



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C) NO. 8 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C)NO.1761 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 2 TO 4 AND 6:

- 1 FR. K. K. MATHEWS, SON OF KURIAKOSE
AGED 61 YEARS
KUZHUVELIPPURAM HOUSE, PALLARIMANGALAM P.O.,
POTHANIKAD - 686 671.
- 2 NOBY SCARIA, AGED 51 YEARS
SON OF SCARIA, CHENAYAPPILLIL HOUSE, KADAVOOR P.O.,
KADAVOOR., PIN - 686671
- 3 ELDHOSE VARGHESE, AGED 72 YEARS
SON OF VARGHESE, PUTHUSSERIYIL HOUSE, PARAMBANCHERI,
PULINTHANAM P.O., POTHANICADU, MUVATTUPUZHA, ERNAKULAM
DISTRICT, KERALA., PIN - 686671
- 4 BABU JOHN
AGED 51 YEARS
SON OF JOHN, VELLAKKALLEL, PULINTHANAM P.O.,
PULINTHANAM, ERNAKULAM., PIN - 686671

BY ADVS.

SRI.S.M.PRASANTH

SRI.K.RAMAKUMAR (SR.)

SHRI.T.RAMPRASAD UNNI

SMT.ASWINI SANKAR R.S.

SHRI.SHEHIN S.

RESPONDENTS/PETITIONERS, RESPONDENTS 1, 5 AND ADDL. R7:



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

2

- 1 REV. FR. C. K. ISSAC COR EPISCOPA,
AGED 79 YEARS
SON OF KURIAKOSE, VICAR, ST. JOHN'S BESPAGE ORTHODOX
SYRIAN CHURCH, RESIDING AT CHENAYAPPILLIL HOUSE,
PARAMBANCHERRY, PULINTHANAM P.O., POTHANICADU,
MUVATTUPUZHA, ERNAKULAM DISTRICT, KERALA., PIN -
686671
- 2 REV. FR. P. V. PHILIP
AGED 74 YEARS
SON OF POTHEN ASSISTANT VICAR, ST. JOHN'S BESPAGE
ORTHODOX SYRIAN CHURCH, RESIDING AT ARIMAPANCHIRAYIL
HOUSE, PULINTHANAM P.O., POTHANICADU, MUVATTUPUZHA,
ERNAKULAM DISTRICT, KERALA., PIN - 686671
- 3 SHIBIN K. A.
PRESENTLY OFFICIATING AS THE INSPECTOR OF POLICE
STATION AND STATION HOUSE OFFICER, POTHANIKAD POLICE
STATION, MUVATTUPUZHA, ERNAKULAM DISTRICT, KERALA., PIN
- 686671
- 4 BASIL MATHEW
SON OF MATHEW, UNNAMTHUVEETTIL HOUSE, POTHANIKKAD
P.O., ERNAKULAM., PIN - 686672
- 5 THE DISTRICT COLLECTOR
COLLECTORATE, ERNAKULAM., PIN - 682030

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
GOVERNMENT PLEADER
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN
SRI.S.SREEKUMAR (SR.)

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH Con.APP(C).9/2024, 10/2024 AND CONNECTED CASES, THE COURT ON
24.03.2026 DELIVERED THE FOLLOWING:



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C) NO.9 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C)NO.299 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 10 TO 14:

- 1 FR. THOMAS PULAYATH
AGED 50 YEARS
PULAYATH HOUSE, AYAMPARA, KUNDUKAD P.O, THRISSUR -,
PIN - 680028
- 2 T. T. PATHROSE
AGED 55 YEARS
THADIKKULANGARAYIL HOUSE, KARINKAYAM P.O, PALAKKAD,
PIN - 678684
- 3 BAIJU K. K
AGED 40 YEARS
KUZHIKATTIL HOUSE, MALLUCODE, ELAVAMPADAM P.O,
PALAKKAD, PIN - 678684
- 4 JOY
AGED 61 YEARS
APPATTUKUZHIYIL HOUSE, ELVAMPADAM P.O., KIZHAKENCHERY,
PALAKKAD, PIN - 678684
- 5 K.C. PAULOSE
AGED 65 YEARS
KOLLARMALI HOUSE, ELAVAMPADAM P.O., KIZHAKENCHERY,
PALAKKAD, PIN - 678684



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

4

BY ADVS.
SHRI.SREENATH VIJAYARAGHAVAN
SRI.P.VIJAYARAGHAVAN ((PALAYIL)
SHRI.P.V.ELIAS
SRI.S.M.PRASANTH
SHRI.VISHNU SATHEESAN

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 11:

- 1 ST.THOMAS ORTHODOX SYRIAN CHURCH CHERUKUNNAM,
(CHERUKUNNAM CHURCH)
ELAVAMPADAM P.O ALATHUR, ALATHUR TALUK, PALAKKAD
DISTRICT - 678 684. REPRESENTED BY ITS VICAR FR. POLY
VARGHESE.
- 2 FR.POLY VARGHESE
AGED 54 YEARS
THELAPPILLIL HOUSE, SOUTH KORATTY P.O., THRISSUR, PIN
- 680308
- 3 DR VENU V IAS
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY TO
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 4 T K JOSE IAS (CORRECTED)
PRESENTLY OFFICIATING AS ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT DEPARTMENT OF HOME, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 5 SHEIKH DARVESH SHAHIB
PRESENTLY OFFICIATING AS THE DIRECTOR GENERAL OF
POLICE AND STATE POLICE CHIEF, POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM, PIN - 695001
- 6 DR S CHITRA IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD, PIN - 678001
- 7 R ANAND IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF
DISTRICT POLICE OFFICE, PALAKKAD, PIN - 678001
- 8 DR AMRITHAVALLI P
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE
REVENUE DIVISIONAL OFFICE, OTTAPALAM, PALAKKAD, PIN -



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

5

679101

- 9 ASHOKAN R
PRESENTLY OFFICIATED AS THE DEPUTY SUPERINTENDENT OF
POLICE ALATHUR P.O, PALAKKAD, PIN - 678541
- 10 SHABEER S
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE, (SHO) MANGALAM DAM POLICE STATION, PALAKKAD,
PIN - 678683
- 11 RAMANKUTTTY K
PRESENTLY OFFICIATING AS VILLAGE OFFICER
KIZHAKKENCHERY-II VILLAGE, PALAKKAD, PIN - 678541

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
GOVERNMENT PLEADER
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SRI.S.SREEKUMAR (SR.)
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



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[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

6

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.10 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.329 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 10 TO 12:

- 1 FR RAJU MARKOSE
AGED 57 YEARS
S/O. MARKOSE, PUTHUSSERY HOUSE, OLIMKADAVU P.O,
MANGALAMDAM, PALAKKAD, PIN - 678706
- 2 THANKACHAN M.A
AGED 60 YEARS
S/O. LATE ABRAHAM, MANIELIL HOUSE, NELLIYAMKUNNU,
ALATHUR, P.O, PALAKKAD, PIN - 678541
- 3 SHAJU MARKOSE,
AGED 52 YEARS
S/O. MARKOSE, PUTHUSSERY HOUSE, OLIMKADAVU P.O,
MANGALAMDAM, PALAKKAD, PIN - 678706

BY ADVS.

SHRI.SREENATH VIJAYARAGHAVAN
SRI.P.VIJAYARAGHAVAN ((PALAYIL)
SHRI.P.V.ELIAS
SRI.S.M.PRASANTH

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 8:

- 1 ST. MARY'S ORTHODOX SYRIAN CHURCH, MANGALAM DAM POST,



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

7

MANGALAM DAM VILLAGE, ALATHUR TALUK, PALAKKAD
DISTRICT, REPRESENTED BY ITS VICAR FR. MATHAI
PANAMKUTTIYIL, PIN - 678706

- 2 2. FR. MATHAI PANAMKUTTIYIL,
AGED 63 YEARS
S/O. P.M PURAVATH, VICAR, ST. MARYS ORTHODOX SYRIAN
CHURCH, MANGALAM DAM, RESIDING AT PANAMKUTTIYIL HOUSE,
VADAKKENCHERRY, PALAKKAD DISTRICT, PIN - 683678
- 3 FR. SAM VARGHESE,
AGED 51 YEARS
ASSISTANT VICAR, ST. MARYS ORTHODOX SYRIAN CHURCH,
MANGALAM DAM, RESIDING AT ORTHODOX BISHOPS HOUSE,
GEDSEEMON ARAMANA, MANNUTHY, THRISSUR, PIN - 680651
- 4 DR VENU V IAS
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY TO
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 5 T K JOSE IAS
(CORRECTED) PRESENTLY OFFICIATING AS ADDITIONAL CHIEF
SECRETARY TO GOVERNMENT DEPARTMENT OF HOME, GOVERNMENT
OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 6 SHEIKH DARVESH SHAHIB
PRESENTLY OFFICIATING AS THE DIRECTOR GENERAL OF
POLICE AND STATE POLICE CHIEF, POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM, PIN - 695001
- 7 DR S CHITRA IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD, PIN - 678001
- 8 R ANAND IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF
DISTRICT POLICE OFFICE, PALAKKAD, PIN - 678001
- 9 DR AMRITHAVALLI P.,
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE
REVENUE DIVISIONAL OFFICE, OTTAPALAM, PALAKKAD, PIN -
679101
- 10 ASHOKAN R
PRESENTLY OFFICIATED AS THE DEPUTY SUPERINTENDENT OF



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

8

POLICE ALATHUR P.O, PALAKKAD, PIN - 678541

- 11 SHABEER S
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE, (SHO) MANGALAM DAM POLICE STATION, PALAKKAD,
PIN - 678683
- 12 FR VARGHESE PALATHINKAL
AGED 47 YEARS
S/O KURIAKOSE, PALATHIKAL HOUSE, KAIRADY P.O. PALAKKAD
PIN, PIN - 678510

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
GOVERNMENT PLEADER
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SRI.S.SREEKUMAR (SR.)
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
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DELIVERED THE FOLLOWING:



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[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

9

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C) NO. 11 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C)NO.1824 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANT/10TH RESPONDENT:

JIBI M. BABY
AGED 47 YEARS
MENOTH MALIL HOUSE, IRINGOLE, PERUMBAVOOR VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM, PIN - 683545

BY ADVS.
SRI.SAJI VARGHESE KAKKATTUMATTATHIL
SMT.AMALENDU A.
SHRI.SHYAM PADMAN (SR.)

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 9 AND 11 TO 15:

- 1 ST. MARY'S ORTHODOX CHURCH (ODAKKALI PALLI)
ODAKKALI P.O, ARAKKAPADY VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT REPRESENTED BY ITS DIOCESAN
METROPOLITAN REV. FR. GEORGE PATALATTU, PIN - 683447
- 2 REV. FR. GEORGE PATALATTU
VICAR APPOINTED BY THE DIOCESAN METROPOLITAN ST.
MARY'S ORTHODOX CHURCH, ODAKKALI, RESIDING AT
PATLATTU HOUSE, WEST VENGOLA POST, VENGOLA KARA,
ARAKKAPPADY, KUNNATHUNADU TALUK, ERNAKULAM DISTRICT,
PIN - 683547



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

10

- 3 DR. V. VENU IAS
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY, STATE OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 4 SHEIKH DARVESH SAHIB
PRESENTLY OFFICIATING AS THE STATE POLICE CHIEF,
POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA, PIN
CODE, PIN - 695010
- 5 NEERAJ KUMAR GUPTA IPS
PRESENTLY OFFICIATING AS THE INSPECTOR GENERAL OF
POLICE, CENTRAL ZONE, ERNAKULAM RANGE, PIN - 682031
- 6 N.S. K. UMESH KUMAR IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD, ERNAKULAM DIST, KERALA, PIN -
682030
- 7 VIVEK KUMAR IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF,
ERNAKULAM RURAL, OFFICE OF DISTRICT POLICE CHIEF,
ALUVA, ERNAKULAM DIST, KERALA, PIN - 683101
- 8 JUVVANAPUDI MAHESH IPS
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE/ASSISTANT SUPERINTENDENT OF POLICE, OFFICE OF
THE DEPUTY SUPERINTENDENT OF POLICE, PERUMBAVOOR, PIN -
683542
- 9 PRADEEPMON VARGHESE
PRESENTLY OFFICIATING AS THE REVENUE DIVISIONAL
OFFICER, MUVATTUPUZHA, ERNAKULAM DIST, KERALA, PIN -
683373
- 10 SAJEEV M K
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE, (SHO) KURUPPAMPADY POLICE STATION,
KURUPPAMPADY (P.O), ERNAKULAM, PIN - 683545
- 11 FR. JOBY VARGHESE
S/O. VARGHESE, URAPPAL HOUSE, PUNNORPPADI BHAGAM,
MULAVOOR, THRIKKALATHOOR KARA, ERNAKULAM, PIN - 686673
- 12 E.G. GEORGEKUTTY
EDAKUDY HOUSE, METHALA KARA, METHALA P.O, ASAMANOOR
VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM, PIN - 683545



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

11

- 13 MAR THOMAS DIONYSINE
 RESIDING AT PARTRIARKIS CENTRE, PUTHENCRUZ VILLAGE,
 KUNNATHUNADU TALUK, ERNAKULAM, PIN - 682308
- 14 ROY VARGHESE
 S/O. VARGHESE, MENOTHMALIL HOUSE, ODAKKALI KARA,
 ASAMANOOR VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM, PIN
 - 683549
- 15 BASIL M. ELDBOSE
 AGED 39 YEARS
 S/O. M.P. ELDBOSE, MUKALATH HOUSE, ODAKALY,
 PERUMBAVOOR, ERNAKULAM, PIN - 683549
- 16 PAUL VARGHESE
 AGED 66 YEARS
 S/O. VARGHESE, PRESIDENT, JACOBITE ALMAYA FORUM, REG.
 NO. 112/IV/16, RESIDING AT KURUVICHARANGARA HOUSE,
 PATTIMATTOM. P. O., ERNAKULAM, PIN - 683562

BY ADVS.

SRI.ROSHEN.D.ALEXANDER

GOVERNMENT PLEADER

SHRI.SUNIL JACOB

ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL

SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

SRI.S.SREEKUMAR (SR.)

SMT.TINA ALEX THOMAS

SHRI.HARIMOHAN

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23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
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11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

12

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.12 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.330 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 9 TO 11:

- 1 FR.ANI JOHN
AGED 33 YEARS
S/O LATE VJ KURIAKOSE, (WRONGLY SHOWN AS S/O LATE JOHN
IN THE CONTEMPT CASE), VAINNILATHIL HOUSE,
MANNAMANGALAM PO, THRISSUR., PIN - 680014
- 2 T.C.GEEVARGHESE
AGED 78 YEARS
S/O CHACKO, THANNIKOT HOUSE, VENGASSERY, KORANCHIRA
POST, PALAKKAD., PIN - 678684
- 3 ABRAHAM SCARIA
AGED 64 YEARS
S/O SCARIA, PUTHUSSERY HOUSE, PATTAYAMPADAM,
KORANCHIRA PO, PALAKKAD., PIN - 678684

BY ADVS.
SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 8:

- 1 ST.MARY'S ORTHODOX SYRIAN CHURCH
ERICKINCHIRA, (ERICKINCHIRA CHURCH), KORENCHIRA POST,



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

13

KIZAKKENCHERRY-I VILLAGE, ALATHUR TALUK, PALAKKAD
DISTRICT, REPRESENTED BY ITS VICAR FR.MATHAI
THOZHUTHUNGAL, PIN - 678684

- 2 FR. MATHAI THOZHUTHUNGAL
AGED 70 YEARS
S/O LATE KURIAKOSE, VICAR, ST.MARY'S ORTHODOX SYRIAN
CHURCH, ERICKINCHIRA, (ERICKINCHIRA CHURCH), RESIDING
AT THOZHUTHUNGAL HOUSE, MUDAPALLUR PO, KADAMCODU,
PALAKKAD., PIN - 678705
- 3 DR. VENU V
IAS, PRESENTLY OFFICIATING AS THE CHIEF SECRETARY,
STATE OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM., PIN - 695001
- 4 BISWANATH SINHA
IAS, PRESENTLY OFFICIATING AS THE ADDITIONAL CHIEF
SECRETARY, HOME DEPARTMENT, DEPARTMENT OF HOME
AFFAIRS, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.,
PIN - 695001
- 5 SHEIKH DARVESH SAHIB
PRESENTLY OFFICIATING AS THE DIRECTOR GENERAL OF
POLICE AND STATE POLICE CHIEF, STATE OF KERALA, POLICE
HEADQUARTERS, THIRUVANANTHAPURAM., PIN - 695001
- 6 DR. CHITHRA
IAS, PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD., PIN - 678001
- 7 R. AANAD
IPS, PRESENTLY OFFICIATING AS THE DISTRICT POLICE
CHIEF, DISTRICT POLICE OFFICE, PALAKKAD., PIN - 678001
- 8 DR. AMRUTHAVALLI P
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE
& REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL
OFFICE, OTTAPALAM, PALAKKAD., PIN - 679101
- 9 CR SANTHOSH
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE, ALATHUR, ALATHUR POST, PALAKKAD., PIN - 678541
- 10 BENNY KP
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE (SHO), VADAKKANCHERY POLICE STATION, PALAKKAD.,



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

14

PIN - 678683

BY ADVS.

SRI.ROSHEN.D.ALEXANDER

GOVERNMENT PLEADER

ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL

SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

SMT.TINA ALEX THOMAS

SHRI.HARIMOHAN

SRI.S.SREEKUMAR (SR.)

