

defendants 1 and 2 who are elected as the trustees of the first defendant church are continuing in office beyond the period of one year prescribed in the 1934 constitution of the Malankara Church and that the fourth defendant who is the Vicar of the first defendant church is not taking steps to convene a parish assembly to elect new office bearers of the church. It was also alleged by the plaintiffs that the accounts of the first defendant church have not been audited and placed before the parish assembly since 1999. The plaintiffs, therefore, claimed a decree declaring that the first defendant church is liable to be administered in accordance with the 1934 constitution of the Malankara Church, a decree of prohibitory injunction restraining defendants 2 and 3 from functioning as the trustees of the first defendant church and a decree directing the fourth defendant to convene the parish assembly of the first defendant church and elect its office bearers in accordance with the 1934 constitution of the Malankara Church.

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3. Defendants 1 to 3 contested the suit by filing a written statement. The contentions raised by the said defendants were mainly that the first defendant church was established in the year 1928 by the people in the locality for religious worship as per the Jacobite faith and tradition; that the first defendant church has not adopted the 1934 constitution of the Malankara Church; that the first defendant church and its parishioners are loyal to the Patriarch of Antioch and that they accept only the hierarchy of priests ordained by or loyal to the Patriarch of Antioch. They also contended that the parish assembly of the first defendant church had adopted the constitution of Yacobaya Suriyani Christian Association on 30.6.2002 and that since the fourth defendant had deviated from the fundamental faith of the church, he was removed from the Vicarship of the first defendant church. Defendants 5 to 10 who got themselves impleaded as additional defendants in the suit also filed a written statement raising contentions similar to

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the contentions raised by defendants 1 to 3.

4. In the course of the trial, the plaint was amended and a prayer for a declaration that only the fourth defendant or any other priest appointed in accordance with 1934 constitution alone is entitled to conduct religious services in the first defendant church was also incorporated.

5. The evidence in the case consists of the oral testimonies of PWs.1 and 2 and Exts.A1 to A24 on the side of the plaintiffs and the oral testimonies of DWs.1 to 3 and Exts.B1 to B29 on the side of the defendants. The documents called for at the instance of the plaintiffs were marked in the proceedings as Exts.X1 to X11.

6. The trial court, relying on the decision of the Apex Court in ***P.M.A. Metropolitan v. Moran Mar Marthoma*** (AIR 1995 SC 2001) found that the first defendant church is to be administered in accordance with the 1934 constitution of the Malankara Church and that only Vicars and Priests appointed under the 1934 constitution can conduct religious

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ceremonies/services in the first defendant church. Despite the said findings, the suit was dismissed by the trial court holding that there are two factions among parishioners of the first defendant church; that the plaintiffs do not recognise the Patriarch of Antioch, the supreme religious head of the Malankara Church on whom many of the parishioners repose faith and that therefore they are not entitled to the discretionary reliefs claimed in the suit. The plaintiffs are aggrieved by the said decision of the trial court and hence this appeal.

7. Heard the learned Senior Counsel Sri.S.Sreekumar for the appellants, Advocate K.J.Kuriachan for respondents 1 to 3 and 5 to 9 and Advocate P.Vijayakumar for the 4<sup>th</sup> respondent.

8. The learned counsel for the appellants contended that in so far as it was found by the court below that the first defendant church is liable to be administered in accordance with the 1934 constitution of the Malankara

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