

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

OP(C).No. 3038 of 2014 (O)

**AGAINST THE ORDER/JUDGMENT IN CMA 47/2014 of ADDL.D.C. & MACT, NORTH
PARAVUR DATED
PETITIONER(S):**

**NIXON KANJIRATHINKAL, AGED 41,
S/O. AUGUSTINE, KANJIRATHINKAL HOUSE, PALLYPORT P.O.**

**BY ADVS.SRI.S.VIDYASAGAR
SMT.K.J.SONIA**

RESPONDENT(S):

- 1. HOLLY FAMILY CHURCH,
REPRESENTED BY ITS VICAR FATHER PAUL MANAKKAL
AGED 48 YEARS, PRESENT VICAR, HOLLY FAMILY CHURCH,
MUNAMBAM, PIN-683 515.**
- 2. FATHER PAUL MANAKKAL, AGED 48 YEARS,
PRESENT VICAR, HOLLY FAMILY CHURCH., MUNAMBAM MURI,
PALLIPURAM VILLAGE, PARAVOOR TALUK, PIN-683 515.**

**BY ADVS. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SRI.ANOOP BHASKAR**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 27-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 3038 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1. THE TRUE COPY OF THE ORDER DATED 23-10-2014 IN IA 1093/14 IN
O.S. 381/14.

EXT. P2. THE TRUE COPY OF THE IA 974/2014 IN CMA 47/2014 ON THE FILE OF
ADDITIONAL DISTRICT COURT ALONG WITH THE AFFIDAVIT FILED BY THE
RESPONDENT IN SUPPORT OF SAID STAY PETITION.

EXT. P3. THE TRUE COPY OF THE ORIGINAL ORDER SHEET ATTACHED TO EXT.P2
SHOWING THE ORDER PASSED IN EXT. P2 BY THE LOWER APPELLATE
COURT WITH CORRECTIONS.

EXT. P4. THE TRUE COPY OF THE IMPUGNED ORDER DATED 18-11-14 IN IA 974/2014
IN CMA 47/14 ON THE FILE OF ADDITIONAL DISTRICT COURT STAYING
EXT.P1 ORDER OF THE MUNSIFFS COURT.

RESPONDENT(S)' EXHIBITS:

EXT. R1: TRUE COPY OF THE CAVEAT NO.29/2014 FILED BY THE PETITIONER
BEFORE THE HON'BLE ADDITIONAL DISTRICT COURT, NORTH PARAVUR
DTD.27.10.2014.

EXT.R2: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BY THE
RESPONDENTS AS C.M.A.NO.47/2014 IN THE ADDITIONAL DISTRICT COURT,
NORTH PARAVUR DTD.17.11.2014.

EXT.R3: TRUE COPY OF THE ORDER PASSED BISHOP OF KOTTAPPURAM, DIOCESE
OF KOTTAPPURAM DTD.21.4.2014.

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
O.P.(C) No.3038 of 2014
.....

Dated this the 27th day of May, 2015

J U D G M E N T

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According to the petitioner, a caveat was preferred prior to the filing of CMA.47/2014 before the Additional District Court, North Paravur. Ext.P4 reveals that a caveat was filed and it seems that notice was ordered to the caveators. By noting down that such a caveat was filed and notice has been issued to the caveators, it seems that the court below has passed an order of stay by way of an ad-interim order.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. This Court has passed an order staying the operation of Ext.P4 order. Let that order continue till the disposal of the CMA. The court below is directed to dispose of the CMA, as expeditiously as possible, at any rate, within

a period of three months from the date of receipt of a copy of this judgment.

In the result, this OP(Civil) is allowed. Order passed by this Court staying the operation of Ext.P4 order will continue till the disposal of the CMA. It is made clear that the order of stay has been passed by this Court merely on technical grounds as Ext.P4 was passed by the court below without serving notice on the caveator, even though a caveat was filed. The court below shall dispose of the CMA quite untrammelled by the fact that this Court has stayed the operation of Ext.P4.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/27/05

// True Copy //

PA to Judge