THIS CONTEMPT APPEALS (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

15

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C) NO. 13 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.1803 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 10 TO 12:

- 1 V. P. MARKOSE
AGED 71 YEARS
/O. PATHROSE, VAZHAKKUZHITHADATHIL, KADAKKANADU P.O.,
KOLENCHERY, PIN - 682311
- 2 ABRAHAM THOMAS
AGED 68 YEARS
S/O. THOMAS, THOTTAMATTATHIL HOUSE, NORTH MAZHUVANNOOR
P.O., VALAMBOOR, PIN - 686669
- 3 THAMBI ABRAHAM
AGED 64 YEARS
S/O. ABRAHAM, IRATTEL HOUSE, EZHIPPRAM, KADAYIRUPPU
P.O., PIN - 682311

BY ADVS.

SRI.SAJI VARGHESE KAKKATTUMATTATHIL

SMT.AMALENDU A.

SRI.V.V.ASOKAN (SR.)

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 9:

- 1 REV. FR. TIJO KURIAKOSE
AGED 40 YEARS



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

16

S/O P. K. SCARIAH, VICAR, ST. THOMAS ORTHODOX SYRIAN
CHURCH, MAZHUVANNOOR, PIN - 686669

- 2 GEORGE KURUVILLA
 AGED 74 YEARS
 S/O KURUVILLA, RESIDING AT KULANGATTIL HOUSE,
 KADAKKANADU P.O, KOLENCHERY, ERNAKULAM DIST, KERALA,
 PIN - 682311
- 3 ELDOW K. JOSEPH
 AGED 58 YEARS
 S/O. JOSEPH, RESIDING AT KALARIKKATHADATHIL HOUSE,
 KADAKKANADU P.O, KOLENCHERY, ERNAKULAM DIST, KERALA,
 PIN - 682311
- 4 N.S.K.UMESH KUMAR
 IAS, PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
 COLLECTORATE, KAKKANAD, ERNAKULAM DIST, KERALA, PIN -
 682030
- 5 VIVEK KUMAR
 IPS, PRESENTLY OFFICIATING AS THE DISTRICT POLICE
 CHIEF, ERNAKULAM RURAL, OFFICE OF DISTRICT POLICE
 CHIEF, ALUVA, ERNAKULAM DIST, KERALA, PIN - 683101
- 6 PRADEEPMON VARGHESE
 PRESENTLY OFFICIATING AS THE REVENUE DIVISIONAL
 OFFICER, MUVATTUPUZHA, ERNAKULAM DIST., KERALA, PIN -
 686661
- 7 SUDHEESH V. P
 STATION HOUSE OFFICER, KUNNATHUNADU POLICE STATION,
 PATTIMATTOM P.O., ERNAKULAM, PIN - 683562
- 8 FR. ELDBOSE MOLEKUDIYIL
 AGED 53 YEARS
 MOLEKUDIYIL HOUSE, MANARI P.O., PIN - 686673
- 9 FR. JAISON KAVUMA
 PUTHUSSERY HOUSE, VENGOOR P.O, PIN - 683546
- 10 FR. ELDBOSE V.K
 AGED 39 YEARS
 VELLINGAL HOUSE, PONJASSERY P.O, PERUMBAVOOR, PIN -
 683547
- 11 FR. ELDBOSE NEDUNGOTTIL



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

17

AGED 54 YEARS
NEDUNGOTTIL HOUSE, THURUTHIPLY, VALAYANCHIRANGARA P.O,
PIN - 683556

12 FR. JOHN JOSEPH
AGED 59 YEARS
S/O. FR. JOSEPH, PATHICKAL HOUSE, PERUMBAVOOR, PIN -
683542

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SHRI.P.J.PHILIP
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN
SMT.KOCHURANI JAMES
SRI.S.SREEKUMAR (SR.)
SHRI.P.GOPALAKRISHNAN (MVA)
SHRI.ABEEESH JOSE
SRI.V.V.ASOKAN (SR.)

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
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2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

18

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.14 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.1824 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 8:

- 1 DR. V. VENU IAS
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY, STATE OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695010
- 2 SHEIKH DARVESH SAHIB
PRESENTLY OFFICIATING AS THE STATE POLICE CHIEF,
POLICE HEAD QUARTERS, THIRUVANATHAPURAM, PIN - 695010
- 3 NEERAJ KUMAR GUPTA IPS
PRESENTLY OFFICIATING AS THE INSPECTOR GENERAL OF
POLICE, CENTRAL ZONE, ERNAKULAM RANGE, PIN - 682031
- 4 N.S.K. UMESH KUMAR IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD, ERNAKULAM, PIN - 682030
- 5 VIVEK KUMAR IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF,
ERNAKULAM RURAL, OFFICE OF DISTRICT POLICE CHIEF,
ALUVA, ERNAKULAM, PIN - 683101
- 6 JUVVANAPUDI MAHESH IPS
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE/ASSISTANT SUPERINTENDENT OF POLICE, OFFICE OF
THE DEPUTY SUPERINTENDENT OF POLICE, PERUMBAVOOR, PIN



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

19

- 683542

- 7 PRADEEPMON VARGHESE
PRESENTLY OFFICIATING AS THE REVENUE DIVISIONAL
OFFICER, MUVATTUPUZHA, ERNAKULAM DIST., KERALA, PIN -
683373
- 8 SAJEEV M.K.
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE, (SHO) KURUPPAMPADY POLICE STATION,
KURUPPAMPADY (P.O.), ERNAKULAM, PIN - 683545

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

RESPONDENTS/PETITIONERS AND RESPONDENTS 9 TO 15:

- 1 ST.MARY'S ORTHODOX CHURCH, (ODAKKALI PALLI)
REPRESENTED BY ITS DIOCESAN METROPOLITAN REV. FR.
GEORGE PATALATTU
ODAKKALI P.O., ARAKKAPADY VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, PIN - 683547
- 2 REV. FR. GEORGE PATALATTU, VICAR APPOINTED THE
DIOCESAN METROPOLITAN ST. MARY'S ORTHODOX CHURCH,
ODAKKALI,
RESIDING AT PATALATTU HOUSE, WEST VENGOLA POST,
VENGOLA KARA, ARAKKAPPADAY, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, PIN - 683547
- 3 FR. JOBY VARGHESE
S/O VARGHESE, URAPPAL HOUSE, PUNNORPPADI BHAGAM,
MULAVOOR, THRIKKALATHOOR KARA, ERNAKULAM, PIN - 686673
- 4 JIBI M. BABY
S/O BENNY, MENOTH MALIL HOUSE, IRINGOLE, PERUMBAVOOR
VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM ., PIN - 683545
- 5 E.G. GEORGEKUTTY
EDAKUDY HOUSE, METHALA KARA, METHALA P.O., ASAMANOOR
VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM, PIN - 683545
- 6 MAR THOMAS DIONYSINE



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

20

RESIDING AT PARTRIARKIS CENTRE, PUTHENCRUZ VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM, PIN - 682308

- 7 ROY VARGHESE
S/O VARGHESE, MENOTHMALIL HOUSE, ODAKKALI KARA,
ASAMANOOR VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM .,
PIN - 683549
- 8 BASIL M. ELDHOSE
AGED 39 YEARS
S/O M.P. ELDHOSE, MUKALATH HOUSE, ODAKALY,
PERUMBAVOOR, ERNAKULAM ., PIN - 683549
- 9 PAUL VARGHESE
AGED 66 YEARS
S/O VARGHESE, PRESIDENT, JACOBITE ALMAYA FORUM, REG.
NO. 112/IV/16, RESIDING AT KURUVICHARANGARA HOUSE,
PATTIMATTOM P.O., ERNAKULAM., PIN - 683562

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN
SRI.S.SREEKUMAR (SR.)

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
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2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

21

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.15 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.330 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 8:

- 1 DR. VENU.V IAS
CHIEF SECRETARY, STATE OF KERALA, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001
- 2 BISHWANATH SINHA IAS
OFFICIATING AS THE ADDITIONAL CHIEF SECRETARY, HOME
DEPARTMENT, DEPARTMENT OF HOME AFFAIRS, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001
- 3 SHEIKH DARVESH SAHIB,
OFFICIATING AS THE DIRECTOR GENERAL OF POLICE AND
STATE POLICE CHIEF, STATE OF KERALA POLICE HEAD
QUARTERS, THIRUVANANTHAPURAM., PIN - 695001
- 4 DR.S CHITHRA IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE PALAKKAD., PIN - 678001
- 5 R.ANAND IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF,
DISTRICT POLICE OFFICE, PALAKKAD, PIN - 678001
- 6 DR.AMRUTHAVALLI.P
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE
& REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL
OFFICER, OTTAPPALAM, PALAKKAD., PIN - 679101



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

22

- 7 C.R.SANTHOSH.
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE, ALATHUR P.O. PALAKKAD, PIN - 678541
- 8 BENNY K.P
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE (SHO), VADAKKANCHERRY POLICE STATION,
PALAKKAD., PIN - 678683

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

RESPONDENTS/PETITIONERS AND RESPONDENTS 9 TO 11:

- 1 ST.MARY'S ORTHODOX CHURCH, ERIKINCHIRA
ST.MARY'S ORTHODOX SYRIAN CHURCH, ERIKKINCIRA,
KORENCHIRA POST, KIZHAKKENCHERRY-1 VILLAGE,
ALATHUR TALUK, PALAKKAD., PIN - 678684
- 2 FR.MATHAI THOZHUTHUNGAL,
AGED 70 YEARS
VICAR, ST.MARY'S ORTHODOX SYRIAN CHURCH,
ERIKKINCHIRA, RESIDING AT THOZHUTHUNGAL HOUSE,
MUDAPALLUR P.O. KADAMCODU, PALAKKAD, PIN - 678705
- 3 ANI JOHN
AGED 33 YEARS
S/O LATE JOHN VAINNILATHIL HOUSE, MANNAMANGALAM
P.O.THRISSUR, PIN - 680014
- 4 T.C.GEEVARGHESE
AGED 78 YEARS
THANNIKOT HOUSE, VENGASERY, KORANCHIRA P.O.
PALAKKAD., PIN - 678684
- 5 ABRAHAM SCARIA
S/O SCARIA, PUTHUSSERY HOUSE, PATTAYAMPADAM,
KORANCHIRA P.O. PALAKKAD, PIN - 678684

BY ADVS.
SRI.ROSHEN.D.ALEXANDER



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

23

SRI.SAJAN VARGHEESE K.
SHRI.FADHI RAHMAN
SMT.FIDA HUSNA P.P.
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN
SRI.S.SREEKUMAR (SR.)

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

24

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.16 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.329 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 8:

- 1 DR. VENU V. IAS,
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY, STATE OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.,
PIN - 695001
- 2 BISHWANATH SINHA IAS
PRESENTLY OFFICIATING AS THE ADDITIONAL CHIEF
SECRETARY, HOME DEPARTMENT, DEPARTMENT OF HOME
AFFAIRS, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.,
PIN - 695001
- 3 SHEIKH DARVESH SAHIB
PRESENTLY OFFICIATING AS THE DIRECTOR GENERAL OF
POLICE AND STATE POLICE CHIEF, STATE OF KERALA POLICE
HEAD QUARTERS, , THIRUVANANTHAPURAM., PIN - 695001
- 4 DR. S. CHITHRA IAS,
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD, PIN - 678001
- 5 R. ANAND IPS,
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF,
DISTRICT POLICE OFFICE, PALAKKAD., PIN - 678001
- 6 DR. AMRUTHAVALLI P.
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

25

& REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL
OFFICE, OTTAPALAM, PALAKKAD, PIN - 679101

- 7 C.R. SANTHOSH
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE, ALATHUR, ALATHUR P.O, PALAKKAD., PIN - 678541
- 8 SHABEER, S
8. SHABEER, S, PRESENTLY OFFICIATING AS THE CIRCLE
INSPECTOR OF POLICE, (SHO), MANGALAM DAM POLICE
STATION, PALAKKAD., PIN - 678706

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

RESPONDENTS/PETITIONERS AND RESPONDENTS 9 TO 12:

- 1 ST. MARY'S ORTHODOX SYRIAN CHURCH
MANGALAM DAM POST, MANGALAM DAM VILLAGE, ALATHUR
TALUK, PALAKKAD DISTRICT, REPRESENTED BY ITS VICAR FR.
MATHAI PANAMKUTTIYIL, PIN-678706
- 2 FR. MATHAI PANAMKUTTIYIL
AGED 63 YEARS
S/O P.M. PURAVATH, VICAR, ST. MARY'S ORTHODOX SYRIAN
CHURCH, MANGALAM DAM, RESIDING AT PANAMKUTTIYIL HOUSE,
VADAKKENCHERRY, PALAKKAD DISTRICT, PIN - 683678
- 3 FR. SAM VARGHESE
AGED 51 YEARS
ASSISTANT VICAR, ST. MARY'S ORTHODOX SYRIAN CHURCH,
MANGALAM DAM, RESIDING AT ORTHODOX BISHOPS HOUSE,
GEDSEEMON ARAMANA, MANNUTHY, THRISSUR, PIN - 680651
- 4 FR. VARGHESE PALATHINKAL,
AGED 47 YEARS
S/O KURIAKOSE, PALATHINKAL HOSUE, KAIRADY P.O,
PALAKKAD, PIN - 678510
- 5 FR. RAJU MARKOSE
AGED 57 YEARS
S/O MARKOSE, PUTHUSSERY HOUSE, OLIMKADAVU P.O,
MANGALAM DAM, PALAKKAD, PIN - 678706



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

26

- 6 THANKACHAN M.A.
 AGED 60 YEARS
 S/O LATE ABRAHAM, MANTELTI HOUSE, NELIYAMKUNNU,
 ALATHUR P.O, PALAKKAD, PIN - 678541
- 7 SHAJU MARKOSE,
 AGED 52 YEARS
 AGED 52 YEARS, S/O MARKOSE, PUTHUSSERY HOUSE,
 OLIMKADAVU P.O, MANGALAMDAM, PALAKKAD, PIN - 678706

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SHRI.SREENATH VIJAYARAGHAVAN
SMT.AKHILA C.
SRI.P.VIJAYARAGHAVAN ((PALAYIL))
SRI.S.M.PRASANTH
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN
SRI.S.SREEKUMAR (SR.)

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
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2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

27

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.17 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.299 OF 2024

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 9:

- 1 DR. VENU V. IAS
PRESENTLY OFFICIATING AS THE CHIEF SECRETARY, STATE OF
KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 BISHWANATH SINHA IAS
PRESENTLY OFFICIATING AS THE ADDITIONAL CHIEF
SECRETARY, HOME DEPARTMENT, DEPARTMENT OF HOME
AFFAIRS, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 3 SHEIKH DARVESH SAHIB
PRESENTLY OFFICIATING AS THE DIRECTOR GENERAL OF
POLICE AND STATE POLICE CHIEF, STATE OF KERALA, POLICE
HEAD QUARTERS, THIRUVANANTHAPURAM 695 001.
- 4 DR. S. CHITHRA IAS,
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD, PIN - 678001
- 5 R. ANAND IPS
PRESENTLY OFFICIATING AS THE DISTRICT POLICE CHIEF,
DISTRICT POLICE OFFICE, PALAKKAD, PIN - 678001
- 6 DR. AMRUTHVALLI P.
PRESENTLY OFFICIATING AS THE SUB DIVISIONAL MAGISTRATE



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

28

& REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL
OFFICE, OTTAPALAM, PALAKKAD, PIN - 679181

- 7 ASHOKAN R
PRESENTLY OFFICIATING AS THE DEPUTY SUPERINTENDENT OF
POLICE, ALATHUR, ALATHUR P.O., PALAKKAD, PIN - 678541
- 8 SHABEER S
PRESENTLY OFFICIATING AS THE CIRCLE INSPECTOR OF
POLICE, (SHO), MANGALAM DAM POLICE STATION, PALAKKAD,
PIN - 678683
- 9 RAMANKUTTY. K
PRESENTLY OFFICIATING AS THE VILLAGE OFFICER,
KIZHAKKENCHERY-II VILLAGE, PALAKKAD, PIN - 678541

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL

RESPONDENTS/PETITIONERS AND RESPONDENTS 10 TO 15:

- 1 ST. THOMAS ORTHODOX SYRIAN CHURCH, CHERUKUNNAM
(CHERUKUNNAM CHURCH)
CHERUKUNNAM (CHERUKUNNAM CHURCH), ELAVAMPADAM P.O.,
ALATHUR, ALATHUR TALUK, PALAKKAD DISTRICT, REPRESENTED
BY ITS VICAR FR. POLY VARGHESE, PIN - 678684
- 2 FR. POLY VARGHESE, VICAR
AGED 54 YEARS
ST. MARY'S ORTHODOX SYRIAN CHURCH, CHERUKUNNAM, S/O
LATE VARGHESE, THELAPPILLIL HOUSE, SOUTH KORATTY P.O.,
THRISSUR, PIN - 680308
- 3 FR. THOMAS PULAYATH
AGED 50 YEARS
S/O KURIAN, PULAYATH HOUSE, AYAMPARA, KUNDUKAD P.O.,
THRISSUR, PIN - 680028
- 4 T.T. PATHROSE
AGED 55 YEARS
S/O THOMAS, THADIKKULANGARAYIL HOUSE, KARINKYAM P.O.,
PALAKKAD, PIN - 678706
- 5 BAIJU K.K



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

29

AGED 40 YEARS
S/O KURUVILA, KUZHIKATTIL HOUSE, MALLUCODE,
ELAVAMPADAM P.O., PALAKKAD, PIN - 678684

- 6 JOY
AGED 61 YEARS
S/O ULAHANNAN, APPATTUKUZHIYIL HOUSE, ELAVAMPADAM
P.O., KIZHAKENCHERY, PALAKKAD, PIN - 678684
- 7 K.C. PAULOSE,
AGED 65 YEARS
S/O CHACKO, KOLLARMALI HOUSE, ELAVAMPADAM P.O.,
KIZHAKENCHERY, PALAKKAD, PIN - 678684
- 8 N.M. MATHEW
AGED 75 YEARS
S/O MATHAI, PUTHENPURA HOUSE, EVAVAMPADAM P.O.,
VAKKALA, PALAKKAD, PIN - 678706

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SHRI.SREENATH VIJAYARAGHAVAN
SMT.AKHILA C.
SRI.P.VIJAYARAGHAVAN ((PALAYIL)
SRI.S.M.PRASANTH
SRI.S.SREEKUMAR (SR.)
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

30

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.18 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.1803 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 4:

- 1 N.S.K UMESH KUMAR IAS
PRESENTLY OFFICIATING AS THE DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD, ERNAKULAM., PIN - 682030
- 2 VIVEK KUMAR IPS
OFFICIATING AS THE DISTRICT POLICE CHIEF, ERNAKULAM
RURAL, OFFICE OF DISTRICT POLICE CHIEF, ALUVA,
ERNAKULAM., PIN - 683101
- 3 PRADEEPMON VARGHESE
OFFICIATING AS THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA, ERNAKULAM., PIN - 686661
- 4 SUDHEESH V.P.
STATION HOUSE OFFICER, KUNNATHUNADU POLICE STATION,
PATTIMATTOM P.O., ERNAKULAM, PIN - 683562

BY ADVS.

