

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

OP(C).No. 2023 of 2015 (O)

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AGAINST THE ORDER/JUDGMENT IN OS 412/2012 of II ADDITIONAL MUNSIF'S
COURT, THRISSUR
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PETITIONER(S):

- 1. THE ASSYRIAN CHARITIES KURIES LTD.
RICE BAZAAR, CHEMBUKKAVU VILLAGE, THRISSUR TALUK
PIN-680 001, REPRESENTED BY ITS CHAIRMAN, E.A.BENNY.**
- 2. MANAGER
THE ASSYRIAN CHARITIES KURIES LTD., RICE BAZAAR
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.**
- 3. ADVOCATE E.A.BENNY AGED 88 YEARS
S/O.IMMATY ANTHONY, MISSION QUARTERS
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE
SRI.S.NITHIN (ANCHAL)**

RESPONDENT(S):

- 1. JAMES C.JOSEPH, AGED 48 YEARS
S/O.CHEERAMBAN JOSEPH, MISSION QUARTERS
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.**
- 2. LOUIS, AGED 64 YEARS
S/O.CHIRIYANKANDATH THOMAS, KIZHAKKEPPURAM DESOM
ARANATTUKARA VILLAGE, THRISSUR TALUK, PIN-680 618.**
- 3. JOBY, AGED 44 YEARS
S/O.KANJIRAARAMBAN CHAKKUNNY, PUNKUNNAM DESOM
AYYANTHOLE VILLAGE, THRISSUR TALUK, PIN-680 003.**
- 4. DAYAL P.ANTONY, AGED 45 YEARS
S/O.PADAVAN ANTONY, KACHERY DESOM, NADATHARA VILLAGE
THRISSUR TALUK, PIN-680 751.**
- 5. P.V.THIMOTHY, AGED 68 YEARS
S/O.PORUTHUKKARAN VAREED, KIZHAKKUMPATTUKARA DESOM
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.**

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6. P.P.JOHNSON, AGED 68 YEARS
S/O.PADAVAN PORINCHU, MISSION QUARTERS
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.
7. K.C.PAVU, AGED 58 YEARS
S/O.KUNNATH CHERUKUTTY, KIZHAKKUMPATTUKARA DESOM
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.
8. FRANCIS CHANDY JACOB, AGED 59 YEARS
S/O.CHANDY JACOB, KIZHAKKUMPATTUKARA DESOM
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.
9. INASU, AGED 63 YEARS
S/O.KALLIYATH LONAKKUTTY, KURIACHIRA DESOM
THRISSUR TALUK, PIN-680 006.
10. SABU JOSEPH
S/O.KONIKKARA JOSEPH, MUKKATTUKARA DESOM
NETTISSEY VILLAGE, THRISSUR TALUK, PIN-680 651.
11. DR.T.T.PAUL, AGED 61 YEARS
S/O.THALEKKARAN THIMOTHY, KIZHAKKUMPATTUKARA DESOM
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.
12. A.V.JOY, AGED 58 YEARS
S/O.ALAPPADAN VAREED, NELLIKKUNNU, PANANCHERY LANE
CHEMBUKKAVU VILLAGE, THRISSUR TALUK, PIN-680 001.

R1 -R 4 BY ADV. SRI.S.VINOD BHAT
R1 -R 4 BY ADV. SRI.LEGITH T.KOTTAKKAL

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 18-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1- DATED 14.7.2011, TRUE COPY OF THE JUDGMENT IN R.S.A.NO.418 OF 2011.

EXT.P2- DATED 30.11.2012, TRUE COPY OF THE PLAINT IN O.S.NO.412 OF 2012, MUNSIFF'S COURT, THRISSUR.

EXT.P3- DATED 24.1.2013, TRUE COPY OF THE JUDGMENT IN O.S.NO.412 OF 2012, IIND ADDL. MUNSIFF'S COURT, THRISSUR.

EXT.P4- DATED 12.12.2014, TRUE COPY OF JUDGMENT IN A.S.NO.54 OF 2014, IV ADDITIONAL DISTRICT COURT, THRISSUR.

EXT.P5- DATED 6.3.2015, TRUE COPY OF JUDGMENT OF THIS HON'BLE COURT IN R.S.A.NO.1333 OF 2014.

EXT.P6- DATED 10.7.2015, TRUE COPY OF I.A.NO.14556 OF 2015 IN O.S.NO.412 OF 2012, IIND ADDL.MUNSIFF'S COURT, THRISSUR.

EXT.P7- DATED NIL-7-2015, TRUE COPY OF THE OBJECTION TO I.A.NO.14556 OF 2015 IN O.S.NO.412 OF 2012, IIND ADDL. MUNSIFF'S COURT, THRISSUR.

EXT.P8- DATED 27.7.2015, TRUE COPY OF THE ORDER IN I.A.NO.14556 OF 2015 IN O.S.NO.412 OF 2012, IIND ADDL. MUNSIFF'S COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PATO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C)No.2023 of 2015

Dated this the 18th day of September, 2015

J U D G M E N T

Petitioners are the defendants. Respondents 1 to 4 are the plaintiffs in O.S.No.412 of 2012 on the file of Additional Munsiff-II, Thrissur. The dispute is with regard to the validity of an extraordinary general meeting held in 2011 and 2012. When the suit came up for trial, the petitioners filed IA.No.14556 of 2015 to direct holding of an extraordinary general meeting to ascertain the will of the majority. By the impugned order the lower court has dismissed it.

2. Heard the learned counsel Sri.P.B.Krishnan appearing for the petitioners and Sri. S.Vinod Bhat appearing for respondents 1 to 4.

3. Sri.P.B.Krishnan submits that it is necessary to ascertain the will of the majority before the court can take a decision in the matter. On the other hand, Sri.Vinod Bhat argues that to decide whether the meetings held in 2011 and 2012 are valid it is not necessary to conduct an

another extraordinary general meeting. This submission appears to be correct. But at the same time, if the trial court feels that to resolve the dispute before it, it is necessary to conduct an extraordinary general meeting it may do so notwithstanding the impugned order.

In the result, this O.P is disposed of with a direction that if the Munsiff feels that conducting an extraordinary general meeting will help to resolve the dispute before it, he may do so notwithstanding the impugned order. The suit shall be disposed of before 23.12.2015.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

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PA to Judge