

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

RSA.No. 360 of 2015

**AS 185/2012 OF VI ADDITIONAL DISTRICT COURT, ERNAKULAM DATED 08-08-2014
OS 626/2005 OF II ADDITIONAL MUNSIF COURT, ERNAKULAM DATED 30-03-2012**

APPELLANT(S)/RESPONDENT/DEFENDANT:

**IRENE KUNJUMON,
W/O.K.T.KUNJUMON, NETAJI ROAD, PADIVATTOM,
EDAPPALLY, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE**

RESPONDENTS/APPELLANTS/PLAINTIFFS:

- 1. BISHOP DR.THOMAS MAR KOORIOSE,
S/O NINAN KOSHY, BISHOP MALANKARA CATHOLIC DIOCESE,
MUVATTUPUZHA,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
REV.FR.KURIAN ARAMPILYKUDY,
S/O.KURIAN KURIAN, VIMALAGIRI BISHOP'S HOUSE,
MUDAVOOR.P.O, MUVATTUPUZHA.**
- 2. BISHOP DR.ABRAHAM MAR JULIOS,
S/O.LATE VARGHESE, BISHOP MALANKARA CATHOLIC DIOCESE,
MUVATTUPUZHA, VIMALAGIRI BISHOPS HOUSE, MUDAVOOR.P.O
MUVATTUPUZHA.**

**BY ADV. RAKESH ROSHAN (CAVEATOR)
BY ADV.SRI.GHOSH YOHANNAN**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 7/10/2015 THE COURT ON 27-10-2015, DELIVERED THE
FOLLOWING:**

PJ

P.B.SURESH KUMAR, J.

R.S.A. No.360 of 2015

Dated this the 27th day of October, 2015.

J U D G M E N T

The defendant in a suit for eviction is the appellant in this second appeal.

2. The plaint schedule building which was owned by the Thiruvalla Diocese of the Malankara Catholic Church was let out to the defendant on 1.8.1997 by its Bishop. Later, a new Diocese of the church was formed as the Muvattupuzha Diocese by bifurcating the Thiruvalla Diocese of the church. Since the plaint schedule building is situated within the jurisdictional limits of the Muvattupuzha Diocese, the Bishop of the said Diocese instituted the suit when the defendant failed to surrender vacant possession of the building as per the terms of the lease. The defendant resisted the suit. The main contention raised by the defendant was that the suit property belongs to the Thiruvalla Diocese and the suit instituted by

Bishop of the Muvattupuzha Diocese is therefore not maintainable. The trial court rejected the contentions of the defendant including the contention referred to above and decreed the suit. The defendant challenged the decision of the trial court in appeal. The appellate court, on a reappraisal of the materials on record, confirmed the decision of the trial court. The defendant who is aggrieved by the concurrent decisions of the courts below has thus come up in this Second Appeal.

3. Heard Adv.V.Philip Mathews for the appellant.

4. The only point urged by the learned counsel for the appellant at the time of hearing was that the plaint schedule building being a property owned by the Thiruvalla Diocese of the church, the suit instituted by the Bishop of the Muvattupuzha Diocese is not maintainable. I have rejected the very same contention raised by the tenant of another building owned by the church who suffered a similar order of eviction, in R.S.A.No.572 of 2015, holding that the suit building is owned by the Muvattupuzha diocese and that the Bishop of Muvattupuzha

Diocese, who is administering the affairs of the diocese is entitled to institute the suit in respect of the properties of the diocese. In the light of the decision in R.S.A.No.572 of 2015, there is no merits in the Second Appeal and the same is accordingly dismissed *in limine*. All the interlocutory applications in the appeal are closed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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