GOVERNMENT PLEADER

SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL

RESPONDENTS/PETITIONERS AND RESPONDENTS 5 TO 12:



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

31

- 1 REV.FR.TIJO KURIAKOSE
AGED 40 YEARS
S/O P. K. SCARIAH, VICAR, ST.THOMAS ORTHODOX SYRIAN
CHURCH, MAZHUVANNUR. PERMANENTLY RESIDING AT MANALEL
PUTHIYAPARAMPIL HOUSE, AMAYANOORP.O.
KOTTAYAM., PIN - 686019
- 2 GEORGE KURUVILLA,
AGED 74 YEARS
S/O KURUVILLA, RESIDING AT KULANGATTIL HOUSE,
KADAKKANADU.P.O., KOLENCHERY,
ERNAKULAM, PIN - 682311
- 3 ELDOW K JOSEPH
AGED 58 YEARS
S/O. JOSEPH, RESIDING AT KALARIKKATHADATHIL HOUSE,
KADAKKANADU P.O. KOLENCHERY, ERNAKULAM., PIN - 682311
- 4 FR. ELDHOSE MOLEKUDIYIL
AGED 53 YEARS
MOLEKUDIYIL HOUSE, MANARI P.O., PIN - 686673
- 5 FR.JAISON KAVUMA
AGED 30 YEARS
PUTHUSSERY HOUSE, VENGOOR P.O., PIN - 683546
- 6 FR.ELDHOSE V.K.
AGED 39 YEARS
VELLARINGAL HOUSE, PONJASSERY P.O.
PERUMBAVOOR, PIN - 683547
- 7 ELDHOSE NEDUNGOTTIL
AGED 54 YEARS
NEDUNGOTTIL HOUSE, THURUTHIPLY,
VLAYANCHIRANGARA P.O.683 556
- 8 FR JOHN JOSEPH
AGED 59 YEARS
S/O FR.JOSEPH, PATHICKAL HOUSE,
PERUMBAVOOR., PIN - 683542
- 9 V.P.MARKOSE
AGED 71 YEARS
S/O PATHROSE, VAZHAKKUZHITHADATHIL, KADKKANADU P.O.,
KOLENCHERRY, PIN - 682311
- 10 ABRAHAM THOMAS



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

32

AGED 68 YEARS
S/O THOMAS, THOTTAMATTATHIL HOUSE, NORTH MAZHUVANNOOR
P.O. VALAMBOOR., PIN - 686669

11 THAMBI ABRAHAM
AGED 64 YEARS
S/O ABRAHAM, IRATTEL HOUSE, EZHIPPRAM, KADAYIRUPPU
P.O., PIN - 682311

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SHRI.P.J.PHILIP
SHRI.P.GOPALAKRISHNAN (MVA)
SHRI.ABEEESH JOSE
SRI.BABU T.CHERIYAN
SRI.S.SREEKUMAR (SR.)
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

33

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 24TH DAY OF MARCH 2026 / 3RD CHAITHRA, 1948

CON.APP(C)NO.19 OF 2024

AGAINST THE ORDER DATED 30.08.2024 IN CON.CASE(C) NO.1761 OF 2023

OF THE HIGH COURT OF KERALA

APPELLANTS/1ST RESPONDENT AND ADDL. 7TH RESPONDENT:

- 1 SHIBIN K.A.
INSPECTOR OF POLICE, POTHANIKKAD POLICE STATION,
MUVATTUPUZHA, ERNAKULAM., PIN - 686671
- 2 N.S.K. UMESH
THE DISTRICT COLLECTOR, ERNAKULAM, PIN - 682030

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SHRI.T.S.SHYAM PRASANTH, SENIOR G.P.

RESPONDENTS/PETITIONERS AND RESPONDENTS 2 TO 6:

- 1 REV.FR.C.K.ISSAC COR EPISCOPA
AGED 79 YEARS
S/O KURIAKOSE, VICAR, ST.JOHN'S BESPAGE ORTHODOX
SYRIAN CHURCH, RESIDING AT CHENAYAPPILLIL HOUSE,
PARAMBENCHERY, PULINTHANAM, POTHANIKADU, MUVATTUPUZHA,
ERNAKULAM., PIN - 686671
- 2 REV.FR.P.V.PHILIP ,
AGED 74 YEARS
S/O POTHEEN, ASSISTANT VICAR, ST.JOHN'S BESPAGE



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

34

ORTHODOX SYRIAN CHURCH, RESIDING AT ARIMAPANCHIRAYIL
HOUSE, PULINTHANAM P.O. POTHANIKADU, MUVATTUPUZHA,
ERNAKULAM., PIN - 686671

- 3 FR. K.K.MATHEWS
KUZHUVELIPPURAM HOUSE, PALLARIMANGALAM P.O.
POTHANIKKAD, PIN - 686671
- 4 NOBY SCARIA
CHENAYAPPILLIL HOUSE, KADAVOOR P.O.,
KADAVOOR, PIN - 686671
- 5 ELDHOSE VARGHESE
PUTHUSSEERIL HOUSE, PARAMBANCHERI, PULINTHANAM P.O.
POTHANIKADU, MUVATTUPUZHA, ERNAKULAM., PIN - 686671
- 6 BASIL MATHEW
S/O MATHEW, UNNAMTHUMVEETIL HOUSE, POTHANIKKAD P.O.,
ERNAKULAM., PIN - 686671
- 7 BABU JOHN
AGED 50 YEARS
S/O JOHN, VELLAKKALLEL, PULINTHANAM,
P.O. ERNAKULAM., PIN - 686671

BY ADVS.
SRI.ROSHEN.D.ALEXANDER
SRI.S.SREEKUMAR (SR.)
SMT.TINA ALEX THOMAS
SHRI.HARIMOHAN

THIS CONTEMPT APPEAL (CIVIL) HAVING BEEN FINALLY HEARD ON
23.09.2025 AND FURTHER HEARD ON 06.03.2026 AND 12.03.2026, ALONG
WITH CON.APP(C).8/2024 AND CONNECTED CASES, THE COURT ON 24.03.2026
DELIVERED THE FOLLOWING:



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

INDEX

| Sl.No. | Heading | Page Nos. | Para Nos. |
|--------|--|-----------|-----------|
| A | Factual Matrix in contempt appeals | 54-68 | 17-25 |
| B | The decision in K.S. Varghese [(2017) 15 SCC 333] | 68-112 | 26-54 |
| C | The decision in Mathews Mar Koorilos [(2018) 9 SCC 672] | 112-122 | 55-65 |
| D | The decision in St. Mary's Orthodox Church [(2020) 18 SCC 329] | 122-126 | 66-68 |
| E | Issue No.(i) - What is the true import of the principles laid down or issues determined by the Apex Court in K.S. Varghese [(2017) 15 SCC 333]; Mathews Mar Koorilos [(2018) 9 SCC 672]; and St. Mary's Orthodox Church [(2020) 18 SCC 329]. | 126-193 | 69-99 |
| F | Issue No.(ii) - Who are the parties that shall be bound by the dictum of the Apex Court in K.S. Varghese [(2017) 15 SCC 333]; Mathews Mar Koorilos [(2018) 9 SCC 672]; and St. Mary's Orthodox Church [(2020) 18 SCC 329]. | 193-242 | 100-131 |
| G | Issue Nos.(iii) and (iv) - Whether the decree in K.S. Varghese [(2017) 15 SCC 333]; and Mathews Mar Koorilos [(2018) 9 SCC 672], which attained finality, has been satisfied/fulfilled; and if not, which part of the decree remains unfulfilled, and what remedial action in that regard is required to be taken. | 242-246 | 132-134 |
| H | Issue Nos.(v) and (vi) - What is the legal | | |



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

36

| | | | |
|---|---|---------|---------|
| | effect of the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020; What is the legal effect of the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020. | 246-253 | 135-141 |
| I | Issue No.(vii) - Should a High Court in a dispute relating to religious affairs direct the Civil Administration to take over physical possession of the religious places, and if so, to what extent such intervention would be necessitated in the public interest. | 253-257 | 142-143 |
| J | Conclusions in these contempt appeals:- | 295-302 | 172-176 |



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

37

"C.R"

JUDGMENT

Anil K. Narendran, J.

These Contempt Appeals filed under Section 19(1) of the Contempt of Courts Act, 1971, arise out of the order dated 30.08.2024 of the learned Single Judge of this Court in Con. Case (C)Nos.1761 of 2023, 1803 of 2023, 1824 of 2023, 299 of 2024, 329 of 2024 and 330 of 2024. The said contempt cases were filed, invoking the provisions under Section 12 of the Contempt of Courts Act, 1971, and Article 215 of the Constitution of India, alleging willful disobedience of the judgment dated 31.01.2023 of the learned Single Judge in W.P.(C)No.25645 of 2019 and connected matters. By the order dated 30.08.2024 in Con. Case (C)No.1761 of 2023 and connected matters, the learned Single Judge issued the following directions;

"(i) The District Collector, Ernakulam, is suo motu impleaded as the additional respondent in Con. Case (C)No.1761 of 2023. The learned Government Pleader takes notice for the additional respondent.

(ii) The District Collector, Ernakulam, shall take over possession of the St.Mary's Orthodox Church, Odakkali, St.John's Besphage Orthodox Syrian Church, Pulinthanam



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

and St.Thomas Orthodox Syrian Church, Mazhuvannoor.

(iii) The District Collector, Palakkad, shall take over possession of the St.Mary's Orthodox Church, Mangalam Dam, St.Mary's Orthodox Syrian Church, Erickinchira and St.Thomas Orthodox Syrian Church, Cherukunnam.

(iv) The District Collectors shall file reports regarding the takeover before this Court by the next posting date.

(v) The District Police Chiefs of Ernakulam and Palakkad shall deploy sufficient police personnel to aid the District Collectors."

2. The writ petitions were filed seeking direction to the Inspector of Police in the respective police stations and also other officials to prevent the appellants in Con.App.(C)Nos.8, 9, 10, 11, 12 and 13 of 2024 and their men from violating the law as declared by the Apex Court in **K.S. Varghese v. St. Peter's and St. Paul's Syrian Orthodox Church [(2017) 15 SCC 333]** and ensure that the writ petitioners, Priests, Vicars, Diocesan Metropolitan, Malankara Metropolitan, etc., are not prevented from conducting religious services in accordance with the 1934 Constitution of the Malankara Orthodox Church (for brevity, 'the 1934 Constitution').

3. The writ petitions were disposed of by the learned Single Judge by issuing similar directions. The Inspector of Police



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

39

concerned was directed to render necessary assistance to the writ petitioners, Priests, Vicars, Diocesan Metropolitan, Malankara Metropolitan, etc., to peacefully enter the respective Churches in accordance with the 1934 Constitution and to conduct the religious services without let or hindrance from the party respondents in the writ petition and their men. A time limit was also fixed in the judgment. Alleging that the said directions were not complied with, the writ petitioners filed the contempt of court cases. In the contempt cases, the learned Single Judge issued various directions to ensure compliance of the judgments in the writ petitions. But the directions remained unenforced. The official respondents resorted to an excuse that any attempt by the writ petitioners to enter the Churches with police assistance would be thwarted by the appellants and their men. The learned Additional Advocate General took a stand that such an attempt would lead the law and order into dangerous proportions and even result in loss of human lives. After considering the submissions and taking into account the facts and circumstances borne out from the materials on record, the learned Single Judge issued the impugned order dated 30.08.2024, directing the District



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

40

Collectors of Ernakulam and Palakkad to take over possession of the respective Churches.

4. On 25.09.2024, when Con.App.(C)No.8 of 2024 came up for admission, the Division Bench granted an interim stay for a period of 10 days, which has been extended for a further period of two weeks. On 01.10.2024, the said interim order was extended by two weeks in Con.App.(C)No.8 of 2024 and also in the connected matters, and the contempt appeals were reserved for judgment. Though the learned Senior Counsel appearing for the party respondents initially raised a contention regarding the maintainability of the contempt appeals, when the appeals were taken up for hearing on 01.10.2024, the learned Senior Counsel submitted that he is not pursuing that contention.

5. By the judgment dated 17.10.2024, a Division Bench in which one among us [Anil K. Narendran, J.] was a party dismissed the contempt appeals. Paragraph 35 and the last paragraph of the said judgment read thus;

“35. Thus, the law appears to be well-settled. The court has sufficient power to pass an order on a contempt application for closing the breach. The court cannot and should not rest by passing a punitive order against the contemnor. It is the



[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

duty of the Court to see that its order is implemented and the contemnor does not enjoy the benefits he has derived by violating the court's order. If this is not done, the entire process of law and justice shall become a farce.

In view of what is stated above, the conclusion is irresistible. The learned Single Judge acted within the contours of his jurisdiction alone while passing the impugned order, by which District Collectors were impleaded and directed to take over possession of the respective churches. We find no reason to hold the said order wrong or infirm. These appeals, therefore, fail. The appeals are accordingly dismissed.”

6. The judgment dated 17.10.2024 of the Division Bench in Con.App.(C)No.8 of 2024 and connected matters were under challenge in SLP(C)Nos.26064-69 of 2024 filed by the officials of the State, and SLP(C)Nos.27970 and 27971 of 2024 and SLP(C) Dairy No.52818 of 2024 filed by others. On 25.11.2024, the Apex Court passed an interim order in the said matters. Paragraphs 4 and 5 of that order read thus;

“4. The officers of the Government of Kerala who have been directed to appear in person on 29.11.2024 before the High Court are exempted from personal appearance.

5. The State Authorities, however, shall submit a proposal along with the modalities to give effect to the directions issued by the Courts, which have attained finality.”



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

7. On 03.12.2024, when in SLP(C)Nos.26064-69 of 2024 and connected matters came up for consideration, the Apex Court passed a detailed order. Paragraphs 1 to 5 of that order read thus;

"1. Having heard learned senior counsel/counsel for the parties for some time, we are satisfied that the private petitioners, who have preferred Special Leave Petitions bearing SLP(C)Nos.27978 of 2024, 27977 of 2024 and 28011 of 2024 against the judgment of the High Court dated 17.10.2024, are prima facie in contempt for having wilfully disobeyed the decisions of this Court in **K.S. Varghese v. St. Peter's and St. Paul's Syrian Orthodox Church [(2017) 15 SCC 333]** and **St. Mary's Orthodox Church v. State Police Chief [(2020) 18 SCC 329]**, to the extent these pertain to entrustment of administration of the Churches as per the 1934 Constitution.

2. Consequently, we direct these petitioners to hand over the entire administration (only) to Malankara Orthodox Syrian Church's Management and submit a compliance affidavit, failing which necessary consequences shall follow.

3. The respondents-Malankara Orthodox Syrian Churches and their office bearers shall also give undertaking in writing to the effect that all public facilities in the Churches compound, like burial grounds, schools, hospitals, etc. shall continue to be availed by everyone, including Catholics without insisting on a pledge of allegiance to 1934 Constitution for the said purpose of availing the public amenities and also subject to further directions that may be



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

issued by this Court from time to time.

4. The exemption granted to the officers of the Government of Kerala on 25.11.2024 shall continue to operate.

5. It is clarified that the above interim directions are without prejudice to the rights and contentions of the parties, which shall be considered only if they submit compliance affidavits."

8. On 17.12.2024, when in SLP(C)Nos.26064-69 of 2024 and connected matters came up for consideration, the affidavit filed by the 1st petitioner in SLP(C)No.27971 of 2024 was taken on record, which was treated as a part of the pleadings in the other SLPs as well. Paragraphs 5 to 11 of the order dated 17.12.2024 read thus;

"5. The affidavit filed by petitioner No.1 in SLP(C)No.27971 of 2024 is taken on record. It shall be treated as a part of the pleadings in the other SLPs as well.

