

Jose Vs. Rappai

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SooperKanoon Citation : sooperkanoon.com/1130493

Court : Kerala

Decided On : Feb-18-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Jose

Respondent : Rappai

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN TUESDAY, THE 18TH DAY OF FEBRUARY 2014 29TH MAGHA, 1935 RP.No. 47 of 2014 (O) IN WP(C).23590/2010 ----- AGAINST THE

JUDGMENT

IN WP(C) 20008/2010 & 23590/2010 of HIGH COURT OF KERALA DTD.18.10.2013 ----- PETITIONERS/PETITIONERS :-

----- 1. SIMON T.GEORGE, AGED 68 YEARS S/O.GEORGE, KILIMANGALAM HOUSE, NECHOOR KARA MANEED VILLAGE, MUVATTUPUZHA TALUK.

2. N.P.KURIAKOSE, AGED 61 YEARS S/O.PATHROSE, NADUVILEDATHU PUTHENPURAYIL EZHAKKARANADU, MANEED VILLAGE, MUVATTUPUZHA TALUK. BY ADVS.SRI.T.RAMPRASAD UNNI SRI.S.M.PRASANTH SMT.ASHA BABU SMT.AMMU CHARLES RESPONDENTS/RESPONDENTS :-

----- 1. K V PAUL,, AGED58YEARS S/O.VARKEY,
KOZHIKKOTTUTHARAYIL HOUSE, NECHUR KARA MANEED VILLAGE,
MUVATTUPUZHA TALUK.

2. K.C.JOY,, AGED61YEARS S/O.CHACKO, KAYYALAPARAMBIL HOUSE,
NECHUR KARA MANEED VILLAGE, MUVATTUPUZHA TALUK.

3. K.P.JOY,, AGED47YEARS, S/O.PAILY, RESIDING AT KARIMBALAKKAL
HOUSE, NECHUR KARA MANEED VILLAGE, MUVATTUPUZHA TALUK.

4. FR. P.M.KURIAKOSE, MOOLAMATTATHIL HOUSE, PRIEST, ST.THOMAS
CHURCH, NECHUR, RESIDING AT MOOLAMATTATHIL HOUSE, NECHUR
KARA MANEED VILLAGE, MUVATTUPUZHA TALUK.

5. T.K.JOY,, AGED49YEARS S/O.KURIAN, THADATHIL PARAMBIL HOUSE,
NECHUR KARA MANEED VILLAGE, MUVATTUPUZHA TALUK. RP.No. 47 of
2014 (O) IN WP(C).23590/2010 6. SOJAN P ABRAHAM, AGED48YEARS
S/O.ABRAHAM, PUNCHALAYIL, PAZHOOR P.O. KAROOR KARA, MANEED
VILLAGE.

7. RAJU JOHN,, AGED58YEARS, S/O.JOHN NADUVELEDATHU
PUTHENPURAYIL (VETTIKUZHIIYIL HOUSE) EZHAKARANADU, MANEED
VILLAGE. R1 & R2 BY ADV.SRI.S.SREEKUMAR (SR.) R3 TO R5 BY
ADV.SMT.SARITHA DAVID CHUNKATH THIS REVIEW PETITION HAVING
COME UP FOR ADMISSION ON1802-2014 ALONG WITH R.P.No.48/2014, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING: jvt RP.No. 47 of 2014
(O) IN WP(C).23590/2010 APPENDIX Petitioner's Exhibits :- Annexure A1 :- True
copy of the order dated 29.10.2009 in I.A.No.3653 of 2009. Annexure A2 :- True
copy of the plaint in O.S.No.203 of 2009 before the Sub Court, Muvattupuzha.
Annexure A3 :- True copy of the Civil Appeal No.2036 of 2010 before the Supreme
Court of India. Annexure A4 :- True copy of Order in SLP No.4734 of 2010.
Respondent's Exhibits :- NIL. //True Copy// P.A.to Judge N.K.BALAKRISHNAN, J.

----- R.P. No.47of 2014 in W.P.(C) No.23590/2010 and
R.P.No.48 of 2014 in W.P.(C) No.20008/2010

----- Dated this the 18th day of February
2014

ORDER

Both review petitions are heard together.

2. A common judgment was passed by this Court on 18.10.2013 in W.P.(C) Nos.20008/2010 and 23590/2010. It is pointed out by the learned Senior Counsel appearing for the review petitioners that W.P.(C) No.23590/2010 pertains to O.S.No.33/2009, which is pending before the trial court. The judgment can only be in respect of W.P.(C) No.20008/2010. Therefore, whatever is said in the judgment dated 18.10.2013 pertaining to W.P.(C) No.23590/ 2010 shall stand deleted.

3. It is also pointed out by the learned counsel that in paragraph 15 of the judgment, a sentence has crept in as : "It is the admitted fact that the defendant church is a Public Religious Charitable Trust governed by '1934 Constitution'." R.P. No.47 of 2014 in W.P.(C) No.23590/2010 and R.P.No.48 of 2014 in W.P.(C) No.20008/2010 -:

2. :- It is pointed out that whether the defendant church is a "Public Religious Charitable Trust governed by 1934 Constitution" is actually the dispute involved in the suit and that is not an admitted fact. That is seen to be error apparent on the face of the record. Hence, that sentence will also remain deleted from paragraph 15 of the judgment.

4. With regard to W.P.(C) No.23590/2010, the learned counsel appearing for the petitioners submits that, as the suit, O.S.No.33/2009 is pending, the defendants can raise the question as to the maintainability of the suit under Sec.12 of the CPC. Hence, W.P.(C) No.23590/2010 will stand disposed of giving liberty to the defendants to raise the issue regarding the maintainability of the suit under Sec.12 of CPC in that suit. Both review petitions are disposed of accordingly. Sd/- N.K.BALAKRISHNAN, JUDGE. //True Copy// P.A. To Judge Jvt