

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

AS.No. 234 of 2001 (E)

**AGAINST THE JUDGMENT AND DECREE DATED 13-03-2001 IN OS 3/1979 OF IST
ADDITIONAL DISTRICT COURT, ERNAKULAM**

APPELLANT(S)/PLAINTIFFS:

**REV.FR.C.K.ISSAC, CHENAYAPPILLIL,
PARAMBANCHERY, ENANALLOOR VILLAGE,
MUVATTUPUZHA.**

**2. POULOSE, PUTHENPURAYIL HOUSE,
PULINTHANAM, ENANALLOOR VILLAGE,
MUVATTUPUZHA.**

**3. SAMUEL, MADATHIKUDIYIL,
PULINTHANAM, ENANALLOOR VILLAGE,
MUVATTUPUZHA.**

**BY ADVS.SRI.M.S.UNNIKRISHNAN
SMT.JAYASREE MANOJ
SRI.K.SUNIL
SRI.P.Z.NIJAZ
SRI.A.C.THOMAS ADHIKARAM**

RESPONDENT(S)/DEFENDANTS 4, 5, 7 TO 10:

**1. REV.FR.C.P.GEORGE, CHETTIAMKUDIYIL,
POTHANICADU, KOTHAMANGALAM.**

**2. THOMAS MAR DIONYSIUS,
METROPOLITAN, RESIDING AT VALIYAPALLI,
KOTHAMANGALAM.**

**3. REV. FR. ELDHOSE VALIYAPARAMBIL,
VALIYAPARAMBIL, THANKALAM,
KAROOR KARA, KOTHAMANGALAM.**

**4. V.V.SCARIA, VAZHAKKUDIYIL,
ENANALLOOR, PULINTHANAM,
MUVATTUPUZHA.**

Msv/

AS.No. 234 of 2001 (E)

5. JOSE C. JOHN, CHENAYAPPILLIL,
PALLARIMANGALAM, POTHANICADU VILLAGE,
KOTHAMANGALAM.
6. V.V. JOSEPH, VAZHEKKUDIYIL HOUSE,
ENANALLOOR VILLAGE, PULINTHANAM KARA,
MUVATTUPUZHA TALUK.

R4 TO R6 BY ADVS. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 06-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

AS.No. 234 of 2001 (E)

APPENDIX

PETITIONER(S)' ANNEXURES:

IA.NO.4382/2004 IN AS.NO.234/2001

**ANNEXURE A1: A TRUE COPY OF THE ORDER IN IA.NO.1042/1997 IN OS.NO.3/1979
DATED 18.1.88 OF THE 1ST ADDITIONAL DISTRICT COURT,
ERNAKULAM.**

**ANNEXURE A2: A TRUE COPY OF THE ORDER IN IA.633/01 IN OS.3/1979 DTD.30.3.2001
OF THE 1ST ADDITIONAL DISTRICT COURT, ERNAKULAM.**

IA.NO.4382/2004 IN AS.NO.234/2001

**ANNEXURE A : A TRUE COPY OF THE MALAYALA MANORAMA DAILY
DATED 27.11.2004 HAVING THE PUBLICATION OF THE CHURCH.**

IA.NO.218/2006 IN AS.NO.234/2001

ANNEXURE A: THE COPY OF THE ORDER IN IA.NO.4382/2004 DTD.5.1.2005.

RESPONDENT(S)' ANNEXURES:

**ANNEXURE R4(a): TRUE COPY OF THE PUBLICATION REGARDING THE CEREMONIES
CONDUCTED IN 2003 PUBLISHED IN MANGALAM DATED 7.12.2003.**

**ANNEXURE R4(b): TRUE COPY OF THE PUBLICATION OF SUPPLEMENT REGARDING
THE DETAILS OF CEREMONIES IN 2004.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.B.SURESH KUMAR, J.

A.S.No.234 OF 2001

Dated this the 6th day of March, 2015

JUDGMENT

The appellants have filed I.A.No.506 OF 2015, seeking permission to withdraw the appeal and the suit with liberty to file a fresh suit on the same cause of action.

2. The application is not opposed.

3. Rule 1(3) of Order XXXIII of the Code of Civil Procedure provides that where the court is satisfied that a suit must fail by reason of some formal defect, the court may grant the plaintiff permission to withdraw the suit with liberty to institute a fresh suit. It is seen that the suit was dismissed for want of sanction provided for under Section 92(1) of the Code of Civil Procedure.

In the circumstances, the appellants are permitted to withdraw the appeal and the suit O.S.No.3 of 1979 on the file of the First Additional District Court, Ernakulam with liberty to file a fresh suit in respect of the subject matter of the said suit.

Sd/-
P.B.SURESH KUMAR, JUDGE

jes

P.BSURESH KUMAR, J.

A.S.No.234 OF 2001

JUDGMENT

Dated this the 6th day of March, 2015