6. Consequently, the counter affidavit to SLP(C)No.27971 of 2024 may address the averments made in the aforesaid affidavit also.

7. The affidavit filed by respondent Nos.1 and 2 in SLP(C)Nos. 26064-69 of 2024, as well as their additional affidavit, are also taken on record.

8. The State of Kerala is directed to furnish the following additional information;

- (i) The total Christian population of the State, made up of the Orthodox and Jacobite denominations,



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

preferably delineated on a Gram Panchayat or Sub-Division level.

(ii) The details of all the Churches in the State, preferably village-wise or sub-division wise.

(iii) The managing authorities of the aforementioned Churches, i.e, whether they are under the complete administrative control of the Orthodox denomination or the Jacobite denomination.

(iv) The list of all the Churches where management is under dispute and/or unclear, and the status quo as it exists, vis-à-vis their administrative control.

(v) The composition of the parishioners of these Churches.

9. Further, so far as the Parish Registers are concerned, liberty is granted to the parties to place on record their respective Parish Registers as well.

10. Till further orders, the parties are directed to maintain the status quo with regard to management and administration of the Churches, as it exists today. However, the State Administration shall be at liberty to intervene as and when required in accordance with law.

11. Meanwhile, the exemption granted to the officers of the Government of Kerala from personal appearance before the High Court on 25.11.2024 shall continue to operate.”

9. On 30.01.2025, when SLP(C)Nos.26064-69 of 2024 and connected matters came up for consideration, the Apex Court disposed of the special leave petitions by setting aside the



impugned judgment dated 17.10.2024 of this Court, and remitting the matters to the Division Bench of this Court to decide the controversy afresh after hearing all the parties concerned.

Paragraphs 12 to 17 of the order dated 30.01.2025 read thus;

“12. It seems to us that the High Court, while entertaining the contempt proceedings and before issuing the directions, which can have far-reaching consequences, ought to have determined some of the most relevant issues, such as;

(i) What is the true import of the principles laid down or issues determined by this Court in the cited decisions;

(ii) Who are the parties that shall be bound by the dictum of this Court in the cited decisions;

(iii) Whether the decree, which attained finality, has been satisfied/fulfilled;

(iv) If not, which part of the decree remains unfulfilled, and what remedial action in that regard is required to be taken;

(v) What is the legal effect of the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020;

(vi) What is the legal impact of the 2020 Act on the contempt proceedings; and

(vii) Should a High Court in a dispute relating to religious affairs direct the Civil Administration to take over physical possession of the religious places, and if so, to what extent such like intervention would be necessitated in public interest?



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

13. Since we find that all these questions would require a fresh consideration by the High Court, we deem it appropriate to set aside the impugned order(s) dated 17.10.2024 and remit the matters to the Division Bench of the Kerala High Court to decide the controversy afresh after hearing all the parties concerned.
14. Parties shall appear before the High Court on 24.02.2025.
15. It is clarified that we have not expressed any opinion on the merits of the controversy. The interim protection granted to the officers of the State Government from their personal appearance shall continue to operate till the matter is decided by the High Court afresh.
16. The High Court will be free to pass appropriate orders for the enforcement of the Court orders, if it is found to have been willingly and deliberately not given effect in its true letter and spirit.
17. The appeals are disposed of in the above terms. Pending applications are disposed of."
10. In paragraph 3 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, the Apex Court noticed that there is a checkered history of disputes over the management, control and administration of Churches between two sections of the Christian community. The said controversy has been the subject matter of consideration before the Apex Court,



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

47

firstly, in **K.S. Varghese v. St. Peter's and St. Paul's Syrian Orthodox Church [(2017) 15 SCC 333]**; secondly, in **Mathews Mar Koorilos v. M. Pappy [(2018) 9 SCC 672]** and thereafter again in **St. Mary's Orthodox Church v. State [(2020) 18 SCC 329]**.

11. In paragraph 4 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, the Apex Court noticed that the judgment dated 06.09.2024 of the Division Bench of this Court in W.A.No.945 of 2023 [arising out of the judgment dated 13.04.2023 of the learned Single Judge in W.P.(C)No.27081 of 2021, which is the subject matter in Con.App.Nos.13 of 2024 and 18 of 2024, arising out of the order dated 30.08.2024 in Con.Case(C)No.1803 of 2023], is under challenge in SLP(C)No.29985 of 2024, in which notice has been issued separately. Paragraph 4 of the order dated 30.01.2025 reads thus;

"4. It seems that various Contempt Petitions were filed before the High Court inter alia alleging willful and deliberate breach/disobedience of the directions or declarations made by this Court in the above cited decisions. It further seems that with a view to seek enforcement of the decisions of this



Court, Writ Petitions were also filed before the High Court, in which directions for the implementation of those judgments are reportedly issued. The aggrieved parties then challenged the order of the learned Single Judge passed in writ jurisdiction in Writ Appeal No.945 of 2023, which was, however, dismissed by a Division Bench of the High Court, vide judgment dated 06.09.2024. The said judgment is now under challenge before this Court in SLP(Civil)No. 29985 of 2024, in which notice has been issued separately.”

12. In paragraph 9 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, the Apex Court extracted the additional affidavit sworn to by the 1st respondent in SLP(C)Nos.26064-69 of 2024. Paragraph 9 of the order dated 30.01.2025 read thus;

‘9. Pursuant thereto, respondent No.1, the authorised representative of the Malankara Orthodox Church management has filed an affidavit dated 13.12.2024 and the other additional affidavit of the even date. The relevant contents of the additional affidavit are to the following effect;

“1. I am the Catholicos of the East and Malankara Metropolitan, the Supreme Head of the Malankara Orthodox Syrian Church, consecrated and functioning under the 1934 Constitution of the Malankara Orthodox Syrian Church (Malankara Church). I know the facts of the case. The Malankara Church in these



SLPs is represented by the Caveators in this case.

2. I am filing this affidavit as directed by this Hon'ble Court in para 3 of the order dated 03.12.2024, which is extracted below;

“The respondents-Malankara Orthodox Syrian Churches and their office bearers shall also give undertaking in writing to the effect that all public facilities in the Churches compound, like burial grounds, schools, hospitals, etc., shall continue to be availed by everyone, including Catholics without insisting on a pledge of allegiance to the 1934 Constitution for the said purpose of availing the public amenities and also subject to further directions that may be issued by this Court from time to time.”

3. The disputes raised by the erstwhile Patriarch faction have been finally and conclusively settled by this Hon'ble Court by the judgment in **K.S. Varghese** case reported in **[(2017) 15 SCC 333]** and several other decisions of this Hon'ble Court. The judgment in **K.S. Varghese** has attained finality by the dismissal of a Review Petition and also a Curative Petition. Now, towards the implementation of the said judgment, this Hon'ble Court has passed the interim order dated 03.12.2024.

4. With great respect to this Hon'ble Court and for a fair and just implementation of the decisions of this Hon'ble Court, the Malankara Orthodox Syrian Church (Malankara Church) represented by its Supreme



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Head, solemnly undertake that the public facilities in Schools and Hospitals administered by the Malankara Church will be allowed to continue to be availed by everyone, including the erstwhile Patriarch group without insisting on a pledge of allegiance to the 1934 Constitution.

5. It is further respectfully submitted that the public facilities in Schools and Hospitals in the Church compound can be availed by all persons peacefully and in an orderly manner for which the Schools and Hospitals are established and administered. The management and administration of Schools are governed by the Kerala Education Act and the Rules. The Schools are run in accordance with the said Act and the Rules and are strictly supervised and enforced by the educational authorities of the Government. This Hon'ble Court has held in para 215 of **K.S. Varghese** reported in **[(2017) 15 SCC 333]** at page 506, that educational institutions have to be run in accordance with provisions of the Kerala Education Act. Therefore, there is no question of insisting on a pledge of allegiance to the 1934 Constitution of the Malankara Church. There has not been any complaint of discrimination or denial of admission to the Schools or in the impart of education, on the basis of religious faith or allegiance to the 1934 Constitution. In the services rendered by Hospitals also there is no and there will not be any discrimination on the basis of



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

religious faith, caste, creed or allegiance to the 1934 Constitution, which is not and will not be insisted. In fact, a large number of poor patients are given free medical treatment in the hospitals irrespective of their religious faith and without insisting on allegiance to the 1934 Constitution.

6. In the matter of burial of the dead in burial grounds attached to the parish Churches of the Malankara Church, the right to burial of a dead body is governed by the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020. A true copy of the Act is produced as Annexure A to this affidavit. It is respectfully submitted that by an inadvertent omission, the said Act could not be brought to the notice of this Hon'ble Court. Burials are to be conducted in accordance with the provisions of this Act. Section 6 of the Act provides as under;

"6. Maintenance of registers.- The Vicar of the parish shall maintain a separate register as may be prescribed for the burial of corpse conducted in the cemetery under Section 3. The Vicar shall maintain such register as a permanent record in his office, and he shall issue certificate in this behalf to any person on application made to him upon the receipt of fees as may be prescribed".

7. Section 3 of the Act provides for the right to burial of corpse. Clause (2) thereof provides for the procedure. Where persons opt for funeral services at any other premises than a Church or its Cemetery,



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

they can have funeral services at any other premises by a priest of their choice. Therefore, strict compliance of Section 6, read with Section 3 of the Act, is mandatorily followed for burial in the cemetery of the Church.

8. As per the 1934 Constitution, and as per the provision of this Act, it is the duty of the Vicar to maintain the burial register. When the close relatives of a dead person furnish to the Vicar the details regarding the identity, cause of death, and other details of the dead person, like the name and address of the dead, his close relatives, like parents, wife, children, ancestors, etc., to establish the identity of the dead person, the same is recorded in the register.'

13. In paragraph 11 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, the Apex Court has referred to the information furnished by the State of Kerala, in an envelope, in terms of the directions contained in paragraph 8 of the order dated 17.12.2024. Paragraph 11 of the order dated 30.01.2025 reads thus;

"11. In deference to the directions contained in the abovesaid order, the State of Kerala has furnished some information in an envelope, which has been opened, and its contents have been perused. We, however, do not deem it necessary to refer to the said information for the purpose of disposal of these appeals, more so when learned Senior



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024, 11/2024, 12/2024, 13/2024, 14/2024, 15/2024, 16/2024, 17/2024, 18/2024, 19/2024]

53

Counsel for the respondents, led by Shri. K.K. Venugopal, Senior Advocate, have a serious objection against the collection of the aforesaid information, which, according to him, may held not to be a relevant factor in the earlier rounds of lis. The information furnished by the State in a closed envelope is accordingly returned to learned Standing Counsel for the State.”

14. After the order of the Apex Court dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, these contempt appeals are listed before this Division Bench, based on the orders of the Hon’ble Chief Justice dated 25.06.2025, on the administrative side.

15. We heard detailed arguments of the learned Senior Counsel/learned counsel for the appellant(s) in the respective contempt appeals, the learned Senior Counsel/learned counsel for the party respondents, and also the learned Additional Advocate General for the State and the official respondents. On 06.03.2026, it was submitted at the Bar that a compilation of the available details of O.S.No.439 of 1054 on the file of the Zilla Court, Alleppey (Seminary Suit); O.S.No.94 of 1088 on the file of District Court, Trivandrum (Vattippanam Suit); and O.S.No.111 of 1113 on the file of the District Court, Kottayam (Samudayam Suit) shall



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

54

be filed by 10.03.2026. The learned counsel for the appellants in Con. App.(C)No.13 of 2024, on 10.03.2026, filed a compilation volume IV with the available details of the said suits, after serving a copy to the learned counsel for the parties. On 12.03.2026, we heard further arguments of the learned Senior Counsel/learned counsel for the appellants in the contempt appeals and also the learned Senior Counsel for the party respondents.

16. Before dealing with the rival contentions at the Bar, we deem it appropriate to refer to the factual matrix of the respective contempt appeals.

A. Factual Matrix:-

17. Con.App.(C)Nos.8 and 19 of 2024 arise out of the order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.1761 of 2023, which was one filed invoking the provisions under Article 215 of the Constitution of India, read with Section 12 of the Contempt of Courts Act, 1971, alleging wilful disobedience of the directions contained in the judgment of the learned Single Judge dated 13.04.2023 in W.P.(C)No.25645 of 2019. That writ petition was one filed by the petitioners therein, who are the Vicar, Assistant Vicar, Trustee and Secretary



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

55

of St. John's Bosphage Orthodox Church, Pulinthanam, seeking a writ of mandamus commanding the 7th respondent Inspector of Police and Station House Officer, Pothanikad Police Station, to prevent the respondents 8 to 10 therein and their men from violating the law declared by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** and to ensure that petitioners 1 and 2 therein, the Priests, Vicars, Diocesan Metropolitan, Malankara Metropolitan are not prevented from conducting religious services in accordance with the 1934 Constitution. That writ petition was disposed of by Annexure A1 judgment dated 13.04.2023, by directing the 7th respondent Inspector of Police and Station House Officer, Pothanikad Police Station, to render necessary assistance to petitioners 1 and 2 therein, the Priests, Vicars, Diocesan Metropolitan, Malankara Metropolitan, etc., to peacefully enter the St. John's Bosphage Orthodox Church, in accordance with the 1934 Constitution and to conduct the religious services therein, without let or hindrance from the contesting party respondents. Necessary actions were directed to be taken within a period of two months from the date of receipt of a copy of that judgment.



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

56

18. Con.App.(C)Nos.9 and 17 of 2024 arise out of the order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.299 of 2024. The said contempt case was filed alleging wilful disobedience of Annexure A1 judgment dated 31.01.2023 of the learned Single Judge in W.P.(C)No.11996 of 2022, which was one filed by the petitioners therein, namely, St. Thomas Orthodox Syrian Church, Cherukunnam (Cherukunnam Church) and its Vicar, seeking a writ of mandamus commanding respondents 5, 7, 8 and 11 therein to hand over the administration and management of the 1st petitioner Church to the 2nd petitioner Vicar; and a writ of mandamus commanding respondents 1 to 11 to act strictly adhering to the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, ensuring that no priests or prelates appointed otherwise than in accordance with the Malankara Orthodox Church Constitution of 1934 conduct any sacraments including Holy Mass in the 1st petitioner Church, its Parish Hall, cemetery or any other appurtenant building. By Annexure A1 judgment dated 31.01.2023, the learned Single Judge disposed of the writ petition, by directing the police to see that appropriate steps are



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

57

taken in compliance with Ext.P9 order dated 26.02.2019 of the Apex Court in Civil Appeal No.2446 of 2019 and connected matters, i.e., Civil Appeal Nos.2447 of 2019 and 2448 of 2019 - **Baby C.J. v. Fr. Jiju Varghese [2019 (2) KHC 692]**. The 7th respondent Sub Divisional Magistrate, Ottapalam, was directed to hand over the keys of the Church and the possession of the same to the 2nd petitioner Vicar, who has produced his order of appointment as Vicar of the Church, as duly authorised by the functionaries under the 1934 Constitution. It was ordered that adequate protection shall be granted to the 2nd petitioner Vicar, who is the lawfully appointed Vicar of the Church in accordance with the 1934 Constitution, to enter the Church and to carry out the religious services in the Church, without let or hindrance from respondents 12 to 16 therein or anybody claiming through them, and appropriate steps shall be taken to comply with the directions, within a period of one month from the date of receipt of a copy of that judgment.

19. Con.App.(C)Nos.10 and 16 of 2024 arise out of the order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.329 of 2024, which was one filed alleging wilful



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

58

disobedience of the directions contained in Annexure A1 order dated 03.02.2023 of the learned Single Judge in W.P.(C)No.11685 of 2022. The said writ petition was filed by the petitioners therein, namely, St. Mary's Orthodox Syrian Church, Mangalam Dam, Alathur, represented by its Vicar, the Vicar and Assistant Vicar of the Church seeking directions to respondents 1 to 9 therein to afford adequate protection to the life of petitioners 2 and 3 and other Clergy appointed under the 1934 Constitution to conduct religious services in the 1st petitioner Church, its cemetery and kurishadies and also to the Clergy and Parishioners of the Church, who declare allegiance to the 1934 Constitution, in participating in such religious services without any obstruction, interruption or hindrance from respondents 10 to 13, their men, agents or followers. By Annexure A1 judgment dated 03.02.2023, W.P.(C)No.11685 of 2022 was allowed by directing the police to see that appropriate steps are taken in compliance with Ext.P7 order dated 26.02.2019 of the Apex Court in Civil Appeal No.2448 of 2019 and connected matters, i.e., Civil Appeal Nos.2446 of 2019 and 2447 of 2019 - **Baby C.J. [2019 (2) KHC 692]**. It was ordered that adequate protection shall be granted



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

59

to the petitioners who are lawfully appointed Vicars of the Church in accordance with the 1934 Constitution to enter the Church and to carry out religious services in the Church without let or hindrance from respondents 10 to 13 therein or anybody claiming through them and that, appropriate steps shall be taken to comply with the directions, within a period of one month from the date of receipt of a copy of that judgment.

