
(2022) 05 KL CK 0101
In the High Court Of Kerala
Case No : Writ Petition (C) No. 16029 Of 2022

Danny Zacharia

APPELLANT

Vs

Bathel Suloko Orthodox Syrian Church

RESPONDENT

Date of Decision : 23-05-2022

Acts Referred:

Citation : (2022) 05 KL CK 0101

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : S.Sreekumar, Priya Shanavas, Jomy George, R.Padmaraj, Padmaraj.R, M.G.Jeevan

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. The above writ petition is filed with the following prayers:

"(i) To issue a writ of mandamus or any other appropriate writ order or direction compelling and commanding the 7th respondent to allow the petitioner and his 9 family members to conduct a prayer on the 40th death day of his mother before the cemetery attached to Bathel Orthodox Syrian Church, Perumbavoor.

(ii) Issue such other Writ, Order or Direction that this Honourable Court may deem fit and proper in the nature and circumstances of the case."[SIC]

2. The petitioner's mother died on 15.04.2022. This writ petition is filed to give a direction to the 7th respondent Receiver of the 1st respondent to consider and pass orders on Ext.P3 submission on merit before 23.05.2022. The prayer of the petitioner is for issuing a direction to the 7th respondent to allow the petitioner and his 9 family members to conduct a prayer on the 40th death day of his mother before the cemetery attached to Bathel Orthodox Syrian Church, Perumbavoor.

3. Heard counsel for the petitioner and the counsel appearing for the contesting

respondents.

4. The counsel for the petitioner submitted that tomorrow (24.05.2022) is the 40th death day of his mother. The counsel appearing for the 7th respondent Receiver submitted that Ext.P3 is already considered and an order is passed on 20.05.2022, refusing the request of the petitioner. Counsel appearing for respondent Nos.1 and 8 to 11 submitted that, as per the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox – Jacobite) Cemeteries Act, 2020, the petitioner has no right to do the same.

5. This Court considered the contentions of the petitioner and the respondents. The prayer of this writ petition is only to allow the petitioner and his 9 family members to conduct a prayer on the 40th death day of his mother before the cemetery. The counsel appearing for the contesting respondents submitted that the prayers with the assistance of the Priest is not permissible. But they can inform the vicar of the church concerned and he will do the needful for praying before the tomb. The petitioner is satisfied with the same. But I make it clear that this order may not be taken as any right by the petitioner in the pending suit.

Therefore this writ petition is disposed of in the following manner:

- i. The petitioner is allowed to approach the vicar of the Church for praying before the tomb on the 40th death day of his mother.
- ii. If such a request is received, the vicar concerned will do the needful to see that the petitioner and his 9 family members are prayed before the tomb.
- iii. All the contentions of the parties in the suit are left open.