

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

OP(C).No. 274 of 2015 (O)

OS 349/2014 OF MUNSIFF'S COURT, KOTTAYAM

PETITIONER :

**PRINCE ELIAS, AGED 52 YEARS,
S/O.FR. LATE MATHEW P. ELIAS, PAZHANJIDATHU VAYALIL,
MANARCADU VILLAGE, MAALAM.P.O., KOTTAYAM TALUK-686 019.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S**

RESPONDENT(S):

- 1. THE ST.MARY'S HOSPITAL, MANARCADU,
(CHARITABLE SOCIETY REG.NO.K 32/70)
REPRESENTED BY ITS PRESIDENT. PIN-686 019**
- 2. REV. K. KURIAKOSE, AGED ABOUT 75 YEARS, S/O.KURIAKOSE,
KIZHAKKEDATH, PRESIDENT ST. MARY'S HOSPITAL,
MANARCADU.P.O., MANARCADU VILLAGE, KOTTAYAM DISTRICT-686 019**
- 3. AVINESH ABRAHAM,AGED ABOUT 25 YEARS, S/O. ABRAHAM,
THANDASSERY, SECRETARY, ST. MARY'S HOSPITAL,
MANARCADU.P.O., MANARCADU VILLAGE,
KOTTAYAM DISTRICT-686 019**
- 4. ST. MARY'S JACOBITE SYRIAN CATHEDRAL,
MANARCADU, REPRESENTED BY ITS VICAR REV.S.T.KURIAKOSE,
COR EPISCOPA, MANARCADU.P.O., MANARCADU VILLAGE ,
KOTTAYAM TALUK,PIN-686 019**
- 5. ST. MARY'S JACOBITE SYRIAN CATHEDRAL, MANARCADU,
MANAGING COMMITTEE, REPRESENTED BY ITS CHIEF TRUSTEE,
MANARCADU VILLAGE, KOTTAYAM TALUK, KOTTAYAM DISTRICT-686 019**
- 6. V.J.JOHN, AGED 65 YEARS, S/O.JACOB, VAZHATHARA HOUSE,
MANARCADU VILLAGE, MANARCADU.P.O.,
KOTTAYAM TALUK-686 019**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(C).NO.274/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PLAINT IN O.S.NO.349/2014 OF THE MUNSIFF'S COURT, KOTTAYAM.
- P2 COPY OF THE BYE-LAW OF THE FIRST RESPONDENT SOCIETY
- P3 COPY OF THE I.A.NO.522/2014 IN I.A.NO.520/2014 OF THE DISTRICT JUDGE (VACATION), KOTTAYAM.
- P4 COPY OF THE FORWARDING LETTER DATED 19/5/2014 SUBMITTED BY THE THIRD RESPONDENT TO THE DISTRICT REGISTRAR (GENERAL), KOTTAYAM
- P5 COPY OF THE AMENDMENTS MADE BY RESPONDENTS 2 TO 5 TO EXHIBIT P2 BYE-LAW
- P6 COPY OF THE LETTER DATED 04/07/2014 OF THE DISTRICT REGISTRAR (GENERAL), KOTTAYAM ISSUED TO THE THIRD RESPONDENT
- P7 COPY OF THE NOTICE DATED 19/01/2015 ISSUED BY THE FOURTH RESPONDENT AND PUBLISHED IN THE NOTICE BOARD OF THE FOURTH RESPONDENT CHURCH
- P8 COPY OF THE INTERLOCUTORY APPLICATION IN O.S.NO.349/2014 OF THE MUNSIFF'S COURT, KOTTAYAM

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.BHAVADASAN, J.

Original Petition (Civil) No.274 OF 2015

Dated this the 30th day of January, 2015.

J U D G M E N T

The main grievance voiced in this original petition is that the 1st defendant society which is one registered under Act XII of 1955 is being governed by the 4th defendant Church and the 1st defendant society is not functioning at it should in accordance with bye laws and rules and its affairs has been manipulated by the 4th defendant Church. Suit has been laid seeking a relief against the amendment brought out to enhance the period of the Managing Committee from one year to three years. Ext.P6 produced along with this original petition shows that the District Registrar (General), Kottaym has informed the society that enhancement of term of office is illegal and cannot be enforced.

2. The grievance of the petitioner is that Ext.P8 application filed for interim relief against the said enhancement of period is

pending consideration and during pendency of that application, notice of election has been issued by the 4th defendant Church for the Managing Board of the 1st defendant society. The petitioner apprehends that from the current strength of 11 members as per the bye law to constitute the Managing Board, it may be enhanced to 13 which is contrary to the communication issued by the District Registrar (General) as well as the bye laws. The petitioner in this regards points out that the amendment also is illegal and not in accordance with law.

3. The only relief this Court at present can grant is a direction to the court below to take up Ext.P8 application and dispose of it in accordance with law as early as possible. Needless to say that if any election conducted as per Ext.P7 will be subject to the result of the decision on the interim application.

This original petition is disposed of directing the Munsiff Court, Kottayam to take up Ext.P8 application and dispose of it as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Election, if any, conducted as per Ext.P7 will be subject to the result of the order on the application.

Sd/-

P.BHAVADASAN
JUDGE

smp