

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

FAO.No. 117 of 2009 ()

AGAINST THE ORDER IN I.A.NO.1423/2008 IN OS 192/2008 of SUB COURT,
CHERTHALA DATED 20-12-2008

APPELLANTS/5TH CR.PETITIONERS 1 & 5/DEFENDANTS 1 AND 5:

1. ST.ANDREW'S FORANE CHURCH, ARTHUNKAL PO
688 530, REPRESENTED BY ITS KAIKKAR, PAPPACHAN.

2. VICAR, PIUS ARATTUKULAM
C/O.ST.ANDREW'S FORANE CHURCH, ARTHUNKAL PO, 688 530.

BY ADV. SRI.R.AZAD BABU

RESPONDENTS/PETITIONERS/PLAINTIFFS 1 & 2/CR.PETITIONERS-
DEFENDANTS 2 TO 4 :

1. BABY, S/O.SAMUEL, KATTILPARAMBIL HOUSE,
CHERTHALA SOUTH PANCHAYATH WARD NO.16
CHERTHALA SOUTH VILLAGE, CHERTHALA.

2. SUNNY, S/O.LATE SAMUEL, DO. DO.
NOW RESIDING AT C.C.NO.26, ELAMAKKARA, ERNAKULAM.

3. SIMON, OFFICE BEARER,
C/O.ST.ANDREW'S FORANE CHURCH, ARTHUNKAL, P.O.
- 688 530.

4. JOHNNY, OFFICE BEARER, C/O. DO. DO.

5. THANKAPPAN, KOLLAPPALLIL
OFFICE BEARER, C/O. DO. DO.

R1 & 2 BY ADV. SRI.V.L.SHENOY

R1 & 2 BY ADV. SRI.L.JAYAWANTH

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

F.A.O.No.117 OF 2009

Dated this the 25th day of May, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed against the order in I.A.No.1423/2008 in O.S.No.192/2008 of the Subordinate Judge's Court, Cherthala. The appellants are aggrieved by the interim order of injunction granted by the trial court. They are respectively the Church represented by Kaikkar and the Vicar of the church.

2. We find from the order passed by the court below that a temporary injunction was granted restraining the respondents in I.A.No.1423/2008 from committing waste in the plaint schedule property, inducting strangers therein or in any way interfering with the peaceful enjoyment of the property by the plaintiff.

3. A perusal of the order will show that the plaintiff has produced documents as Exts.A1 to A75 and the respondents have produced Exts.B1 to B5.

4. The learned counsel for the respondents submits that the suit is included in the special list to be tried on 5.6.2015. In this appeal no interim order has been passed by this Court also.

5. Since the suit itself is pending, we are of the view that at this stage, this Court need not go into the contentions raised by the parties so as to render any finding on merits as the same will prejudice either of the parties. We make it clear that the trial court will be free to dispose of the suit untrammelled by the findings in the order in the I.A.

The appeal is accordingly disposed of.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.