

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

FAO.No. 31 of 2015

**IA.NO.932/2014 IN OS.NO.2/2014 OF ADDITIONAL DISTRICT AND SESSIONS COURT-II,
NORTH PARAVUR, DATED 29/11/2014**

APPELLANT(S)/RESPONDENT:

**BETHEL SULOCCO YACOBAYA SYRIAN CHURCH
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK, REPRESENTED BY PRESENT VICAR
FR.JOSE JOHN PARANAYIL.**

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S)/PETITIONERS:

- 1. SHABU PAUL
S/O. THOMAS PAUL, KANJIRAVARIL VEETIL
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK-683542.**
- 2. T.C.VARGHESE
S/O. CHANDY, THOMBRA VEETIL, PERUMBAVOOR KARA
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK-683542.**
- 3. VARGHESE PAUL
S/O. CHACKO PAILY, KAKKATTUKUDY VEETIL
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK-683542.**
- 4. JUSTUS P. KORATH
S/O. FR.KORATH PADINJAREKKARA
PADINJAREKKARA VEETIL, PERUMBAVOOR KARA
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK-683542.**
- 5. C.PAULOSE
S/O. C.P.CHACKO, CHIRAPPURATH VEETIL
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK-683542.**

PJ

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6. BABU C. GEORGE
S/O. C.T.GEORGE, CHEMBITHARA VEETIL, PERUMBAVOOR KARA
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK-683542.
7. MAMACHEN
S/O. MATHAI PAULOSE, PARACKAL VEETIL
PERUMBAVOOR KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK-683542..
8. E.K.SUNNY
S/O. KURIYAKOSE, ERULLY VEETIL, ERINGOTE KARA
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK-683542..
9. M.P.PATHROSE
S/O. VARKEY PAPPACHAN, KUNDAKKAL VEETIL
ERINGOTE KARA, PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK-683542..
10. K.A.ELDHO
S/O. K.P.ABRAHAM, KULANGARAPPADATH VEETIL
ERINGOTE KARA, PERUMBAVOOR VILLAGE,
KUNNATHUNDU TALUK-683542..
11. C.P.JOY
S/O. PAULOSE, CHILAMBIKKODAN VEETIL, ERINGOTE KARA
PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK-683542..
12. BINU JACOB
S/O. K.V.JACOB, KIZHAKKE MATTACHAL VEETIL
PULLUVAZHI KARA, RAYAMANGALAM VILLAGE
KUNNATHUNADU TALUK-683542..

BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD
ON 07-04-2015 ALONG WITH FAO. 32/2015, THE COURT ON 10-04-2015,
DELIVERED THE FOLLOWING:

PJ

P.B.SURESH KUMAR, J.

F.A.O.Nos.31 & 32 of 2015.

Dated this the 10th day of April, 2015.

J U D G M E N T

The first defendant in O.S.No.2 of 2014 on the file of the Court of the Additional District Judge-II, North Parur has come up in these appeals challenging the orders on I.A.Nos.932 of 2014 and 4 of 2015 in the said suit.

2. O.S.No.2 of 2014 is a suit instituted under Section 92 of the Code of Civil Procedure, after obtaining leave of the court, in relation to the public charity Bathel Sulocco Yacobaya Syrian Church. The suit is instituted seeking, among others, a decree for removal of the members of the Managing Committee of the Church and for appointment of a Managing Committee for the Church in accordance with its constitution.

3. During the pendency of the suit, steps have been taken by the defendants for conduct of election to the Managing Committee of the Church on 30.11.2014. The plaintiffs then filed I.A.No.932 of 2014 seeking orders to stay the election to the Managing Committee of the Church

proposed on 30.11.2014. The court below, on a consideration of materials on record, found that the proposal of the defendants to conduct election to the Managing Committee of the trust on 30.11.2014 is not in accordance with the principles of natural justice. Consequently, the election proposed on 30.11.2014 was stayed as per order on the said Interlocutory Application dated 29.11.2014. The said order is under challenge in F.A.O.No.31 of 2015.

4. Thereafter, the defendants proposed to conduct election to the Managing Committee of the Church on 25.1.2015. The plaintiffs then filed I.A.No.4 of 2015 seeking orders to stay the election to the Managing Committee of the Church proposed on 25.1.2015. The court below, on a consideration of the materials on record, found that the election proposed on 25.1.2015 is not in accordance with the constitution of the Church. Consequently, the election proposed on 25.1.2015 was stayed as per order passed on the said Interlocutory Application dated 24.1.2015. The said order is under challenge in F.A.O.No.32 of 2015.

5. Heard the learned counsel on either side.

6. The learned counsel for the appellant vehemently contended that there is a vacuum in the administration of the Church as the term of the Managing Committee of the Church has already expired. According to him, when the term of the Managing Committee expired, steps have been taken for the conduct of election to the Managing Committee to avoid a stalemate in the administration of the Church, and it was at that point of time, the court had stayed the election as per order on I.A.No.932 of 2014. It was pointed out by the learned counsel that the election to the Managing Committee was proposed again on 25/1/2015, after rectifying all the defects noted by the court in the order on I.A.No.932 of 2014. As such, according to him, there was no reason at all to stay the election proposed on 25/1/2015. It was also contended by him that the reason stated by the court below for staying the election, viz., that the accounts of the Church were not subjected to scrutiny by the general body of the Church as required by the constitution, is incorrect. According to him, the accounts of the Church have

been approved by the general body held on 15/4/2014.

7. The term of the Managing Committee of the Church at the time of institution of the suit had expired. The said fact is not in dispute. As such, I fully endorse the anxiety expressed by the learned counsel for the appellant concerning the vacuum in the administration of the Church. But, that does not mean that the appellant is entitled to constitute a new Managing Committee for the Church otherwise than in accordance with its constitution, especially when a suit concerning the administration of the Church instituted under section 92 of the Code of Civil Procedure is pending. According to me, the right course for the appellant, in the circumstances, was to seek the permission of the court to conduct election to the Managing Committee of the Church in accordance with its constitution under the supervision of the court. The said course was not adopted. In so far as the date proposed for election to the Managing Committee is over, it is not necessary to examine the correctness of the impugned orders. However, in view of the stalemate in the administration of the Church, I deem it

appropriate to afford the appellant an opportunity to approach the court below for conduct of the election to the Managing Committee of the Church in accordance with its constitution.

In the result, the appeals are disposed of granting liberty to the appellant to approach the court below for necessary Interlocutory orders for the conduct of election to the Managing Committee of the Church under the supervision of the court. Having regard to the ensuing summer vacation, it is clarified that the appellant is free to approach the designated vacation court for the said purpose, if so advised.

Sd/-

P.B.SURESH KUMAR, JUDGE.

Kvs

(true copy)

P.A. to Judge.