20. Con.App.(C)Nos.11 and 14 of 2024 arise out of the order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.1824 of 2023, which was one filed alleging wilful disobedience of Annexure A1 judgment dated 13.04.2023 of the learned Single Judge in W.P.(C)No.18091 of 2020, which was one filed by petitioners therein, namely, St. Mary's Orthodox Syrian Church, Odakkali (Odakkali Palli) and its Vicar, seeking a writ of mandamus commanding respondents 1 to 8 therein to afford adequate protection to the life of the 2nd petitioner Vicar and other Clergy including the Vicar, Priests, Deacons, Prelates, Metropolitans and the Catholicos of the Malankara Orthodox Church appointed under the 1934 Constitution, to conduct religious services in the 1st petitioner Church, its cemetery, parish



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

60

hall and kurishadies and also to the Parishioners of the Church, who declare allegiance to the 1934 Constitution, in participating in such religious services, without any obstruction, interruption or hindrance from respondents 9 to 13 therein, their men, agents or followers of Jacobite faction. Further direction sought for was an order directing respondents 1 to 6 to act strictly adhering to the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, ensuring that no Priest or Prelates appointed otherwise than in accordance with Malankara Orthodox Church Constitution of 1934 conduct any sacraments including Holy Mass in the 1st petitioner Church, its parish hall, cemetery or any other appurtenant buildings thereto. The said writ petition was allowed by Annexure A1 judgment dated 13.04.2023, by directing respondents 1 to 8 therein to render necessary assistance to the 2nd petitioner therein and other Clergy including the Vicar, Priests, Deacons, Prelates, Metropolitans and the Catholicos of the Malankara Orthodox Church appointed under the 1934 Constitution to peacefully enter the 1st petitioner Church, its Cemetery, Parish hall and kurishadies and to conduct the religious services therein, without let or hindrance from the contesting



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

61

party respondents, and appropriate steps shall be taken to comply with the directions within a period of two months from the date of receipt of a copy of that judgment.

21. Con.App.(C)Nos.12 and 15 of 2024 arise out of the order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.330 of 2024, which was one filed alleging wilful disobedience of Annexure A1 judgment dated 03.02.2023 of the learned Single Judge in W.P.(C)No.11705 of 2022, which was one filed by St. Mary's Orthodox Syrian Church, Erickinchira (Erickinchira Church), its Vicar and Assistant Vicar, seeking a writ of mandamus commanding respondents 1 to 9 therein to afford adequate protection to the life of petitioners 2 and 3 therein and other Clergy appointed under the 1934 Constitution, to conduct religious services in the 1st petitioner Church, its cemetery, parish hall and kurishadies and also to the Clergy and Parishioners of the Church, who declare allegiance to the 1934 Constitution, in participating in such religious services without any obstruction, interruption or hindrance from respondents 10 to 12 therein, their men, agents or followers. Further relief sought for was an order directing respondents 1 to 6 therein to act strictly adhering



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

62

to the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, ensuring that no Priests or Prelates appointed otherwise than in accordance with Malankara Orthodox Church Constitution of 1934 conduct any sacraments including Holy Mass in the 1st petitioner Church, its parish hall, cemetery or any other appurtenant buildings thereto. The said writ petition was allowed by Annexure A1 judgment dated 03.02.2023, by directing the police to ensure that appropriate steps are taken in compliance with Ext.P7 order dated 26.02.2019 of the Apex Court in Civil Appeal No.2447 of 2019 and connected matters, i.e., Civil Appeal Nos.2446 of 2019 and 2448 of 2019 - **Baby C.J. [2019 (2) KHC 692]**. Adequate protection was directed to be given to petitioners 2 and 3 therein, who are the lawfully appointed Vicars of the Church in accordance with the 1934 Constitution, to enter the Church and to carry out the religious services in the Church, without let or hindrance from respondents 10 to 12 therein or anybody claiming through them, and that, appropriate steps shall be taken to comply with the directions within a period of one month from the date of receipt of a copy of that judgment.

22. Con.App.(C)Nos.13 and 18 of 2024 arise out of the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

63

order dated 30.08.2024 of the learned Single Judge in Con.Case(C)No.1803 of 2023, which was one filed alleging wilful disobedience of Annexure A1 judgment dated 13.04.2023 of the learned Single Judge in W.P.(C)No.27081 of 2019, which was one filed by the petitioners therein, namely, the Vicars and Parishioners of St. Thomas Orthodox Syrian Church, Mazhuvannoor, seeking directions to stop the parallel administration and service in the said Church by respondents 8 to 15 therein or anybody acting under them or their agents, and to direct respondents 3 and 5 therein to maintain public order and tranquillity in the Church. Further directions sought were for ensuring that the 1st petitioner therein, Priests and Vicars, Diocesan Metropolitan, Malankara Metropolitan of the Malankara Orthodox Church, are not prevented from conducting religious services in the Church, in accordance with the 1934 Constitution; an order directing respondents 2, 4 and 6 therein to act strictly adhering to the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** and to ensure that respondents 8 to 15 therein are not violating the law as declared by the Apex Court in the said decision. By Annexure A1 judgment dated 13.04.2023



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

that writ petition was allowed by directing respondents 3 to 5 therein to render necessary assistance to the petitioners to peacefully enter St. Thomas Orthodox Syrian Church, Mazhuvannoor, and to conduct the religious services therein without let or hindrance from the contesting party respondents. It was ordered that appropriate steps shall be taken to comply with the directions within a period of two months from the date of receipt of a copy of that judgment.

23. On 30.08.2025, when Con.Case(C)Nos.1761 of 2023, 1803 of 2023, 1824 of 2023, 299 of 2024, 329 of 2024 and 330 of 2024 came up for consideration, the learned Single Judge passed a detailed order, issuing various directions in the last paragraph of that order, which we have extracted hereinbefore at the first paragraph. Paragraphs 8 to 10 of that order read thus;

"8. The contention that the averments in the contempt cases are vague cannot be countenanced, since the official respondents have clearly understood the directions, as is evident from the affidavits filed and the arguments advanced on their behalf. Having obstructed the feeble attempts at enforcement made by the police, the party respondents cannot feign ignorance of the directions. The argument that it is not discernible from the pleadings as to



whether the petitioners are seeking action for criminal or civil contempt is liable to be rejected, the prayer being to punish the contemner for disobedience of the directions in the judgment. Disobedience of direction can give rise to civil contempt alone, as would be evident from a comparison of the definition of civil contempt as section 2(b) and criminal contempt as 2(c) of the Contempt of Courts Act, 1971. The argument that the directions were issued on a wrong understanding of the judgment in **K.S. Varghese [(2017) 15 SCC 333]** cannot also be entertained, in view of the settled legal position that the court dealing with an application against alleged non-compliance with its earlier order cannot examine the rightness or wrongness of the order nor add or delete any direction. See: **Prithawi Nath Ram v. State of Jharkhand [(2004) 7 SCC 261]**. The contention that, based on the liberty granted by the Division Bench, a suit is filed before the civil court is no justification for disobeying or stultifying the directions issued by this Court.

9. This takes me to the primary contention that, in contempt jurisdiction, the court can only punish the contemner and cannot seek to enforce the directions earlier issued. Of course, the accepted position that in contempt case is that no positive direction beyond the jurisdiction of the contempt court should be given. The question here is whether the Court, before which the contempt proceedings are pending, should remain a mute spectator when the directions in the judgment are treated with scant respect and disobeyed with



impudence. It needs no reiteration that disobedience of court orders strikes at the root of the rule of law on which the judicial system rests. If conduct which tends to bring the authority of the court and the administration of law to disrepute is allowed to be perpetuated, that will result in the entire system being maligned. It is the bounden duty of every court to uphold the majesty of law and maintain the purity of the system. The law is equally applicable to the mighty and the meek, the powerful and the powerless, and has to be applied without fear or favour, prejudice or predilection. The Apex Court in **Delhi Development Authority v Skipper Construction Co. (P) Ltd [(1996) 4 SCC 622]** has reiterated the principle that a contemner should not be permitted to enjoy and/or keep the fruits of his contempt. As held in **Derby Sales Pvt. Ltd and another v. Sanjay Mitra, Chief Secretary, Land & Land Reforms Department and others [2017 SCC Online Cal 54]**, the Court cannot and should not rest by passing a punitive order against the contemner. On the other hand, it is the duty of the court to see that its order is implemented and the contemner does not enjoy the benefits he has derived by violating the court's order. The above legal position is no longer *res integra* in view of the declaration of law by the Apex Court in **Subrata Roy Sahara v. Union of India [(2014) 8 SCC 470]**. Therein, the Apex Court, after detailed examination of the power of superior courts, to enforce its directions, held as under:-

“185.2. Disobedience of orders of a court strikes at



[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

the very root of the rule of law on which the judicial system rests. Judicial orders are bound to be obeyed at all costs. Howsoever grave the effect may be, Is no answer for non-compliance with a judicial order. Judicial orders cannot be permitted to be circumvented. In exercise of the contempt jurisdiction, courts have the power to enforce compliance with judicial orders.”

10. The decisions cited by the party respondents are cases in which the contempt courts had issued directions over and above those contained in the judgment. On the other hand, in the cases under consideration, the recalcitrant attitude of the official respondents and disregard of the directions by the party respondents leave this Court with no option but to issue directions for preventing the contemptuous acts.’

24. By the judgment dated 17.10.2024 of the Division Bench, Con.App(C)No.8 of 2024 and connected matters were dismissed, declining interference on the order dated 30.08.2025 of the learned Single Judge in Con.Case(C)Nos.1761 of 2023, 1803 of 2023, 1824 of 2023, 299 of 2024, 329 of 2024 and 330 of 2024. Paragraph 35 and also the last paragraph of the said judgment are extracted hereinbefore at paragraph 5.

25. As already noticed hereinbefore, in paragraph 3 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and



connected matters, the Apex Court noticed that there is a checkered history of the disputes over the management, control and administration of Churches between two sections of the Christian community, which has been the subject matter of consideration in **K.S. Varghese [(2017) 15 SCC 333]**, followed by **Mathews Mar Koorilos [(2018) 9 SCC 672]** and **St. Mary's Orthodox Church [(2020) 18 SCC 329]**.

B. The decision in K.S. Varghese [(2017) 15 SCC 333]:-

26. The perpetual fight between the Patriarch faction and the Catholicos faction for managing the affairs of Malankara Orthodox Syrian Church and for control of spiritual and temporal management of affairs of the Parish Churches culminated in the judgment of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**. The said decision arises out of three original suits filed under Order I, Rule 8 and Sections 26 and 92 of the Code of Civil Procedure, 1908 (for brevity, 'the Code'), for control of spiritual and temporal management of the affairs of three Parish Churches, namely, Kolenchery Church, Varikoli Church and Mannathur Church.



27. The appeals relating to Kolenchery Church arose out of a suit filed by the Patriarch faction to declare that Kolenchery Church (1st defendant Church) its assets, including the educational institutions are liable to be administered only in accordance with Udampady executed on 30.12.2013; to settle a scheme for administration of the Church and its assets; to appoint a Receiver, conduct elections after preparing proper voters list irrespective of their factional affiliations and to entrust management to them; and for a permanent injunction restraining the 3rd defendant from receiving the key of the Church.

28. The appeals relating to Varikoli Church arose out of a suit filed by the Catholicos faction to declare that Varikoli Church (1st defendant church) is governed by the 1934 Constitution as upheld by the Apex Court and defendants 2 and 3 have no right to claim the status of trustees of the Church; for a permanent prohibitory injunction to restrain defendants 2 and 3 from functioning as trustees of the Church; and for a mandatory injunction directing the 4th defendant to call for immediate pothuyogam of the 1st defendant Church and to hold election of new Managing Committee including trustees and Secretary in



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

70

accordance with the 1934 Constitution. In the said suit, defendants 13 to 15 raised a counter claim to cause a referendum to ascertain the allegiance of the Parishioners of the 1st defendant church; to declare that the Church and its assets are to be governed in accordance with the faith and will professed by majority of the Parishioners of the Church; to pass a final decree declaring that the Church and its assets be administered in accordance with the decision of majority of the Parishioners; and permanent injunction against the 3rd defendant, his agents and religious dignitaries and those who are not accepting spiritual supremacy of Patriarch of Antioch and All the East.

29. The appeals relating to Mannathur Church arose out of a suit filed by the Catholicos faction to declare that Mannathur Church (1st defendant Church) is administered by the 1934 Constitution; to declare that defendants 3 to 5 have no right or authority to act as its trustees; permanent prohibitory injunction against defendants 3 to 5 from functioning as its trustees; to direct the 2nd defendant to call general body for holding elections; and injunction against changing the name of the 1st defendant Church.



30. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed a perpetual fight between the Patriarch faction and the Catholicos faction for managing the affairs of Malankara Church and for control of spiritual and temporal management of affairs of the Parish Churches. Before the Apex Court, it was contended that the judgment in **Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [1995 Supp (4) SCC 286]** has no binding effect. It would have only the evidentiary value under Section 13 of the Indian Evidence Act, 1872. The Apex Court rejected the said contention, holding that the finding in the 1995 judgment, which operates as res judicata, is about the binding nature of the 1934 Constitution on the Parishioners and Parish Churches. The Court has made an exception under the aforesaid judgment with respect to Knanaya Church. It is not open to the Parishioners to contend that they can have their independent Constitution and not bound by the 1934 Constitution. The 1995 judgment cannot be misconstrued so as to confer the aforesaid right upon the Parishioners. The 1995 judgment is clear, unequivocal and unambiguous with respect to the binding nature of the 1934 Constitution.



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

72

31. In **K.S. Varghese [(2017) 15 SCC 333]**, it was contended that the Parish Churches, even after the 1934 Constitution, can decide to make their own Constitution in the exercise of their fundamental right to freedom of religion under Article 25 of the Constitution of India, so as to follow the faith of spiritual supremacy of the Patriarch. Repelling the said contention, the Apex Court opined that it would not be open to any faction or group to adopt any particular system of management of Churches and to have a parallel system of managing authorities under the guise of spiritual supremacy. The mismanagement of the Church and chaos cannot be permitted to be created for temporal gains or otherwise. There is a system of management, and the spiritual aspect, which has been claimed under the guise of spiritual supremacy, is an effort to illegally take over the management of the Churches by rival factions in derogation of the delegation of powers. The power with respect to the Orthodox Syrian Church of the East is the Primate, i.e., Catholicos. Though the Primate of the Orthodox Syrian Church is the Patriarch of Antioch, certain spiritual powers have also been vested in the Malankara Metropolitan, as per Section 94 of the 1934 Constitution. The



prime jurisdiction regarding the temporal, ecclesiastical, and spiritual administration of the Malankara Church is vested with the Malankara Metropolitan, subject to provisions of the Constitution, and under the guise of spiritual supremacy, an effort is being made to obtain the appointments of Vicars and Priests as parallel authorities so as to manage the Churches and to render religious services under the guise of Patriarch. On the other hand, there are already Vicars and other authorities appointed as per the 1934 Constitution. Thus, under the garb of spiritual supremacy, which had reached a vanishing point due to the establishment of Catholicos and Kalpana, and the 1934 Constitution, which has been accepted and is binding, a parallel system of governance of the Church would not be in the interest of the Church and would destroy it.

32. In **K.S. Varghese [(2017) 15 SCC 333]**, it was contended that, in the 1995 judgment, the excommunication of the Catholicos was held to be invalid since there was no permissible or relevant ground for the same. Thus, the supremacy of the Patriarch cannot be denied by the Catholicos group. Such a denial would alter the fundamental faith of the Patriarch followers



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

74

who have been forced to form their own association for safeguarding their spiritual and religious interests. The Apex Court noticed that the discussion which has been made in the 1995 judgment is too elaborate and is based primarily on various historical facts and background which clearly indicate that the Patriarch at no point of time had exercised temporal control and it was considered necessary to establish the office of the Catholicos so as to manage the Malankara Church, which is a division of the Orthodox Syrian Church. The Malankara Church was founded by St. Thomas the Apostle and is included in the Orthodox Syrian Church of the East, and the Primate of the Church is the Catholicos. It is apparent from Kalpanas that the establishment of the office of Catholicos and other historical facts discussed in the judgments referred to in the 1995 judgment that once having created the office, it is not the plea of waiver or abandonment, but the Kalpana issued by the Patriarch is binding upon him also. Thus, it is a positive act, and once having done so, the Patriarch is bound by it and cannot wriggle out of it and make the entire Parish Church system topsy-turvy. Thus, the 1995 judgment, i.e., the Three-Judge Bench decision in **Most Rev. P.M.A. Metropolitan**



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

75

[(1995) Supp. 4 SCC 286], cannot be said to be contrary to the Four-Judge Bench decision in **Sha Mulchand & Co. Ltd. v. Jawahar Mills Ltd. [AIR 1953 SC 98]**, but on a closer scrutiny, **Sha Mulchand** does not buttress the plea of the appellants but negotiate against it. Too much cannot be made out of the observations made by the Court that the Patriarch cannot be said to have lost his spiritual supremacy over the Malankara Church but the fact that remains is that it has reached a vanishing point and the Church has to be managed as per the historical background, in accordance with the 1934 Constitution which has also the force behind it of the Patriarch himself, in the form of Kalpana.

33. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court found that the Parishioners can have faith in the spiritual supremacy of the Patriarch, but not in all matters. They have to give equal importance in the matter of management of the 1934 Constitution and cannot be permitted to commit regular breaches and devise ways to circumvent the judgment of the Court, by one way or the other, and under the garb of spiritual fight wrest the temporal control of the Churches. That the spiritual power of the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

76

Patriarch has reached to a vanishing point has to be given the full meaning and it cannot mean that the powers can be exercised under the umbrella of spirituality to interfere in the administration of the Church and creating a parallel system of appointing Vicars and Priests, etc., which will paralyse the functioning of the Churches for which they have been formed, and it would be against the very spirit of creation of trust from time immemorial, which inheres the concept that once a Trust always a Trust. No person under the guise of spiritual faith can be permitted to destroy a system that is prevailing for the management of such Churches and go on forming a constitution as per his will, time and again. There is no need in case of any such Constitution, as is framed in the year 2002. Once any Parishioner wants to change the 1934 Constitution, it is open to them to amend it as per the procedure. It is right that the 1934 Constitution, therefore, is not a Bible or Holy book of Quran or other Holy books, which cannot be amended. The 1934 Constitution has been amended in the form of bye-laws or regulations applicable for the governance of Parish Churches a number of times, and it can still be amended to take care of the legitimate grievances, if any, but there appears to be



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

77

none for which the fight has been going on unabated in the instant cases.

34. In **K.S. Varghese [(2017) 15 SCC 333]**, it was contended that Parishioners have a right to follow their own faith under Article 25 of the Constitution of India and that the Preamble to the Constitution guarantees the liberty of thought, expression, belief, faith, and worship. Those who believe in apostolic succession through St. Peter form one denomination (viz. Patriarch group) and those who believe in apostolic succession through St. Thomas form another denomination (viz. Catholicos group) within the same religion (viz. Christianity). The Patriarch group forming a religious denomination has a fundamental right to decide what rites should be performed in their Parish Churches, who would perform them, and how they should be performed in accordance with their faith. The Vicar holds a very important position in the Church; he conducts the Holy Mass, the Confession, the anointing of the Holy Mooron and other sacraments and ceremonies. He also collects the donations made to a particular Church. When the majority of the Parishioners who contribute to such donations belong to the Patriarch group, the use of such



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

78

contributions to further the cause of the Catholicos by the trustee would result in a breach of trust of the donors and beneficiaries. A Vicar of a Catholicos group could not be thrust on a worshipper of the Patriarch faith against his will. The freedom guaranteed under Article 25 of the Constitution of India will prevail over anything contained to the contrary in the 1934 Constitution.

35. In **K.S. Varghese [(2017) 15 SCC 333]**, repelling the aforesaid contentions, the Apex Court held that the appointment of a Vicar is not a spiritual matter but is a secular matter. From the discussion made in the 1995 judgment and the various documents referred to therein, it is apparent that the Patriarch of Antioch has not exercised the power earlier with respect to the appointment of Priests, etc. He has re-established the Throne of Catholicos in 1912 under a Kalpana in which he has dedicated the power to the 1934 Constitution, which has been accepted by the issuance of Kalpana and by establishing Catholicos-III in 1964 by consecrating Malankara Metropolitan. The 1934 Constitution has to hold the field, and it is not the spiritual right within the spiritual domain, even if the Patriarch of Antioch is supreme, to appoint Vicars/Priests. It is apparent from



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

79

Section 40 that the Diocesan Metropolitan has the authority to appoint, remove or transfer the Vicar and other priests. The Diocesan Metropolitan has to control the Vicar as per the scheme of the Constitution. The Diocesan Metropolitan has been given the authority to appoint a Vicar for a wholesome purpose in the 1934 Constitution, as the Patriarch of Antioch abroad cannot and is not supposed to exercise the deep and pervasive control over the management of Churches, such as the appointment of a Vicar, which is a secular matter and not a spiritual one.

36. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the prime jurisdiction with respect to the temporal, ecclesiastical and spiritual administration of the Malankara Church is vested with the Malankara Metropolitan and other authorities. It is intended for the proper administration of the Church and does not run against the concept of the spiritual authority of the Patriarch of Antioch, but at the same time, Malankara Metropolitan enjoys all the temporal, ecclesiastical and spiritual administration powers. Thus, the power of the Patriarch of Antioch has reached a vanishing point, and he cannot exercise those powers vested with various authorities under the



Constitution as per the historical background noted in the 1995 judgment, since time immemorial. It passes comprehension how the Patriarch of Antioch can manage the day-to-day affairs in India, sitting abroad. It is not contemplated, nor he is supposed to do so, in view of his Kalpanas, and historical facts also indicate otherwise that he had not been managing the churches, and it is better that the Churches are left for the purpose of day-to-day administration. The powers of appointment of Vicar and Priests, etc. to the local Malankara Church, have rightly been given to the concerned authorities in the 1934 Constitution, on the basis of prevalent practices.

37. In **K.S. Varghese [(2017) 15 SCC 333]**, dealing with the contention as to the violation of faith and violation of a right under Article 25 of the Constitution of India, the Apex Court observed that, there is no doubt that a religious denomination or organisation enjoys a complete autonomy in the matter of deciding as to rites and ceremonies essential according to their tenets of religion they hold, and no outside authority has any jurisdiction to interfere with their decisions in such matters. At the same time, secular matters can be controlled by the secular



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

81

authorities in accordance with the law laid down by the competent legislature, as laid down in **Commissioner, Hindu Religious Endowments v. Sri. Lakshmindra Thirtha Swamiar of Sri. Shirur Mutt [AIR 1954 SC 282]**. Spiritual power is also with various authorities like Catholicos, Malankara Metropolitan, etc. Thus, it is too far-fetched an argument that the Patriarch of Antioch or his delegate should appoint a Vicar or Priest. There is no violation of any right under Article 25 or Article 26 of the Constitution of India. Neither any of the provisions relating to the appointment of the Vicar can be said to be in violation of any of the rights under Article 25 and Article 26 of the Constitution of India. The 1934 Constitution cannot be said to be in violation of Article 25 and Article 26 of the Constitution of India.

38. In **K.S. Varghese [(2017) 15 SCC 333]**, before the Apex Court, it was contended that granting the reliefs as sought for in the plaint would result in a situation favouring one party over another and bringing religious imbalance also. In this regard reliance was placed on the observations of European Court of Human Rights (ECtHR) in the case of **Supreme Holy Council of the Muslim Community v. Bulgaria** [Application No.39023 of



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

1997, decided on 16.12.2004], wherein ECtHR while considering a claim by one of two rival groups claiming leadership of Muslim community in Bulgaria held that there had been violation as the state actions had the effect of compelling the divided community to have a single leadership against the will of one of the two factions. It stated that the role of the authorities in a situation of conflict between or within religious groups was not to remove the cause of tension by the elimination of pluralism, but to ensure that the competing groups tolerated each other. State measures favouring a particular leader of a divided religious community would constitute an infringement of freedom of religion.

39. In **K.S. Varghese [(2017) 15 SCC 333]**, while dealing with the aforesaid contention, the Apex Court observed that the question is whether, on the division of the community, there is a division of control and management and property of the Church. The supremacy issue of Patriarch or Catholicos has been raised unnecessarily. It is a Diocesan Metropolitan as per Section 40 of the Constitution who has the power to appoint Vicar, Priests, etc., and there is other hierarchy provided. Even Catholicos, Malankara Metropolitan has the spiritual powers. It is not that they



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

have temporal powers only. They have spiritual status too that has to be respected equally. No office is either superior or inferior in the matter of the relationship between the two heads, the Catholicos and the Patriarch. Both are independent spiritual authorities. However, the Patriarch occupies the higher post in the hierarchy, i.e., he has an honour or precedence if he is present, i.e., in a sense he is the first among equals - "primus inter parties". The Church's functioning is based on the division of responsibilities at various levels. The division of power is for the purpose of management and does not militate against the basic character of the Church being Episcopal in character. In Halsbury's Laws of England, Vol. 14, Para. 562, the right of Parishioners has been described thus:

"To enter the Church, remain there for purpose of participating in divine worship to have a seat and to obey the reasonable directions of the Church to ordain."

The highest authority of the Malankara Church of the East is the Catholicos, being its primate as recognised in Section 2 of the 1934 Constitution. What is sought for and intended is wholly uncalled for, wholly unnecessary and unpalatable. The community may divide, but the Churches and places of worship cannot be



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

divided. They have to be respected for the sake of religion, and to exercise their coveted rights under Article 25 and Article 26 of the Constitution of India, and for the preservation of such rights. Still, there may not be truce and peace in the Church, which cannot be helped. A person interested in spirituality may attain it by karma, dedication to the deity, concentration and controlling senses as stated in the Gita by Lord Krishna;

“Chap.7, Verse 4:

XXXXXXXXXX

[venacular matter omitted]

[Earth, water, fire, air, mind, intellect and the ego - these are the 8 divisions of My separated matter (Prakriti) that is Prakriti comprises not only the material world of matter of energy but also the inner world of thoughts, emotions and the ego.]”

“Chap.3, Verse 29:

XXXXXXXXXX

[venacular matter omitted]

[People who are influenced by the senses, remain attached to sense objects and the material aspects of the world. The wise should not disturb these ignorant people, whose knowledge is incomplete.]

For persons who are professing the religion for temporal gains, no one can show them spiritual way. They are free to have their



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

pursuit and excel in that too but not at the cost of the very deity and Church or religious place itself. The Apex Court held that the 1934 Constitution cannot be said to be an instrument of injustice or vehicle of oppression. Thus, the decision of **American Express Bank Ltd. v. Calcutta Steel Co. [(1993) 2 SCC 199]** is of no avail.

40. In **K.S. Varghese [(2017) 15 SCC 333]**, before the Apex Court, it was submitted that the Parishioners own the property of the Parish Church and the Cemetery and they cannot be deprived of that right by reason of the office holders of the Parish Churches by not subscribing to the 1934 Constitution. The attempt by Catholicos is to take away ancient Churches and bar the Parishioners from entry to the Churches and Cemetery. Repelling the said submission, the Apex Court held that the properties would always remain as Malankara Church properties. Only office-holders have to subscribe to the 1934 Constitution as held by the Court. The Parishioners can take no Church property away, neither Catholicos faction by majority, and the submission is based on a misconception as to the nature of rights in such property. It has to remain in the Malankara Church. Neither the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

86

Church nor the Cemetery can be confiscated by anybody. It has to remain with Parishioners as per the customary rights, and nobody can be deprived of the right one enjoys being a Parishioner in the Church or to be buried honourably in the cemetery, in case he continues to have faith in Malankara Church. It passes comprehension as to how irreconcilable differences in faith have been sought to be created in a flimsy manner to divide Church into the Patriarch and Catholicos factions, whereas they are part of the Malankara Church, whereas the dominant faith is the common, Malankara Church is one, and Orthodox Syrian Church is the same. Only intention differs. Hence, law and order situation has arisen which cannot be a scenario for spiritual attainments with embodiment of tolerance and equality of all human beings and living creatures. The depth in sight beyond the sensual eye sight is required for spiritual gains. The Apex Court observed that, for the reasons best known to the parties, fight is going on regarding the management, which is wholly uncalled for. If the church has to survive, obviously, this must stop and let the blessings of Christ fall upon the believers, actual followers of his teaching. This is the only way by which the Court can expect that peace will come to



the Church. For the unrest and ugly situation, no reason, good, bad or otherwise, exists that can be legally recognised.

41. In **K.S. Varghese [(2017) 15 SCC 333]**, before the Apex Court, it was submitted that, if services and ceremonies are conducted by only those Vicars and priests who are appointed in accordance with the 1934 Constitution, it would be violative of the basic object of the Parish Church. The Apex Court found no force in the said submission. The Apex Court noticed that the Diocesan Metropolitan appoints the Vicar under the 1934 Constitution. It does not impinge upon the object of the Parish Churches. The Catholicos or the Patriarch, as the case may be, are not supposed to deal with such matters which are reserved for Diocesan Metropolitan as apparent from various decisions and provisions in the 1934 Constitution. This is the position prevailing since long. Vicars or Priests can also be appointed by secular authorities of sovereign. The appointment made by the Diocesan Metropolitan cannot be said to be suffering from any illegality or affecting the spiritual rights of the Parishioners. Deacons and Priests for ordination are required to successfully undergo theological studies and Principal has to certify as to their fitness. For ordination as



Korooyo (Reader), successful completion of 3 years' study is required. How Patriarch from abroad can exercise such powers is beyond comprehension, and that would amount to unnecessary interference, which is not supported by any Kalpana or historical document. The 1934 Constitution provides for the appointment of Vicar by the Diocese in the area of its operation. Other provisions with respect to appointment are detailed in the 1934 Constitution. In the absence of anything having been provided in Udampady, the 1934 Constitution would hold the field.

42. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that faith is being unnecessarily divided vis-à-vis the office of Catholicos and the Patriarch. The faith of the church is in Jesus Christ. An effort is being made to take over the management and other powers by such an action, just to gain control of temporal matters, under the garb of spirituality. Even if the Vicar performs functions which are religious, there would not be infringement of the rights under Article 25 and Article 26 of the Constitution of India in case the Diocesan Metropolitan appoints the Vicar as provided in the Constitution of 1934, and it is clear that the Patriarch of Antioch has not reserved this power to



himself. As a matter of fact, the 1995 judgment settled such disputes between the parties, in which the Court tried its best to take care of the prevailing situation while passing the decree. It was observed in utter breach during its execution itself. The Diocesan Metropolitan, as per the Constitution of 1934, appoints the Vicar. The submission that a Vicar of a Catholicos group cannot be thrust on a worshipper of Patriarch faith against his will is totally unsound and is simply a ploy to take over the control of the management of the Church by putting faith in a Vicar, who is running a parallel governance at the cost of the Church, by creating factionalism within the Churches. It is a settled proposition of law that when a mode is prescribed for doing a thing, it can be done only in that manner and not otherwise. The Court in the 1995 Judgment made it clear that the Patriarch has no such authority. He could not exercise any such spiritual power unilaterally, as was done in 1972, which became the cause of unrest in the Church. The appointment of a Vicar or Priest by the Patriarch or through a delegate unilaterally was held to be not permissible in the decision of 1995, even if he has such powers. It appears he has no such power to interfere in the management of



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

90

the Church, and now that question is agitated again and under the same guise of supremacy. Such an uncalled-for attempt has to be thwarted and not to be countenanced for a moment. There is no violation of constitutional provisions or the authority of the Patriarch. Thus, there is no question of violation of the Parishioners' rights and applicability of decisions in **Olga Tellis v. Bombay Municipal Corporation [(1985) 3 SCC 545]**, **Basheshar Nath v. Commissioner of Income Tax [AIR 1959 SC 149]** and **Nar Singh Paul v. Union of India [(2000) 3 SCC 588]**.

43. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court found that the source of the entire problem is that the Patriarch's faction is not ready to accept Vicar and Priests and the management which vests not only in Catholicos but also in Malankara Metropolitan, Diocesan Metropolitan. They want to have their own system of management by creating parallel managing groups, as noted by the Court in the 1995 judgment. In 1972, the genesis of the entire problem in the Churches was the appointment of the Vicar, etc., made unilaterally on behalf of the Patriarch. Thereafter, the Court had rendered the judgment and



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

held that it was not open to the Patriarch to do it in the method and manner that it was done. Even assuming for a moment that Patriarch was having those powers, he could not exercise them unilaterally, and the 1934 Constitution prevails in the Churches, which is a clear finding of the Court. Thus, the Patriarch has also acted against the 1934 Constitution, as well as the Canon by which Catholicos have been re-established in 1912, and after delimitation of areas. The Patriarch faction for no good cause is ready to accept the ecclesiastical and spiritual powers of the Catholicos and others as provided in the Constitution and Kalpana's and as held by the Court in the previous judgments. It was held in 1905 in the Arthat Suit that the Churches and their properties are subject to spiritual, temporal and ecclesiastical jurisdiction of Malankara Metropolitan. The Patriarch's claim of control over the temporal affairs of the Malankara Church was rejected. It was also rejected in the Seminary Suit filed in 1879. The effort made by the Patriarch faction appears to be for the temporal gains under the guise of supremacy of the Patriarch, as the Vicar and Priests have the power of management in addition to performing religious duties. The submission that the 1934



Constitution has been breached by the Catholicos cannot be accepted. There is not only a violation of the binding judgment of 1995 by the Patriarch faction, but also of other binding precedents too.

44. In **K.S. Varghese [(2017) 15 SCC 333]**, it was argued before the Apex Court that the 1995 judgment was rendered to reconcile the two warring factions. The conduct of the Catholicos in refusing to recognise the Patriarch undermines the 1995 judgment. The Apex Court noticed that, as a matter of fact, when the execution of the 1995 judgment was pending, in spite of the appointment of Mr. Justice Malimath with the consent of the parties to hold the elections, the Patriarch faction took up a different stance in gross violation of the dictum, and there was a breach of the Constitution on its part. It was bent upon to circumvent the 1995 judgment and created illegally a parallel system of administration and also formed the Constitution 2002, which was totally uncalled for and an impermissible action. After the formation of the Constitution of 2002, they held separate meetings of Patriarch groups, and the entire system was usurped. This resulted in various law and order problems as projected in



the case, and Parish Churches remained closed for quite some time. Once there is a Malankara Church, it has to remain as such. No group or denomination can take away the Church and form another group for its management, as that would virtually tantamount to usurping its properties and the Church itself. When the Church has been created and is for the benefit of beneficiaries, it is not open for beneficiaries, even by majority, to usurp its property or management.

45. In **K.S. Varghese [(2017) 15 SCC 333]**, it was argued that the Samudayam Suit has no bearing on the present proceedings. It was submitted that the Samudayam Suit was with respect to the common trust property of the Malankara Church. Rejecting the said argument, the Apex Court noticed that the dispute in the Samudayam Suit was with respect to community property. But, considering the rival claims, various issues which were raised had been gone into, and the findings had been recorded thereupon, in order to decide the said controversy, which are binding as the suit was a representative suit. Thus, the issues which were decided in the suit cannot be reopened, including the question of adoption of the 1934 Constitution, its validity and



binding nature. The applicability and legality of the 1934 Constitution were questioned in the Samudayam Suit. A ground was raised that by the formation of the 1934 Constitution, the supremacy of the Patriarch has been taken away. The Court in the 1995 judgment construed the Samudayam judgment, and there is no scope to differ with the same.

46. In **K.S. Varghese [(2017) 15 SCC 333]**, in the case of Mannathoor Church, it was argued that the Church has its own Constitution in the form of an Udambadi of 1980, which was a registered document, which will prevail over the 1934 Constitution. Rejecting the said contention, the Apex Court held that the High Court had found that, in fact, the Church had been administered by the 1934 Constitution. The 1934 Constitution is applicable to the Parish Churches under the Malankara Church. The submission that the Udampady will prevail cannot be accepted in view of the provisions made in Section 132 of the 1934 Constitution to the effect that all agreements which are not consistent with the provisions of the Constitution are made ineffective and annulled, and also in view of the finding in the 1958 Samudayam matter that the Constitution had been validly adopted



and is applicable. The question cannot be re-agitated and reopened under the guise of Udampady, which cannot hold the field for the administration of such Parish Churches. Udampady is not a document by which the Church came to be established. It is with respect to its management only. Udampady cannot prevail over the Constitution that has been adopted for all Malankara Churches and is holding the field. The registration of the Udampady cannot make it superior to the Constitution, and the latter will prevail, as found by the Court in earlier decisions. The finding is binding, conclusive and has to be respected. Even otherwise, Udampady cannot hold the field.

47. In **K.S. Varghese [(2017) 15 SCC 333]**, relying upon the Universal Declaration of Human Rights, which recognises the right to form an association, and further goes on to state that no one can be compelled to be a part of an association, it was argued before the Apex Court that the right to form an association under Article 19(1)(c) also carries with it the negative right, i.e., the right not to be a part of an association. It was argued that the 1995 judgment cannot be read as if the appellant Church cannot leave the Malankara Association, as the same would result in



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

96

infringement of the fundamental rights of the majority of the Parishioners, who belong to the Patriarch faction. The Apex Court rejected the said contention for various reasons. Firstly, no one can deny the right under Article 20 of the Universal Declaration of Human Rights. No one may be compelled to belong to an association. There is no compulsion with any of the Parishioners to be part of the Malankara Church or the Parish Church. There can be an exercise of unfettered volition not to be a part of an association, but the question is whether one can form another association within the same association and run a parallel system of management of the very same church, which is not permissible. Leaving a Church is not the right denied, but the question is whether the existing Malankara Church can be regulated otherwise than by the 1934 Constitution. If the effort of certain group of Patriarch otherwise is to form a new Constitution of 2002 to appoint Vicars, Priests, etc., giving a go by to the 1934 Constitution, and to form a new Church under the guise of the same Malankara Church, it is not permissible. The Malankara Church, its properties, and other matters are to be governed by the 1934 Constitution, and even the majority of Parishioners have



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

97

no right to take away and usurp the Church itself or to create a new system of management contrary to the 1934 Constitution. It was a trust created as the Malankara Church that is supreme, for once a trust, always a trust.

48. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court has laid down that, as per the 1934 Constitution it is clear that while individual Parishioners may choose to leave the Church, there is no question of even a majority of the Parishioners in the Parish Assembly by themselves being able to take the movable or immovable properties out of the ambit of the 1934 Constitution, without the approval of the Church hierarchy. The Parish Assembly can pass bye-laws that are not inconsistent with the principles contained in the Constitution. The Diocesan Assembly or the Diocesan Council can also suggest and submit to the Managing Committee, through the Rule Committee, for consideration as provided in Section 129. All agreements, offices and practices which are not consistent with the provisions of the Constitution are made ineffective and have been annulled, as provided in Section 132 contained in Part 13 'Miscellaneous'. After referring to the various provisions in the 1934 Constitution, the Apex Court



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

98

held that, various provisions of the Constitution make it clear that there is a hierarchy of control and Parish Church properties cannot be dealt with otherwise the provisions contained in Section 23 as to the written consent of the Diocesan Metropolitan and the detailed system of management, appointment of Vicar and the Kaisthani, Parish Assembly, as also the power to spend certain amounts, as provided in Section 22 of the Constitution. The accounts are supervised and to be signed by the Diocesan Metropolitan. Similarly, the acquisition of any immovable property for the Diocese can be made with the written consent of the Malankara Metropolitan. It is apparent from the aforesaid provisions that there is a hierarchy of control that is provided with respect to the Church properties also. The community trustees are also provided for the Vattipanam, that is, the Trust Fund. Section 94 provides for the temporal, ecclesiastical and spiritual control of the Malankara Metropolitan. Catholicos can also hold the office of Malankara Metropolitan. The Episcopal Synod has the power to consecrate Catholicos. Whatever autonomy is there, is provided in the Constitution for the Churches for necessary expenditure as provided in Section 22, otherwise it is episcopal nature of the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

99

Church and once the property vests in Malankara Church, it remains vested in it and cannot be taken away, and in case there is any dispute with respect to faith, etc., it has to be decided by the Episcopal Synod and in case any bye-law is to be changed, its remedy is available under the provisions of Sections 126, 127 and 129. A faction of the Parish cannot decide against the Constitution. The bye-laws must conform to the Constitution. The income has to be distributed as per Sections 120 to 123.

49. In **K.S. Varghese [(2017) 15 SCC 333]**, it was argued that, by majority, a decision can be taken to opt out of the 1934 Constitution by the Parish Assembly and to form a new church under a new name, as has been done in 2002. The Apex Court opined that the Constitution prohibits such a course. Even bye-laws that do not conform to the Constitution cannot be framed, and that has to be placed before the Rule Committee under Sections 126, 127 and 129. In the existing system of Malankara Church, a Parish Church that is part of Malankara Church cannot be usurped even by a majority in the Church under the guise of the formation of a new Church. The existing majority at a given time in any Parish Church cannot be permitted to take



away the assets of the church, at the expense of those who adhere to the original Trust.

50. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the majority view in the 1995 judgment refused to give a declaration with respect to property in the absence of Parish Churches. However, it was observed that the 1934 Constitution shall govern and regulate the affairs of the Parish Churches insofar as the Constitution provides for the same. In the absence of any further prayer made, suffice it to hold that the 1934 Constitution shall govern the affairs of the Parish Churches in respect of temporal matters also, insofar as it so provides, and discussed by the Court. The Malankara Church is Episcopal to the extent it is so declared in the 1934 Constitution, as held in the 1995 judgment. The 1934 Constitution governs the affairs of the Parish Malankara Churches and shall prevail. Otherwise, also, property cannot be taken away by the majority, or otherwise, and it will remain in Trust as it has been for time immemorial, for the sake of beneficiaries. It is for the benefit of beneficiaries. No one can become an owner by majority decision or be permitted to usurp the Church itself. It has to remain in perpetual succession



for the purpose it has been created a Malankara Church. The Parish Assembly, by majority, cannot take away the property and divert it to a separate and different Church that is not a Malankara Church administered as per the 1934 Constitution, though it is open to amend the Constitution of 1934. As the basic documents of the creation of the Church have not been placed on record, usage and custom for determining the competing claims of rival factions becomes relevant.

51. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court held that the 2002 Constitution cannot hold the field to govern the appellant Churches and the 1934 Constitution is binding. The finding recorded by the High Court that the Kolenchery Church was not administered by the 1913 Udampady and was administered in accordance with the 1934 Constitution, is correct at least after the Constitution was adopted. The general body meeting of 08.03.1959 has adopted the 1934 Constitution. The Udampady cannot hold the field by virtue of Section 132 of the Constitution, and there is other oral evidence that had been assessed by the High Court, including the documentary evidence, and the Udampady cannot be taken to govern. Moreover, in view



of the findings in the 1958 Samudayam Suit and the 1995 judgment, the Constitution of 1934 is binding, which has been held to be valid, and the Malankara Church has to be administered as per the provisions contained therein. Thus, the Udampady of 1913 cannot be set up or used as a ploy to avoid the provisions of the 1934 Constitution. Thus, the main plank of submissions is also barred by the principle of res judicata.

52. In **K.S. Varghese [(2017) 15 SCC 333]**, before the Apex Court, it was argued that, once the Parish Assembly decided in 1959 to go by the 1934 Constitution, it could also take a decision to go by the Udampady of 1913. It was further submitted that the 1913 Udampady operates as the Constitution of the individual Parish Church. 1913 Udampady is a registered document and has to prevail over the unregistered Constitution. The Apex Court noticed that the Church was created way back in the 7th century. The Udampady of 1913 is not a document of the creation of the Trust. The then in-charge person executed it just for the management of the Church in question. The 1934 Constitution, after being adopted in 1959 by the Church, is binding. The Udampady of 1913 has lost its efficacy and utility.



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

103

The Udampady stands annulled by Section 132 of the Constitution. It cannot be revived. Thus, it is not open to the Church or Parishioners by majority to wriggle out of the 1934 Constitution. In view of the findings recorded in the Samudayam Suit and also by the 1995 judgment, the question operates as res judicata, and the administration on the basis of Udampady cannot be claimed. The inconsistent provisions in the Udampady shall stand annulled as per Section 132 of the 1934 Constitution. There are inconsistencies between the 1934 Constitution and 1913 Udampady, as such, the latter cannot prevail. In terms of Section 132, any Udampady (agreement), which is inconsistent with the provisions of the 1932 Constitution, stands annulled and is ineffective. After noticing certain inconsistencies between the provisions of the 1913 Udambady and the 1934 Constitution (quoted in Para.214 @ Pages 504 to 506 of SCC), the Apex Court held that, in view of those inconsistencies, as well as in light of the findings of the 1959 judgment and the 1995 judgment regarding the validity and the binding character of the 1934 Constitution, the 1913 Udampady would, in any event, no longer



survive and the Parish Church would be governed in accordance with the 1934 Constitution.

53. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court held that the Udampadies were for administration of the Church at the relevant time and lost their efficacy due to efflux of time and cannot hold the field in view of the system of administration provided in the 1934 Constitution. The 1934 Constitution was not required to be a registered document, as the Udampadies are not documents of creation of trust(s), the Udampadies were not required to be registered. Udampady cannot prevail over the 1934 Constitution for various reasons discussed in the judgment. The Apex Court opined that, the 1934 Constitution does not create, declare, assign, limit or extinguish, whether in present or future, any right, title or interest, whether vested or contingent, in the Malankara Church properties. It provides a system of administration as such and not required to be registered, and moreover the question of effect of non-registration of the 1934 Constitution cannot be raised in view of the findings recorded in the 1959 and the 1995 judgments. The question could, and ought to have been raised but was not raised



at the time of authoritative pronouncement made by the Court. Otherwise also, facts have not been pleaded nor any provision of the Constitution pointed out that may attract the provisions of Section 17(1)(b) of the Registration Act. Thus, it is not open to question the validity of the 1934 Constitution on the ground that it cannot be looked into for want of its registration.

54. In **K.S. Varghese [(2017) 15 SCC 333]**, based on the findings in the judgment, the main conclusions of the Apex Court in Para.228 read thus;

“228. Resultantly, based on the aforesaid findings in the judgment, our main conclusions, inter alia, are as follows:

228.1. Malankara Church is Episcopal in character to the extent it is so declared in the 1934 Constitution. The 1934 Constitution fully governs the affairs of the Parish Churches and shall prevail.

228.2. The decree in the 1995 judgment is completely in tune with the judgment. There is no conflict between the judgment and the decree.

228.3. The 1995 judgment arising out of the representative suit is binding and operates as res judicata with respect to the matters it has decided, in the wake of provisions of Order I Rule 8 and Explanation 6 to Section 11 CPC. The same binds not only the parties named in the suit but all those who have interest in the Malankara Church. Findings in earlier



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

representative suit, i.e., Samudayam suit are also binding on Parish Churches/Parishioners to the extent issues have been decided.

228.4. As the 1934 Constitution is valid and binding upon the Parish Churches, it is not open to any individual Church, to decide to have their new Constitution like that of 2002 in the so - called exercise of right under Article 25 and Article 26 of the Constitution of India. It is also not permissible to create a parallel system of management in the churches under the guise of spiritual supremacy of the Patriarch.

228.5. The Primate of Orthodox Syrian Church of the East is Catholicos. He enjoys spiritual powers as well, as the Malankara Metropolitan. Malankara Metropolitan has the prime jurisdiction regarding temporal, ecclesiastical and spiritual administration of Malankara Church subject to the riders provided in the 1934 Constitution.

228.6. Full effect has to be given to the finding that the spiritual power of the Patriarch has reached to a vanishing point. Consequently, he cannot interfere in the governance of Parish Churches by appointing Vicar, Priests, Deacons, Prelates (High Priests), etc. and thereby cannot create a parallel system of administration. The appointment has to be made as per the power conferred under the 1934 Constitution on the concerned Diocese, Metropolitan, etc. concerned.

228.7. Though it is open to the individual member to leave a Church in exercise of the right not to be a member of any Association and as per Article 20 of the Universal Declaration of Human Rights, the Parish Assembly of the Church by



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

majority or otherwise cannot decide to move church out of the Malankara Church. Once a trust, is always a trust.

228.8. When the Church has been created and is for the benefit of the beneficiaries, it is not open for the beneficiaries, even by a majority, to usurp its property or management. The Malankara Church is in the form of a trust in which, its properties have vested. As per the 1934 Constitution, the parishioners though may individually leave the Church, they are not permitted to take the movable or immovable properties out of the ambit of 1934 Constitution without the approval of the Church hierarchy.

228.9. The spiritual power of Patriarch has been set up by the appellants clearly in order to violate the mandate of the 1995 judgment of this Court which is binding on the Patriarch, Catholicos and all concerned.

228.10. As per the historical background and the practices which have been noted, the Patriarch is not to exercise the power to appoint Vicar, Priests, Deacons, Prelates etc. Such powers are reserved to other authorities in the Church hierarchy. The Patriarch, thus, cannot be permitted to exercise the power in violation of the 1934 Constitution to create a parallel system of administration of Churches as done in 2002 and onwards.

228.11. This Court has held in 1995 that the unilateral exercise of such power by the Patriarch was illegal. The said decision has also been violated. It was only in the alternative this Court held in the 1995 judgment that even if he has such



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

power, he could not have exercised the same unilaterally which we have explained in this judgment.

228.12. It is open to the Parishioners to believe in the spiritual supremacy of Patriarch or apostolic succession but it cannot be used to appoint Vicars, Priests, Deacons, Prelates, etc. in contravention of the 1934 Constitution.

228.13. Malankara Church is episcopal to the extent as provided in the 1934 Constitution, and the right is possessed by the Diocese to settle all internal matters and elect their own Bishops in terms of the said Constitution.

228.14. Appointment of Vicar is a secular matter. There is no violation of any of the rights encompassed under Article 25 and Article 26 of the Constitution of India, if the appointment of Vicar, Priests, Deacons, Prelates (High Priests), etc. is made as per the 1934 Constitution. The Patriarch has no power to interfere in such matters under the guise of spiritual supremacy unless the 1934 Constitution is amended in accordance with law. The same is binding on all concerned.

228.15. Udampadis do not provide for appointment of Vicar, Priests, Deacons, Prelates etc. Even otherwise once the 1934 Constitution has been adopted, the appointment of Vicar, Priests, Deacons, Prelates (high priests), etc. is to be as per the 1934 Constitution. It is not within the domain of the spiritual right of the Patriarch to appoint Vicar, Priests etc. The spiritual power also vests in the other functionaries of Malankara Church.

228.16. The functioning of the Church is based upon the division of responsibilities at various levels and cannot be



usurped by a single individual howsoever high he may be. The division of powers under the 1934 Constitution is for the purpose of effective management of the Church and does not militate against the basic character of the church being Episcopal in nature as mandated thereby. The 1934 Constitution cannot be construed to be opposed to the concept of spiritual supremacy of the Patriarch of Antioch. It cannot as well, be said to be an instrument of injustice or vehicle of oppression on the Parishioners who believe in the spiritual supremacy of the Patriarch.

228.17. The Church and the cemetery cannot be confiscated by anybody. It has to remain with the parishioners as per the customary rights and nobody can be deprived of the right to enjoy the same as a parishioner in the Church or to be buried honourably in the cemetery, in case he continues to have faith in the Malankara Church. The property of the Malankara Church in which is also vested the property of the Parish Churches, would remain in trust as it has for the time immemorial for the sake of the beneficiaries and no one can claim to be owners thereof even by majority and usurp the Church and the properties.

228.18. The faith of Church is unnecessarily sought to be divided vis-à-vis the office of Catholicos and the Patriarch as the common faith of the Church is in Jesus Christ. In fact an effort is being made to take over the management and other powers by raising such disputes as to supremacy of Patriarch or Catholicos to gain control of temporal matters under the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

garb of spirituality. There is no good or genuine cause for disputes which have been raised.

