

(2010) 10 KL CK 0255
In the High Court Of Kerala
Case No : OP (C) No. 382 of 2010 (O)

George Paulose

APPELLANT

Vs

St. Mary's Orthodox (Jacobite) Church

RESPONDENT

Date of Decision : 20-10-2010

Acts Referred:

Citation : (2010) 10 KL CK 0255

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : S. Sreekumar, for the Appellant; No Appearance, for the Respondent

Final Decision : Allowed

Judgement

Thomas P. Joseph, J.—Advocate Shri Sajan Varghese takes notice for respondents. Heard counsel on both sides.

2. This petition is in challenge of order dated October 11, 2010 passed by the learned Additional District Judge-I, Ernakulam on I.A. Nos. 5108

and 5135 of 2010 in O.S. No. 1 of 2008 of that court. Petitioners before me filed the suit for various reliefs alleging that respondent No. 1 - St.

Mary's Orthodox (Jacobite) Church, Mullaringadu, is Governed by the 1934 Constitution approved and upheld by the Supreme Court in the

decision reported in Most. Rev. P.M.A. Metropolitan and others, etc. etc. Vs. Moran Mar Marthoma and another etc. etc., . That contention is

however resisted by the respondents. While the suit was pending one Paulose Mathai who according to the petitioners is a parishioner of

respondent No. 1 fell seriously ill and was admitted in the hospital. Anticipating that he may not survive, petitioners filed I.A. No. 5135 of 2010

seeking permission of learned Additional District Judge to bury the body of said

Paulose Mathai in case of his death in the cemetery attached to respondent No. 1-Church. I.A. No. 5108 of 2010 was filed to advance hearing of the suit and the application. Learned Additional District Judge disposed of I.A. No. 5108 of 2010 vide Ext.P4, order stating that there is no justifiable reason to advance hearing of suit since case is posted on 06.11.2010 and Paulose Mathai is still alive. In the light of dismissal of I.A. No. 5108 of 2010 I.A. No. 5135 of 2010 (seeking permission to bury the body of Paulose Mathai in case of his death) was closed as per Ext.P5, order. Those orders are under challenge in this Original Petition.

Learned Counsel for petitioners without going into the respective contentions raised by the parties in the suit states that Paulose Mathai expired on

19.10.2010 and that his body is kept in the mortuary of Dharmagiri Hospital at Kothamangalam awaiting orders from court for burial in the

cemetery of respondent No. 1. Learned Counsel states that the matter is urgent and hence necessary orders may be passed on I.A. No. 5135 of

2010. According to the learned Counsel mental agony of close relatives of the deceased also may be taken into account. Learned Counsel for

respondents reiterated the contentions of respondents in the suit but in all fairness agreed that body of the late Paulose Mathai could be buried in

the cemetery attached to respondent No. 1 (church) but without Priests of the Orthodox faction attending burial in the cemetery or offering religious

rites in the cemetery. This suggestion is agreeable to the petitioners also as represented by learned Counsel.

3. Leaving aside the contentions parties have raised in the suit to be decided by the trial court, I consider it appropriate to issue directions in the

lines now parties have agreed before me so that body of the late Paulose Mathai could be laid to rest without delay. Hence the suggestion made by

the parties is accepted and recorded.

Resultantly, this Original Petition is allowed in the following lines:

(a) Dismissal of I.A. No. 5135 of 2010 is set aside and that application is allowed in the following lines:

(i) The body of the late Paulose Mathai referred to in I.A. No. 5135 of 2010 is allowed to be buried in the cemetery attached to respondent No. 1-

Church.

(ii) The place for burial in the said cemetery shall be decided and pointed out by

the present Managing Committee of respondent No. 1-Church and conveyed to petitioner No. 1 before 5.00 p.m., this day (20.10.2010) itself.

(iii) It is directed that Priests (including Vicar) of neither faction shall be present in the cemetery for the burial.

Above directions are made without prejudice to the contentions raised by the parties.