

Jacob Mathew Vs. Rev. Robert John

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SooperKanoon Citation : sooperkanoon.com/1016041

Court : Kerala

Decided On : Jul-17-2013

Judge : Honourable Mr.Justice N.K.Balakrishnan

Appellant : Jacob Mathew

Respondent : Rev. Robert John

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN WEDNESDAY, THE 17TH DAY OF JULY 2013 26TH ASHADHA, 1935 OP(C).No. 2372 of 2013 (O) ----- AGAINST THE JUDGMENT IN CMA 53/2013 THE FIRST ADDITIONAL DISTRICT JUDGE, THRISSUR PETITIONER(S)/PETITIONER: ----- JACOB MATHEW AIKKARA HOUSE, A.P JOSEPH ROAD, CHULLIKKAL KOCHI HAVING HIS OFFICE OF CORPORATE MANAGER CMS SCHOOLS, KOCHI AREA, CMSHSS, ROUND WEST, THRISSUR, KERALA

001. BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA) RESPONDENT(S)/RESPONDENTS: ----- 1. REV. ROBERT JOHN S/O.LATE JOHN DAS, VICAR, CSI ST.MARKS CHURCH, COURT ROAD, OTTAPALAM PALAKKAD PIN 67.101 2. RT.REV.DR.K.G DANIEL, MODERATOR'S COMMISSARY, CHURCHES OF SOUTH INDIA NORTH KERALA DIOCESE, CSI BISHOPS HOUSE, SHORNUR KERALA

121. 3. RT.REV.DR.K.P KURUVILA BISHOP(NOW RETIRED) DIOCESE OF NORTH KERALA, CHURCH OF SOUTH INDIA CSI BISHOPS HOUSE, SHORNUR, KERALA 67 121 R1 BY ADV. SRI.P.V.KUNHIKRISHNAN THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 17-07- 2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 2372 of 2013 (O) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- 1. EXHIBIT P1: TRUE COPY OF THE PROCEEDINGS OF THE BISHOP AND EDUCATIONAL AGENCY DATED 30 07-2012 2. EXHIBIT P2:

2013. ISSUED BY TRUE RESPONDENT 2 DCOPY OF THE ORDER DATED 21 03- 3. 2013 ISSUED BY TRUE RESPONDENT EXHIBIT P3: COPY OF THE LETTER DATED 7 1- 2ND 4.EXHIBIT P4: TRUE COPY OF THE PLAINT O.S NO 168/13 BEFORE SUB COURT THRISSUR FILED BY THE PETITIONER 5 EXHIBIT 201 IN I.AP5:

1161. 13 IN O.S NO 168/13 TRUE COPY OF THE ORDER DATED 3 4- NO 6.EXHIBIT P6; TRUE COPY OF THE ORDER DATED 1 7- 2013 IN CMA 53/13 BEFORE DISTRICT JUDGE, THRISSUR /truecopy/ P.S. To Judge N.K.BALAKRISHNAN, J.

===== O.P.(C).No. 2372 of 2013
===== Dated this the 17th day of July, 2013 JUDGMENT
The petitioner in a suit for injunction has filed this petition under Article 227 of the Constitution of India, challenging Ext.P6 judgment passed by the Addl. District Judge in CMA No.53/2013. As per Ext.P5, an order was passed by the learned Munsiff restraining the respondents and their men from causing any sort of obstruction to the petitioner in performing and discharging his official duties as Corporate Manager of CSI Schools, Northern area, until the disposal of the suit.

