

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 4TH DAY OF AUGUST 2014/13TH SRAVANA, 1936

OP(C).No. 1775 of 2014 (O)

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(IA.NO.1903/2014 IN OS.NO.7/2013 OF 2ND ADDITIONAL SESSIONS COURT,
ERNAKULAM)
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PETITIONER :

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FR.SKARIA @ ZACHARIA,
VATTAKATTIL HOUSE, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT.**

**BY SRI.S.SREEKUMAR,SENIOR ADVOCATE
ADVS.SRI.K.PAUL KURIAKOSE
SRI.D.P.SASIDHARAN**

RESPONDENT(S):

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- 1. MATHAI ULAHANNAN, S/O.ULAHANNAN,AGED ABOUT 70 YEARS,
RESIDING AT MANAPPATT HOUSE,PIRAVOM KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN- 686 664.**
 - 2. MATHAI THOMMAN, S/O.THOMMAN,AGED ABOUT 70 YEARS,
RESIDING AT THEKKUMMOOTIL HOUSE,
PIRAVOM KARA, PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.**
 - 3. ELIYAS ANTHRAYOSE @ SANTHOSH,
S/O.ANTHRAYOSE,AGED ABOUT 48 YEARS,
RESIDING AT THALIYACHIRA KAKKUTHIL HOUSE,
VELIYANAD KARA, EDAKKATTUVAYAL VILLAGE,
KANAYANNUR TALUK, ERNAKULAM. PIN-686 664.**
 - 4. CHACKO CHACKO @ CHINNAKUTTY, S/O.CHACKO,
AGED ABOUT 65 YEARS, RESIDING AT PUTHENPURAKKAL HOUSE,
MULAKULAM SOUTH KARA, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT. PIN-686 664.**
 - 5. JOHN POULOSE, S/O.POULOSE,AGED ABOUT 54 YEARS,
RESIDING AT VAKKANAYIL HOUSE, KAKKAD KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.**
 - 6. ELIYAS VARGHESE,S/O.VARGHESE, AGED ABOUT 48 YEARS,
RESIDING AT NAREKKATTU,MULAKULAM NORTH KARA,
PIRAVOM VILLAGE,MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.**

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7. GEORGE KURIAKOSE, S/O.KURIAKOSE, AGED ABOUT 60 YEARS,
RESIDING AT PARIYARATH HOUSE,KAKKAD KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.
8. VARGHESE CHACKO @ ONNAN,
S/O.CHACKO,AGED ABOUT 58 YEARS,
RESIDING AT MANJAMATTATHIL,
NEAR POLICE STATION, PIRAVOM KARA, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT. PIN-686 664.
9. KURIAKOSE THOMAS @ BAIJU,
S/O.THOMAS, AGED ABOUT 43 YEARS,
RESIDING AT ELANJIMATTATHIL, KAKKAD KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.
10. POULOSE PAILY, S/O.PAILY, AGED ABOUT 80 YEARS,
RESIDING AT ENTHUMKATTIL, PAZHOOR KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.
11. POULOSE MARKOSE,S/O.MARKOSE, AGED ABOUT 50 YEARS,
RESIDING AT VARYATTEL HOUSE,NEAR G L P S KAKKAD,
KAKKAD KARA, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT.PIN- 686 664.
12. VARKEY MATHAI,S/O.MATHAI, AGED ABOUT 50 YEARS,
RESIDING AT EDAKUZHIIYIL HOUSE, KALLUMARI,
PAZHOOR KARA, PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.
13. JOSE ULAHANNAN,S/O.ULAHANNAN,AGED ABOUT 44 YEARS,
RESIDING AT CHELLAPURATH PUTHENPURAYIL,
ONAKKOOR KARA, PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.
14. KURIAN ULAHANNAN @ KUNJAPPAN,
S/O.ULAHANNAN, AGED ABOUT 78 YEARS,
RESIDING AT PARAPPILLY HOUSE, KAKKAD KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.
15. SHIJU JOSEPH, S/O.JOSEPH, AGED ABOUT 37 YEARS,
KANJIRATHINKAL HOUSE, PIRAVOM KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT. PIN-686 664.
16. PRINCE P.V, S/O.VARKEY,AGED ABOUT 50 YEARS,
PARAYARUPARAMBIL HOUSE, PIRAVOM KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.

