

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

OP(C).No. 2603 of 2015 (O)

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AGAINST THE ORDER/JUDGMENT IN OS 306/2013 of MUNSIF COURT,
CHITTUR
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PETITIONER(S)/PETITIONER/DEFENDANT NO.1:

**SUNDARAGANESAN
S/O.LATE NATARAJA PANDARAM, RESIDING AT AYYAMPATHY
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD -678 102.**

**BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P**

RESPONDENT(S)/RESPONDENTS/PLAINTIFFS & DEFENDANT NO.2:

- 1. RAMESH MENON
S/O.SAVITHRI AMMA, PALAT HOUSE, AYYAMPATHY KALAM
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD-678 102.**
- 2. MADHAVANKUTTY MENON
S/O.SAVITHRI AMMA, PALAT HOUSE, AYYAMPATHY KALAM
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD-678 102.**
- 3. RAJAN @ VIJAYAMOHAN
S/O.SAVITHRI AMMA, PALAT HOUSE, AYYAMPATHY KALAM
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD-678 102.**
- 4. NALINI SUBRAMANIAN
D/O.SAVITHRI AMMA, RESIDING AT 110, CAMERON DRIVE
CAMERON HILLS, 19707, U.S.A.**
- 5. DR. GOVINDANKUTTY
S/O.SAVITHRI AMMA, PALAT HOUSE, AYYAMPATHY KALAM
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD-678 102.**
- 6. KESAVANKUTTY
S/O.SAVITHRI AMMA, PALAT HOUSE, AYYAMPATHY KALAM
THATHAMANGALAM VILLAGE, CHITTUR TALUK
PALAKKAD-678 102.**

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- 7. ANURADHA BALARAM
D/O.LATE SREEKUMAR, C/O.BALARAM, 4A
FSFS, KINGS WOOD, KOWDIAR
THIRUVANANTHAPURAM -03.**
- 8. VRINDA BALAGOPAL, D/O.LATE SREEKUMAR
NO.24, STREET NO.92, 18TH AVENUE
ASOK NAGAR, CHENNAI-83**
- 9. NIRMALA DEVI
W/O.V.K.SUDHAKARANUNNI, 22, 'LAKSHMI'
SOORYA NAGAR, CHANDRANAGAR P.O, PALAKKAD - 678 007.**

BY SRI.RAJESH CHAKYAT

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 29-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT.P1 - TRUE COPY OF THE PLAINT IN OS NO.306/2013 ON THE FILE OF
MUNSIFFS COURT CHITTUR**

EXHIBIT.P2 - TRUE COPY OF THE WRITTEN STATEMENT FILED IN EXT.P1 SUIT

**EXHIBIT.P3 - TRUE COPY OF THE ADDITIONAL WRITTEN STATEMENT DATED
07.11.2014 FILED BY THE PETITIONER.**

**EXHIBIT.P4 - TRUE COPY OF THE ADDITIONAL WRITTEN STATEMENT DATED
09.03.2015 FILED IN EXT.P1 SUIT BY THE PETITIONER**

EXHIBIT.P5 - TRUE COPY OF THE ISSUES FRAMED IN EXT.P1 SUIT

EXHIBIT.P6 - TRUE COPY OF THE IA NO.2016/2015 FILED IN EXT.P1 SUIT.

EXHIBIT.P7 - TRUE COPY OF THE COUNTER FILED IN EXT.P6 PETITION

EXHIBIT.P8 - TRUE COPY OF THE ORDER DATED 01.10.2015 IN EXT.P6 PETITION

RESPONDENT(S)' EXHIBITS **NIL**

R.AV

//True Copy//

PA to Judge

K.ABRAHAM MATHEW, J

O.P.(C).NO.2603 OF 2015

Dated this the 29th day of October 2015

J U D G M E N T

Petitioner is the first defendant in OS.306 of 2013 of Munsiff Court, Chittoor. The subject matter of the suit is a temple. The plaintiffs allege that it is their family temple and the petitioner, who was appointed priest by them neglected to discharge his duties and he was removed from the post of priest. The reliefs prayed for in the suit is a mandatory injunction directing the petitioner to hand over the keys and possession of the temple to them and for a perpetual injunction restraining him from interfering with the functioning of the temple. The petitioner contended that he is a hereditary priest and he cannot be removed from the post. The trial court framed as many as ten issues. The petitioner filed IA.2016 of 2015 to frame additional issues. It was dismissed by Ext.P8 order.

2. Heard.

3. Though Ext.P7 application is for framing additional issues, there is no mention about the proposed additional issues. But in the O.P. they have been

specifically mentioned. They are:

“(a) What is the nature of the entrustment of the temple and pooja rights to the ancestors of the petitioner/defendant No.1? Is it heritable and can such rights be terminated at the will of the plaintiffs?”

(b) Can the plaint schedule property be properly identified on the basis of the survey number and other descriptions given in the plaint”.

4. The main dispute is whether the petitioner is a hereditary priest or not. With regard to this matter the learned Munsiff has already framed an issue. The nature of entrustment alleged is a subsidiary matter, for which no separate issue is necessary. Even though there is no such specific issue if it is relevant the parties can adduce evidence with regard to it.

5. The second issue is with regard to the identity of the property. The suit is not in respect of property, but the temple. The petitioner does not claim any right in the properties of the temple. So it is not necessary to frame an issue with regard to the identity of the properties belonging to the temple. I am not inclined to grant the

prayers in the O.P.

In the result, this O.P is disposed with the above observation.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge