

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

Con.Case(C).No. 242 of 2015 (S)
IN OP(C).417/2015

AGAINST THE ORDER IN OP(C) 417/2015
of HIGH COURT OF KERALA DATED 13.02.2015.

PETITIONER(S)/PETITIONER IN OPC:

DIVAKARAN, AGED 88 YEARS,
S/O. KANNAMBALLI THARAYIL KRISHNAN,
MUTHALASSERI ADINADU THEKKUMURI,
KOLLAM DISTRICT.

BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE

RESPONDENT(S)/RESPONDENTS 2 TO 4 AND 6 IN OPC:

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1. SIVANANDAN, AGED 67 YEARS,
S/O. KUNJIRAMAN,
(CLAIMING AS PRESIDENT OF PRESIDENT
OF TEMPLE TRUST)
PULIYOOR VANCHI PADKINJARU MURI, THODIYOOR,
KARUNAGAPPALLY, KOLLAM DISTRICT - 690 523.
 2. RAJENDRAN, AGED 50 YEARS,
S/O. KUNJUPANICKER,
(CLAIMING AS SECRETARY OF THE TEMPLE TRUST)
THUNDIL HOUSE, THODIYOOR MURI, KARUNAGAPPALLY,
KOLLAM DISTRICT - 690 523.
 3. THULASEEDHARAN, AGED 54 YEARS,
S/O. SREEDHARAN
(CLAIMING AS VICE PRESIDENT OF THE TEMPLE TRUST)
ARYABHAVANATHU, KALLEIBHAGOM MURI, KARUNAGAPPALLY,
KOLLAM DISTRICT - 690 523.
 4. ADVOCATE P.K.PRABHAKARAN,
AGE AND FATHER'S NAME NOT KNOWN,
OFFICIAL RECEIVER, MUTHALASSERIL
SREE DURGA BHADRA BHAGAVATHY KSHETRAM,
EDAKULANGARA P.O., PULIYOOR VANCHI THEEKU MURI,
THODIYOOR VILLAGE, KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT - 690 523.

ADDL. R5 IMPEADED SUO MOTU.

ADDL. R5: SHRI. V. VAMANAN NAMBOOTHIRI (TANTRI),
KALLAMPALLIL KRISHNA NIVAS,
MATTOM NORTH, THATTARAMBALAM P.O.,
MAVELIKKARA-3.

ADDL. R5 IS IMPEADED SUO MOTU VIDE ORDER DATED
20.2.2015 IN COC.242/2015.

R1 TO R3 BY ADV. SRI.B.KRISHNA MANI
R4 BY ADV. SRI.K.SUBASH CHANDRA BOSE
ADDL.R5 BY ADV. SRI.P.HARIDAS
SRI.P.C.SHIJIN

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN
FINALLY HEARD ON 12-08-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P. BHAVADASAN, J.

Contempt Case (C). No. 242 of 2015

Dated this the 12th day of August, 2015.

JUDGMENT

This is a petition for contempt based on the allegation that in violation of the orders issued by this Court, and without the consent of the Tantri, festivals have been carried on by the Receiver.

2. There is considerable dispute between the parties regarding the nature and character of the temple. Plaintiffs contended that the temple is a private temple, while the defendants say otherwise. Whatever that may be, that is a matter to be decided in the suit and that is not the issue which arises for consideration at this point of time.

3. The court below while considering the matter arising in the suit thought it fit and proper to appoint a Receiver to manage the affairs of the temple. The fourth respondent, the condemner was appointed as the Receiver. He took charge of the administration of the temple.

4. The controversy is regarding his competency to conduct the temple festival. The petitioner contended that the Receiver could not unilaterally decide the same and it could be in accordance with the custom and usage of the temple. This Court therefore by way of abundant caution issued a direction to the Receiver to ensure that festival or ceremony are carried on only with the permission of the Tantri and as per his guidance.

5. The grievance of the petitioner is that in violation of the order of this Court, festival was carried on by the Receiver.

6. The Receiver filed reply affidavit by pointing out that he took permission from the Tantri, but the Tantri says otherwise. There is considerable controversy regarding the same between the Receiver and the Tantri. Therefore this Court thought it fit to direct the Tantri to appear in my Chamber. Tantri represented that he had not given permission as claimed by the Receiver.

7. The Receiver has filed two counter affidavits describing what has actually transpired in the matter. The

Receiver has also pointed out that he is advanced in age and that in the light of the controversy he would like to be discharged from the Receivership.

8. This Court noticed that a petition had already been filed before the court below by the Receiver stating that he had opted to have a discharge and that the said petition is pending without being disposed of. This Court by order dated 27.7.2015 directed Munsiff's Court, Karunagappally to dispose of I.A.1059 of 2015 within two weeks from the date of receipt of a copy of the order. That petition is still pending.

9. It may be embarrassing for this Court to go into the controversy as to whether there is violation of the order of this Court and whether permission has been obtained from the Tantri to conduct festival. Since the Receiver has pointed out that he is not interested in continuing the Receivership, and a petition for discharge from Receivership is filed, it is felt that the matter can be given a quietus by allowing him to do so.

In the result, this petition is closed by allowing the Receiver to surrender his Receivership before the court below before which the matter is pending and the said court shall appoint another suitable Receiver, who shall comply with the orders of the court below as well the order passed by this Court. The Receiver has been gracious enough to state that if for any reason this Court felt that he has acted in violation of the order of this Court, he is tendering his unconditional apology.

In the light of the said fact, it is felt that it will be inappropriate for this Court to proceed with the matter. The contempt proceedings are dropped.

Sd/-

P. BHAVADASAN,
JUDGE

sb.

True Copy

P.S to Judge