o Kuriakose and residing at Thekkilakkattu House, Kozhipilly Kara, Varapetty Village, Kothamangalam Taluk-PIN-686691.
9. M.M. Abraham, aged about 58 years, S/o Mathew and residing at Maliyil House, Elambra Kara, Iramalloor Village, Kothamangalam Taluk-PIN-686691.
10. Charly Mathew, aged about 49 years, S/o Mathew and residing at Putheeckal House, Elambra Kara, Iramalloor, Kothamangalam Taluk-PIN-686691.

11. Thomas Binoy aged about 28 years, S/o Binoy and residing at Mannamcheriyil House, Nadukani Kara, Keerampara Village, Kothamangalam Taluk-PIN-686691.
12. M. K. Biju aged about 54 years, S/o Kuriakose and residing at Maleyalil House, Elambra Kara, Thrikariyoor Village, Kothamangalam Taluk- PIN-686691.
13. Sosamma Kuriakose aged about 61 years, W/o Kuriakose and residing at Mannapparambil House, Venduvazhi Kara, Karukadaom, Kothamangalam Taluk- PIN-686691.
14. Basil George aged about 29 years, S/o V. V. George and residing at Vadakkechalil House, Ayakadu Kara, Thrikariyoor Village, Kothamangalam Taluk-PIN- 686691.

R1	By Adv. Saji Mathew
R10, 11	By Advs. Peter K Alias & Sabu John
R12-14	By Advs. Philip P J & Korah Joy
R2, 7,8	By Adv. Gigi Peter
R3-6	By Adv. M Jayalal
R9	No vakalath

This petition is filed under Order 1 Rule VIII of the C.P.C 1908 to permit the applicant/appellant to file appeal on behalf of all persons having same interest in the suit. The petition coming on for final hearing on 19.02.2024 and the court on this day passed the following:-

ORDER

This is a petition filed by the appellant under Order 1 Rule 8 of the Code of Civil Procedure for permitting the appellant to file appeal on behalf of all persons having same interest in the suit as provided under Order 1 Rule 8 of Code of Civil Procedure.

2. The respondent 12 to 14 filed objection stating that the averments in contrary to para 16 of the plaint viz., “16. Since parishioners of the 1st defendant church are innumerable it is impossible and impracticable to implead all those persons in the suit. The defendants 2 to 9 are impleaded in the representative capacity representing all those persons who are interested and those who are opposing the reliefs sought for in the suit and the plaintiff has filed an application under Order 1 Rule 8 C.P.C for obtaining permission to file an application under Order 1 Rule 8 C.P.C for obtaining permission to sue”. Hence petition is liable to be dismissed.

3. The remaining respondents did not file objection.
4. No oral or documentary evidence adduced from either side.
5. Heard both sides.
6. Now the point that arose for consideration is:
 1. Is the petitioner entitled to an order as that sought for?

7. The petition filed for proceeding the suit in a representative capacity on behalf of all person having the same interest in the suit. Just because that defendants 2 to 9 were impleaded in representative capacity, this application could not be considered as contradictory with the pleading, as proceeding the appeal, provided as per Order 1 Rule 8 of the Code of Civil Procedure will give notice to the people who have same interest in the suit. I find the point in favour of the petitioner.

In the result, the appellant is permitted to file appeal on behalf of all person with same interest, as per Order 1 Rule 8 of Code of Civil Procedure, by effecting affixture on the office of the Village Office, Local Self Government, on the 1st defendant church and through paper publication.

Dictated to the Confidential Assistant, typed by her directly into computer, corrected by me and pronounced in the Open Court on this the 20th day of February 2024.

Sd/-
Aravind B. Edayodi
Sub Judge

Appendix : Nil

Id/-
Sub Judge

//True Copy//

(By Order)

Sheristadar

Copied by : stn/-
Compd by : svb/-

Copy of Order in
I.A. 13/2024
in A.S. 30/2023
Dated:- 20.02.2024