

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.7593/2001
(From the judgement and order dated 06/04/2001 in CMP 2079/97
in AS No. 331/80 of The HIGH COURT OF KERALA AT ERNAKULAM)

MORAN MAR THOMA MATHEWS

Petitioner (s)

VERSUS

MOST REV.THOMAS MAR-D. METROPOLITAN &ORS
(With prayer for interim relief and office report)
(With Appln(s). for intervention, directions and deletion of the name
of respondent) (For Final Disposal)

Respondent (s)

Date : 28/11/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr. F.S. Nariman, Sr. Adv.
Mr. R.F. Nariman, Sr. Adv.
Mr. C.T. Josph, Adv.
Mr. Subhash Sharma, Adv.
Mr. Fazlin Anam, Adv.
Mr. E.M.S. Anam, Adv.

For Respondent (s) Mr. M.L. Verma, Sr. Adv.
Mr. R. Ayyam Perumal, Adv.

Mr. M.L. Verma, Sr. Adv.
Mr. P.J. Philip, Adv.
Mr. P.K. Manohar, Adv.

RR No. 9 Mr. Amarendra Sharan, Sr. Adv.
Mr. Ashok Kumar Singh, Adv.

RR Nos. 6 & 7 Dr. A.M. Singhvi, Sr. Adv.
Mr. Ashok Kumar Singh, Adv.

UPON hearing counsel the Court made the following
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Leave granted.

The appeal be listed for further directions and for
recording the satisfaction of the decree on 15th April,
2002.

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Kalyani. (S.L. GOYAL) @@
AA
COURT MASTER @@
A AA
(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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(Arising out of S.L.P.(C) No. 7593/2001)

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Moran Mar Thoma Mathews Appellant

Versus

Most. Rev. Thomas Mar D. Metropolitan & Ors. Respondents

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Leave granted.

This appeal arises from the judgment of the Kerala High Court which had disposed of an application under Order LXV Rule 50 filed by the respondents for the transmission of the decree of this Court in Most Rev.@@
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P.M.A. Metropolitan & Ors. Vs. Moran Mar Marthoma &@@
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Anr. [1995 Suppl.(4) SCC 286] for execution. In the@@
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impugned judgment, the Court did not go into the dispute as to whether the said decree had been complied with by the calling of election, as had been claimed by the appellant herein. The Court, however, came to the conclusion that the appellant herein had not been elected as the Malankara Metropolitan. This finding of the High Court is contested by the appellant in this appeal.

Both the parties belong to Marthoma Syrian Orthodox Church. Apparently there are two factions in this and there has been an effort made by this Court to see that there is unity and reconciliation amongst them.

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This is quite evident from the following passage in the aforesaid judgment of Hon'ble Jeevan Reddy. J.(Retd. Judge of this Court):-

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"159. We hope that the unity and integrity of the Malankara Church will be maintained and continued by the above arrangement which is wholly consistent with and indeed in furtherance of the objectives underlying the Mulanthuruthy Synod resolutions. Elections to the Malankara Association shall have to be held periodically so as to keep its representative character alive and effective."

We have heard the counsel for the parties at length and are glad to know that there is a sincere effort by both the sides to see that the disputes are amicably settled. A compromise formula has been agreed to between the parties which would envisage an election of the Malankara Association, which was the direction issued by this Court in the aforesaid decision, read with the subsequent orders of this court reported as 1996 (8) SCC 470 and 1997 (10) SCC 614. It would be, in our opinion, appropriate to direct the execution of the decree passed by this Court rather than to decide whether the decree stands complied with or is to be executed by the trial court. This is a suggestion which has been accepted by the parties.

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With the consent of the parties, we give the following directions:-

(i) the impugned judgment of the Kerala High Court dated 6th April, 2001, passed in C.M.P. No. 2079/1997 in A.S. No. 331/1980 is set aside;

(ii) Notwithstanding the withdrawal of the interim applications which were filed in this Court previously, fresh elections to the Malankara Association will be held and no court other than this Court will entertain any suit, application or interfere with the elections or the election process or results at any stage.

(iii) Fresh elections shall be called by Moran Mar Baselius Marthoma Mathews-II by issuing necessary Kalpanas to Parishes and the Malankara Association will be convened under Article 74 of the 1934 Constitution, as amended.

Both the parties desire that an observer should be appointed to ensure free and fair elections. Mr. Justice V.S. Malimath (Retired Chief Justice of the

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Kerala High Court) may be requested to accept Office of Observer and to oversee that the elections so called are held in a free and fair manner. In this connection, he will be at liberty to give such advise as he may think necessary for ensuring the execution of this Court's decree.

(iv) If the Malankara Association when convened, decides by majority that Moran Mar Baselius Marthoma Mathews-II is not the Malankara Metropolitan third respondent will voluntarily resign his office as Malankara Metropolitan. If the Malankara Association when convened decides by majority that he is the Malankara Metropolitan, all parties will accept the decision as final and binding, i.e. this decision will not be subject to challenge in any Court or other forum.

(v) Time-schedule for elections and thereafter for convening the Malankara Association will be worked out in accordance with past practice and procedure by the third respondent in consultation with the Observer.

(vi) Each of the two parties will deposit initially a sum of Rs. 50,000/- with the Registrar of

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this Court towards the cost, expenses and the remuneration of the Observer. Copy of this order be sent by the Registrar(Judl.) to Mr. Justice V.S. Malimath with the request that he may kindly convey his acceptance at an early date.

The exercise of conducting elections and thereby executing this Court's decree should be completed on or before 31st March, 2002. The Observer is requested to submit a report to this Court on the conduct of the election and the execution of the decree within a fortnight thereafter. The appeal be listed for further directions and for recording the satisfaction of the decree on 15th April, 2002.

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(B.N. KIRPAL)

.....J
(K.G. BALAKRISHNAN)

New Delhi,
November 28, 2001.