2. As per Ext.P1 order dated 30.7.2012, the Bishop and Educational agency in the CSI North Kerala diocese passed an order appointing the petitioner herein as the O.P.(C). No.2372/2013 2 Corporate Manager, CSI Schools in Thrissur and Cochin Area for a period of one year w.e.f. 01.08.2012 to 31.07.2013. Petitioner contends that he has been discharging his official duties with utmost good faith and in the interest of the school and to the satisfaction of all concerned. It is further

contended that the second defendant became ill and so he went on leave and thus the first defendant happened to be in-charge of the Office of the Bishop. The respondents contended that Executive Committee of the CSI North Kerala diocese held a meeting on 21.1.2013 and in that meeting, the Executive Committee decided to appoint Rev. Robert John as the Corporate Manager for CSI Schools for one year from that day (21.1.2013) or until further orders with immediate effect. So, pursuant to the decisions so taken by the Executive Committee, the petitioner herein was directed to vacate the office.

3. The learned counsel for the petitioner submits that O.P.(C). No.2372/2013 3 Ext.P1, the order of appointment passed by the Bishop, who was also the Educational Agency would make it clear that the said order was passed in view of the fact that the Executive Committee was not met for several months. It is also stated that on earlier occasions also, such Managers were appointed to act for a period of one year. The said appointment was to be approved by the Director of Public Instruction (DPI for short), Thiruvananthapuram. Objections were raised by the DPI to which Ext.P3 reply was sent by the second respondent herein stating the circumstances under which the petitioner was appointed as the Manager. As per Ext.P3 it was stated that the appointment of the petitioner was for a period of one year from 01.08.2012 to 31.07.2013. As per Ext.P3 letter, the second respondent requested the DPI to approve the appointment of the petitioner herein as the Corporate Manager of CSI Schools in Trichur and Cochin Area. That letter was sent on 07.11.2012. It was the very same second O.P.(C). No.2372/2013 4 respondent who issued Ext.P2 order dated 21.1.2013 appointing the first respondent as the Corporate Manager.

4. The learned counsel for the respondents would submit that as per the Constitution of the Diocese of North Kerala in the Church of South India, the Bishop shall appoint a Manager on the recommendation of the Executive Committee. Admittedly, when the petitioner was appointed as the Manager, since the Executive Committee did not meet, no recommendation also could be given for appointment of the Manager. So, according to the learned counsel for the respondents, subsequently when the Executive Committee met, they took the decision on 21.1.2013 as has been referred to earlier and the first respondent was

appointed as the Manager. It is argued by the learned counsel for the respondents that the appointment of the petitioner as the Manager is illegal and should be treated as non est because it was done without the recommendation of the Executive Committee. That O.P.(C). No.2372/2013 5 contention cannot be accepted. Though the recommendation of the Executive Committee may be required, the order of appointment (Ext.P1) which was referred to in Ext.P3, sent by the second respondent to DPI, it was specifically stated as to the circumstances under which the petitioner was appointed as the Manager by the Bishop. Therefore, the contention that the appointment is totally illegal or non est cannot be accepted.

5. Then the other question is whether without notice, the petitioner could have been asked to vacate the office when admittedly it was not a case where in the opinion of the Executive Committee, the continuation of the petitioner as the Manager was not in the interest of the School. It is also pertinent to note that though the petitioner was appointed as the Corporate Manager w.e.f. 01.08.2012, he continued to be so till 21.1.2013, even without intervention of the court. There was no complaint against the petitioner. In these circumstances, the learned counsel for the O.P.(C). No.2372/2013 6 petitioner submits that Ext.P2 order would have the effect of unceremoniously unseating the petitioner which will have adverse effect on the integrity, efficiency and capability of the petitioner, that too, when it was done without notice to the petitioner. In these circumstances, I find that Ext.P6, impugned judgment passed by the learned District Judge has to be set aside. Since the petitioner can continue as the Corporate Manager only for a few more days, till 31.7.2013, I do find that the balance of convenience is in favour of the petitioner to continue as the Corporate Manager till 31.7.2013, as otherwise, undue hardship and irreparable injury would be caused to the petitioner. Hence, this petition is allowed, permitting the petitioner to continue as the Corporate Manager till 31.7.2013. N.K.BALAKRISHNAN, JUDGE