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17. REJI P. VARGHESE,
S/O.VARGHESE, AGED ABOUT 33 YEARS,
RESIDING AT PUTHENPURAYIL HOUSE,
PUTHUSSEERIPADY, ONAKKOOR KARA, ONAKKOOR VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT.PIN- 686 664.
18. BIJU VARGHESE, S/O.VARGHESE, AGED ABOUT 38 YEARS,
RESIDING AT KATHALIKATTU HOUSE,
MULAKKULAM NORTH KARA, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT. PIN-686 664.
19. DEEPU MATHEW, S/O.MATHAI, AGED ABOUT 33 YEARS,
RESIDING AT PALACKAL HOUSE, KAKKAD KARA,
PIRAVOM VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.PIN- 686 664.
20. BENNY V. VARGHESE, S/O.VARGHESE, AGED ABOUT 40 YEARS,
RESIDING AT VENGINIKATTUKUDILIL HOUSE,
KALLUMARIL, PAZHOOR KARA, PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT. PIN-686 664.
21. FR.SIMON CHELLIKATTIL,
COR EPISCOPA, KALAMPOOR KARA,
PIRAVOM. PIN-686 664.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-08-2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1- PHOTOSTAT TRUE COPY OF JUDGMENT DATED 8.3.2013 IN O.P[C]NO.863 OF 2013 OF THE HON'BLE HIGH COURT.
- P2- PHOTOSTAT TRUE COPY OF ORDER DATED 8.5.2013 PASSED BY THE HON'BLE SUPREME COURT.
- P3- PHOTOSTAT TRUE COPY OF INTERIM ORDER DATED 4.4.2014 PASSED BY THE HON'BLE SUPREME COURT.
- P4- PHOTOSTAT TRUE COPY OF I.A.NO.1903 OF 2014 FILED BY THE PETITIONER BEFORE THE 1ST ADDL. DISTRICT COURT, ERNAKULAM.
- P5- PHOTOSTAT TRUE COPY OF COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 1 TO 6,8,9,12 AND 13 IN I.A.NO.1903 OF 2014.
- P6- PHOTOSTAT TRUE COPY OF COUNTER AFFIDAVIT DATED 03.05.2014 FILED BY THE 21ST RESPONDENT IN I.A.NO.1903 OF 2014.
- P7- PHOTOSTAT TRUE COPY OF ORDER DATED 03.05.2014 IN I.A.NO.1903 OF 2014 IN O.S.NO.7 OF 2013.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.BHAVADASAN, J.

O.P. (Civil) No.1775 OF 2014

Dated this the 4th day of August, 2014.

J U D G M E N T

The limited prayer in this original petition is for a direction to the court concerned to take up I.A.No.1794/2013 and dispose of it in terms of the order passed by the Apex Court allowing the trial court to continue with the proceedings and directing not to pass final judgment and decree.

2. It is unnecessary to go into the facts of the case in detail for the simple reason that there was a petition for injunction filed by the petitioner which has been disposed of. In pursuance thereof, I.A.No.1794/2013 was filed by the petitioner before the court below. There was a challenge to the maintainability of the proceedings before the Additional District Court, Ernakulam which was repelled by this Court. But the Apex Court initially stayed the impugned judgment and later on it clarified that all further proceedings in the trial court may go on except passing of the final decree.

3. The petitioner then moved by way of I.A.No.1794/2013 for Police protection seeking appropriate orders in that petition. The matter came up before the vacation court and the said court felt that since the order of stay passed by the Apex Court has not been recalled, it could not proceed with the matter. The petitioner apprehends that the same attitude may be taken by the regular court also and the petition may remain unattended to.

This original petition is disposed of clarifying that I.A.No.1794/2013 shall be disposed of untrammelled by the observations of the vacation court and in terms of the order of the Apex Court allowing the trial court to continue with the proceedings except passing of the final judgment and decree.

Sd/-

P.BHAVADASAN
JUDGE

smp

// True Copy //

P.A. to Judge.