

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

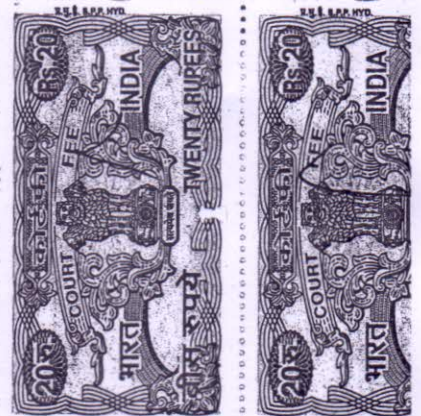
RFA.No. 193 of 2014 ()

(AGAINST THE JUDGMENT AND DECREE IN OS.NO. 10/2003 OF 1ST ADDL.DISTRICT COURT, ERNAKULAM DATED 10-02-2014)

APPELLANT(S)/PLAINTIFFS:

1. MATHAI VARGHESE, S/O.VARGHESE, AGED 65 YEARS,
MUTHIRAKKALAYIL HOUSE, MATTAKUZHI,
VARIKKOLI P.O., PIN-682 308.
2. T.M.PAULOSE, S/O.MATHAI, AGED 63 YEARS,
THELAKKAT HOUSE, VARIKOLI P.O.,
PUTHENCRUZ VILLAGE, PIN-682 308.
3. C.E.GEEVARGHESE, AGED 48 YEARS,
S/O.ELIAS, CHENNEKATTIL HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
4. M.C.PAULSON, AGED 58 YEARS,
S/O.CHACKO, MALAI HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
5. T.T.PAULOSE, AGED 48 YEARS, S/O.THOMAS,
THONNAMATTATHIL HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
6. T.V.THOMAS, AGED 54 YEARS,
S/O.VARKEY, THEKKINETH HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
7. M.K.PAULOSE, AGED 55 YEARS,
S/O.KURIAKOSE, MUNDAKKAL HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
8. BABY JOSEPH, AGED 55 YEARS,
S/O.JOSEPH, PALAKKATTIL HOUSE, MATTAKUZHI,
VARIKOLI P.O., THIRUVANIYOOR VILLAGE, PIN-682 308.
9. C.C.PHILIP, AGED 55 YEARS,
S/O.CHERIAN, CHAKKYATTIL HOUSE, VARIKOLI P.O.,
PUTHENCRUZ VILLAGE, PIN-682 308.

BY ADVS.SRI.P.MARTIN JOSE
SRI.ELDHO CHERIAN
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA



RFA.NO.193/2014

RESPONDENT(S)/DEFENDANTS:

1. ST.MARY'S ORTHODOX CHURCH,
VARIKOLI, VARIKOLI P.O., PIN-682 308,
PUTHENCRUZ, REP. BY ITS TRUSTEE.
2. BINOY VARGHESE, AGED 31 YEARS,
S/O.VARGHESE, IKKARAYIL HOUSE,
MATTAKUZHI, VARIKOLI P.O., PIN-682 308.
3. C.A.VARGHESE, AGED 60 YEARS, S/O.ABRAHAM,
CHEMMOTH HOUSE, CHEMMANADU B.K.PURAM P.O.,
PIN-682 308.
4. REV.FR.MATHAI VADAKKINETH,
VADAKKINETH HOUSE, EHAKKARANADU SOUTH P.O.,
MANEED VILLAGE, PIN-682 308.
5. V.E.THOMAS,S/O.ITTOOP, AGED 64 YEARS,
VELLOOR HOUSE, MATTAKKUZHI VARIKKOLI P.O.,
PUTHENCRUZ VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, PIN-682 308.
6. P.A.GEORGE, S/O.ALEXANDER, AGED 61 YEARS,
PADIYIL HOUSE, MATTAKKUZHI, VARIKKOLI P.O.,
KUNNATHUNADU TALUK, ERNAKULAM DIST, PIN-682 308.
7. K.I.YACOB,S/O.ISAHAC,AGED 59 YEARS,
KIZHIPILLIL HOUSE, MATTAKKUZHI,
VARIKKOLI P.O., KUNNATHUNADU TALUK,
ERNAKULAM DIST, PIN-682 308.
8. V.V.MATHAI, S/O.VARKEY, AGED 54 YEARS,
VELLOOPUTHENPURAYIL HOUSE, CHOONDY,
VADYAMBADY P.O.,AIKKARANAD SOUTH VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DIST, PIN-682 308.
9. AJOSH GEORGE,S/O.GEORGE, AGED 32 YEARS,
PADIYIL HOUSE, MATTAKKUZHI,VARIKKOLI P.O.,
PUTHENCRUZ VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DIST, PIN-682 308.

RFA.NO.193/2014

*ADDL.R10 IMPEADED

*ADDL.R10: FR.VIJU EALIAS, AGED 32 YEARS, S/O.T.V.EALIAS,
THANNIKUZHIYIL, VETTICKAL,
MULANTHURUTHY VILLAGE, KANAYANNUR TALUK.

*ADDL.R10 IS IMPEADED AS PER ORDER DATED 21/07/2015 IN
I.A.NO.1431/2014

R1 TO R3,R5 TO R9 BY ADV. SRI.K.J.KURIACHAN

R4 BY ADVS. SRI.P.VIJAYAKUMAR

SRI.C.R.REGHUNATHAN

SRI.M.V.ASHIM

SRI.R.BALAKRISHNAN

SRI.B.HARRYLAL

SRI.SUVIN.R.MENON

ADDL.R10 BY ADV. SRI.K.PAUL KURIAKOSE

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 21-07-2015, THE COURT ON 21-08-2015 DELIVERED
THE FOLLOWING:

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2.

P.B.SURESH KUMAR, J.

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R.F.A.No.193 of 2014.

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Dated this the 21st day of August, 2015.

J U D G M E N T

The plaintiffs in a suit instituted under Section 92 of the Code of Civil Procedure are the appellants.

2. The dispute in the suit pertains to the management of the first defendant church namely, St.Mary's Orthodox Church, Varikoli. The first defendant church is a parish church coming under the Kandanadu East Diocese of Malankara Orthodox Syrian Church, hereinafter referred to as 'the Malankara Church' for short. The suit was filed by a few parishioners of the first defendant church, alleging that the first defendant church is to be administered in accordance with the constitution of the Malankara Church framed by the Malankara Association in the year 1934; that

exercise of autonomy for Parishes has no meaning. Similarly the independence or autonomy in temporal matters is not of any consequence. The Parishes are bound by the Constitution framed in 1934."

In the light of the aforesaid findings of the Apex Court, the contention that the parish churches should be held to be independent is only to be rejected.

In the result, the appeal is allowed, the impugned judgment is set aside and the suit O.S.No.10 of 2003 on the file of the District Court, Ernakulam is decreed declaring that the first defendant church is governed by the 1934 constitution of the Malankara Church and that only Vicars and Priests appointed in accordance with the 1934 Constitution of the Malankara Church are competent to conduct religious services in the first defendant church. A decree of permanent prohibitory injunction is also granted in favour of the plaintiffs, restraining the defendants and their men and supporters from causing obstructions to the conduct of religious services in the first defendant church by Vicars and Priests appointed in accordance with the 1934

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TRUE COPY
EXHIBIT

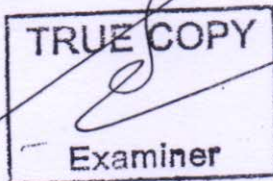
constitution of the Malankara Church. The plaintiffs are also given a decree of mandatory injunction directing the 10th respondent who is impleaded in the appeal as the present Vicar of the church, to convene a parish assembly of the first defendant church and elect a managing committee including trustees and Secretary for the first defendant church in accordance with 1934 constitution of the Malankara Church. It is made clear that respondents 2 and 3 can continue as trustees of the first defendant church till new trustees are elected in their place, if they are continuing even now as trustees of the first defendant church. All the interlocutory applications in this case are closed.

Sd/-

**P.B.SURESH KUMAR,
(JUDGE)**

Kvs/-

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PA TO JUDGE.