228.19. The authority of Patriarch had never extended to the government of temporalities of the Churches. By questioning the action of the Patriarch and his undue interference in the administration of Churches in violation of the 1995 judgment, it cannot be said that the Catholicos faction is guilty of repudiating the spiritual supremacy of the Patriarch. The Patriarch faction is to be blamed for the situation which has been created post 1995 judgment. The property of the Church is to be managed as per the 1934 Constitution. The judgment of 1995 has not been respected by the Patriarch faction which was binding on all concerned. Filing of writ petitions in the High Court by the Catholicos faction was to deter the Patriarch/his representatives to appoint the Vicar, etc. in violation of the 1995 judgment of this Court.

228.20. The 1934 Constitution is enforceable at present and the plea of its frustration or breach is not available to the Patriarch faction. Once there is Malankara Church, it has to remain as such including the property. No group or denomination by majority or otherwise can take away the management or the property as that would virtually tantamount to illegal interference in the management and illegal usurpation of its properties. It is not open to the beneficiaries even by majority to change the nature of the Church, its property and management. The only method to change management is to amend the Constitution of 1934 in accordance with law. It is not open to the Parish Churches to



even frame bye-laws in violation of the provisions of the 1934 Constitution.

228.21. The Udampadies of 1890 and 1913 are with respect to administration of Churches and are not documents of the creation of the Trust and are not of utility at present and even otherwise cannot hold the field containing provisions inconsistent with the 1934 Constitution, as per Section 132 thereof. The Udampady also cannot hold the field in view of the authoritative pronouncements made by this Court in the earlier judgments as to the binding nature of the 1934 Constitution.

228.22. The 1934 Constitution does not create, declare, assign, limit or extinguish, whether in present or future any right, title or interest, whether vested or contingent in the Malankara Church properties and only provides a system of administration and as such is not required to be registered. In any case, the Udampadis for the reasons already cited, cannot supersede the 1934 Constitution only because these are claimed to be registered.

228.23. In otherwise episcopal Church, whatever autonomy is provided in the Constitution for the Churches is for management and necessary expenditure as provided in Section 22, etc.

228.24. The formation of 2002 Constitution is the result of illegal and void exercise. It cannot be recognised and the parallel system created thereunder for administration of Parish Churches of Malankara Church cannot hold the field. It has to be administered under the 1934 Constitution.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

228.25. It was not necessary, after amendment of the plaint in Mannathur Church matter, to adopt the procedure once again of representative suit under Order I Rule 8 CPC. It remained a representative suit and proper procedure has been followed. It was not necessary to obtain fresh leave.

228.26. The 1934 Constitution is appropriate and adequate for the management of the Parish Churches, as such, there is no necessity of framing a scheme under Section 92 of CPC.

228.27. The plea that in the face of the prevailing dissension between the two factions and the remote possibility of reconciliation, the religious services may be permitted to be conducted by two Vicars of each faith cannot be accepted as that would amount to patronising parallel systems of administration.

228.28. Both the factions, for the sake of the sacred religion they profess and to pre-empt further bickering and unpleasantness precipitating avoidable institutional degeneration, ought to resolve their differences if any, on a common platform if necessary by amending the Constitution further in accordance with law, but by no means, any attempt to create parallel systems of administration of the same Churches resulting in law and order situations leading to even closure of the Churches can be accepted."

C. The decision in Mathews Mar Koorilos [(2018) 9 SCC 672]:-

55. In **Mathews Mar Koorilos (dead) v. M. Pappy (dead) [(2018) 9 SCC 672]** the appellants/plaintiffs, namely,



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

113

the Metropolitan of Quilon Diocese of the Malankara Orthodox Syrian Church and the Vicar appointed by him for St. Mary's Church, Kattachira filed O.S.No.187 of 1977 against the Parishioners of the Church, seeking a declaration that they have exclusive right to conduct religious services in the plaint Church, Cemetery and Kurisumthotty and prayed for prohibitory injunction restraining the defendants and others who do not obey the plaintiffs from entering the plaint Church and plaint schedule properties. The case of the plaintiffs was that as per Ext. A3 (original of which is Ext. B19) assignment-cum-gift deed dated 29.06.1972, the 1st defendant C.K. Koshy assigned the plaint schedule properties along with the Church and Cemetery, etc. situated thereon, to the Metropolitan, Quilon Diocese and that they are entitled to conduct religious services and to manage the Church and its properties. The Parishioners who question such authority are not entitled to hold any office as members of the Church Committee or to enter the Church.

56. On the other hand, the respondents/defendants who are said to be the representatives of the Parishioners contended that the Church was founded with the object of conducting



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

religious services by religious dignitaries who possess the spiritual grace transmitted from the Patriarch of Antioch and all the East, for the benefit of the Parishioners. The Church and its properties constitute a trust and can be used only for the purpose for which it was founded. The defendants contended that the plaintiffs have repudiated and defied the spiritual powers of the Patriarch and the plaintiffs are not entitled to conduct any religious services in the plaint Church. According to them, the plaint Church is administered under the Constitution framed by the Parishioners marked as Ext. B9 dated 23.01.1959 and no Priest can function in the Church without the consent of the Parishioners.

57. The Parishioners filed a separate suit in O.S.No.17 of 1976 challenging the validity of Ext. A3 assignment-cum-gift deed dated 29.06.1972 in favour of Quilon Metropolitan. On the same grounds taken by them in O.S.No.187 of 1977, they alleged that as beneficiaries of the Church and as its Managing Committee Members, they are entitled to see that its properties are not lost. They prayed for a decree declaring that Ext. A3 assignment-cum-gift deed is ab initio void and for a perpetual injunction restraining



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

115

the Metropolitan from implementing any of the provisions in the said document.

58. The trial court, by a common judgment dated 06.03.1986, dismissed the suit O.S.No.17 of 1976 filed by the Parishioners and decreed O.S.No.187 of 1977 filed by the Metropolitan and Vicar, declaring that they have the right to conduct religious services in the plaint Church and Cemetery. The trial court granted a permanent injunction restraining the defendants in O.S.No.187 of 1977 and persons who do not obey the plaintiffs from entering the Church and the plaint schedule properties and conducting religious services, and obstructing others who obey the plaintiffs. The defendants were also restrained from obstructing the plaintiffs in completing the construction of the Kattachira Church building or attending to its repairs.

59. The common judgment dated 06.03.1986 of the trial court was under challenge before this Court in A.S.Nos.140 of 1986 & 142 of 1986 filed by the Parishioners. The learned Single Judge dismissed both the appeals holding, inter alia, that in view of the unambiguous terms in Ext.A3, the Parishioners are not



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

116

entitled to question the right of Metropolitan over the plaint Church and its properties and his right to conduct religious services. The 1934 Constitution shall govern and regulate the affairs of the Parish Churches too, which are not exempted from the clauses of that Constitution, and they are equally constituent of the Malankara Association, though it enjoys some degree of autonomy. The excommunication of Catholicos by the Patriarch and/or by the Universal Synod was held invalid. The learned Single Judge also held that it is the Vicar who should conduct the election as provided in the 1934 Constitution. However, in order to allay the apprehension of both parties and to ensure that the election is free and fair and in accordance with the 1934 Constitution, the learned Single Judge appointed two observers to oversee the process of the election right from the beginning to ensure that the conditions in that Constitution and the directions of the Apex Court are followed.

60. Aggrieved by the judgment of the learned Single Judge, the parishioners filed A.F.A.Nos.26 of 1997 and 27 of 1997 before the Division Bench. The Division Bench, by a common judgment dated 04.04.2000 in A.F.A.Nos.26 of 1997 and 27 of 1997 and



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

117

C.R.P.No. 1314 of 1998 set aside the findings of the learned Single Judge. The Division Bench held that, though the title of the properties vests with Quilon Diocese, the properties, including Church, etc., under Ext.A3 assignment-cum-gift deed, are still under the control and management of the Parishioners of St. Mary's Syrian Church, Kattachira. The Metropolitan of Quilon Diocese had no authority to appoint Vicar for the control and management of the plaint Church and its properties though Ext.A3 assignment-cum-gift deed executed by C.K. Koshy in favour of Quilon Diocese and C.K. Koshy, executor of Ext.A3 intended to transfer his right in the properties for the benefit of entire members of the Church and that the Parishioners have the power to hold the movable and immovable properties of St. Mary's Church. The Division Bench held that the provisions of the 1934 Constitution sufficiently establish that the Parishioners have the power to hold movable and immovable properties.

61. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, a Three-Judge Bench of the Apex Court observed that the issue of spiritual and temporal authority between Malankara Church and the Patriarch of Antioch has been the subject matter of several



rounds of litigation in various matters right from the year 1879. It is not necessary for the Court to elaborately refer to those litigations; suffice to refer the litigations which led to the Constitution Bench judgment in **Moran Mar Basselios Catholicos v. Thukalan Paulo Avira [AIR 1959 SC 31]**; the judgment of Three-Judges Bench in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and the latest judgment in **K.S. Varghese [(2017) 15 SCC 333]**.

62. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, before the Three-Judge Bench, it was contended that the conclusions arrived at in **K.S. Varghese [(2017) 15 SCC 333]** are not in consonance with the judgment in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**. Rejecting the said contention, the Three-Judge Bench held that the conclusions in Para.228 of **K.S. Varghese [(2017) 15 SCC 333]** are well in consonance with **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** judgments. The detailed discussions and conclusions arrived at in **K.S. Varghese [(2017) 15 SCC 333]** settle the



disputes between the appellant Patriarch and the respondent Malankara.

63. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Three-Judge Bench reiterated that, as per the consistent view taken in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**, the 1934 Constitution is valid and binding upon the Parishioners. The Parish Church has to be managed as per the powers conferred under the 1934 Constitution. It is not open to any individual church to have a parallel system of management in the churches under the guise of spiritual supremacy in the Patriarch. As per the consistent findings in the above judgments, the prime jurisdiction with respect to the temporal, ecclesiastical and spiritual administration of the Malankara Church is vested with the Malankara Metropolitan and other authorities appointed by the Malankara Metropolitan. Malankara Metropolitan enjoys all the temporal, ecclesiastical and spiritual administrative powers [Para.145 of K.S. Varghese]. As held in **K.S. Varghese [(2017) 15 SCC 333]**, full effect has to be given to the finding that the spiritual power of the Patriarch has



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

120

reached a vanishing point. Consequently, he cannot interfere in the governance of Parish Churches by appointing the Vicars, Priests, Deacons, Prelates (High Priests), etc., and thereby cannot create a parallel system of administration.

64. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, on the facts of the case at hand, the Three-Judge Bench noticed that the plaint Church, namely, St. Mary's Church, Kattachira, was listed as Serial No.41 among 1064 Parish Churches included in the plaint schedule in the representative suit, i.e., O.S.No.4 of 1979. The recitals in Ext.A3 assignment-cum-gift deed executed by C.K. Koshy in favour of Metropolitan of Quilon Diocese make it clear that St. Mary's Orthodox Syrian Church, Kattachira, and the properties have been gifted in favour of Malankara Metropolitan to be treated as Bhadrasanam properties, subject to the control of the Metropolitan in appointing Vicar, Priests, etc. Ext.A3 provided that the Metropolitan may directly administer the said properties or through his representatives. Ext.A3 further provided that the Parishioners and the Managing Committee should abide by the dictates of the Metropolitan from time to time. As per the recitals in Ext.A3, the plaint Church and the properties come under the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

spiritual and the temporal control of Malankara Metropolitan. The Three-Judge Bench held that, as per the decision of the Apex Court in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, St. Mary's Church, Kattachira is bound by Ext.A1 1934 Constitution and the control of the Metropolitan. Having held that the 1934 Constitution is binding upon the Parish Church and its Parishioners, the Division Bench of the High Court was not right in holding that the Metropolitan had no power to appoint the Vicar, Priests, etc. The conclusion of the Division Bench that the Parishioners have the right to make all such appointments and to manage the affairs of St. Mary's Church, Kattachira is directly contrary to the express provisions of the 1934 Constitution and the findings of the Apex Court in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**.

65. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Three-Judge Bench concluded that, considering the recitals in Ext.A3 and the judgments in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, the trial court and the learned Single



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Judge rightly held that St. Mary's Church, Kattachira is a constituent of Malankara and the power to appoint Vicar, Priests, etc. is vested with Malankara Metropolitan or his representatives. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Three-Judge Bench endorsed the view taken in **K.S. Varghese [(2017) 15 SCC 333]** [Para.146] that the 1934 Constitution cannot be said to be in violation of Article 25 and Article 26 of the Constitution of India.

D. The decision in St. Mary's Orthodox Church [(2020) 18 SCC 329]:-

66. In **St. Mary's Orthodox Church v. State Police Chief [(2020) 18 SCC 329]**, the Apex Court was dealing with SLP(C)Nos.12461 of 2019 and 13424 of 2019 arising out of the judgment dated 13.03.2019 of a Division Bench of this Court in W.P.(C)No.33282 of 2018 and connected matters. W.P.(C)No. 33282 of 2018 was filed by St. Mary's Orthodox Church (Kattachira Palli) and its Vicar, the 1st and 2nd petitioners therein, seeking a direction to the Police authorities of the State to render adequate and sufficient police protection to the life of the 2nd petitioner and other Clergy members, including Vicars, Priests, Deacons,



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

123

Prelates, Metropolitans and the Catholicos of the Malankara Orthodox Church appointed under the 1934 Constitution, to conduct religious services in the 1st petitioner Church, its cemetery and kurishadies, and the parishioners of the 1st petitioner Church, who declare allegiance to the 1934 Constitution, in participating in such religious services without any obstruction from respondents 11 to 17, their men, agents or followers of Jacobite faction and anybody claiming under them. W.P.(C)No.16248 of 2018 was filed by St. Mary's Orthodox Church, Varikoli, and its Vicar and trustees seeking similar relief in relation to the said Church. W.P.(C)No.40172 of 2018 was filed by the parishioners of St. Mary's Jacobite Syrian Church, Piravom, who were trustees of the said Church, seeking similar relief in relation to the said Church. On 13.03.2019, when the said writ petitions came up for consideration, it was submitted by the learned State Attorney, on behalf of the State Government, that earnest steps have been taken by the State Government, through the Chief Minister, to bring the Patriarch as also the Catholicos to the negotiation table for bringing about an amicable resolution of the pending disputes between the rival factions of the Malankara Syrian Orthodox



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

124

Church. Copies of the communications issued to the Patriarch and also to the Catholicos in this regard were shown to the Division Bench. In view of the said communications, the Division Bench found that steps have already been taken by the State Government towards brokering peace between the two rival factions, and hence it was not necessary to issue any further direction to the State Government. The writ petitions were thus closed by taking note of the steps taken by the State Government towards an amicable resolution of the disputes between the orthodox faction and the Patriarch faction of the Malankara Syrian Orthodox Church.

67. In **St. Mary's Orthodox Church [(2020) 18 SCC 329]**, the Apex Court held that in view of the Judgment passed in **K.S. Varghese [(2017) 15 SCC 333]**, there is absolutely no scope to construe the order passed by the Division Bench of the High Court in a different manner than the order passed by the Apex Court on 03.07.2017. There cannot be any violation of the order by anyone concerned. Even the State Government cannot act contrary to the Judgment and the observations made by the Apex Court and has a duty to ensure that the Judgment of the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

125

Apex Court is implemented forthwith. The Apex Court ordered that any observation made by the High Court contrary to the Judgment passed by the Apex Court stands diluted. The State and all parties shall abide by the Judgment passed by the Apex Court in totality and cannot solve the matter in any manner different than the Judgment passed by the Apex Court. No parallel system can be created.

68. On the relevant issues noted in paragraph 12 of the order dated 30.01.2025 of the Apex Court in SLP(C)Nos.26064-69 of 2024 and connected matters, detailed arguments were heard at the Bar. The learned Senior Counsel/learned counsel for the parties have submitted their written submissions. We also heard arguments of the learned Additional Advocate General for the State and the official respondents on the above issues. On 06.03.2026, it was submitted at the Bar that a compilation of the available details of O.S.No.439 of 1054 on the file of the Zilla Court, Alleppey (Seminary Suit); O.S.No.94 of 1088 on the file of District Court, Trivandrum (Vattippanam Suit); and O.S.No.111 of 1113 on the file of the District Court, Kottayam (Samudayam Suit) shall be filed by 10.03.2026, which was filed by the learned



counsel for the appellants in Con. App.(C)No.13 of 2024, as compilation volume IV. On 12.03.2026, we heard further arguments of the learned Senior Counsel/learned counsel for the appellants in the contempt appeals and also the learned Senior Counsel for the party respondents.

E. Issue No.(i) - What is the true import of the principles laid down or issues determined by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, **Mathews Mar Koorilos [(2018) 9 SCC 672]** and **St. Mary's Orthodox Church [(2020) 18 SCC 329]**:-

69. On issue No.(i), the learned Senior Counsel/learned counsel for the appellants in the contempt appeals filed by the party respondents in the respective writ petitions argued that the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** arises out of three original suits filed under Section 92 of the Code in respect of St. Peter's Church, Kolenchery (Kolenchery Church), St. Mary's Church, Varikoli (Varikoli Church) and St. George Jacobite Syrian Church, Mannathur (Mannathur Church), and the decision of the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]** arises out of an original suit in respect of St. Mary's Orthodox Church, Kattachira (Kattachira Palli). The



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

127

decision of the Apex Court in **St. Mary's Orthodox Church [(2020) 18 SCC 329]** arises out of writ petitions seeking police protection in respect of Kattachira Palli. Thus, the first two decisions are rendered by the Apex Court in exercise of civil appellate jurisdiction under Article 136 of the Constitution of India, arising out of original suits. The decree in those decisions cannot be enforced through writ petitions filed under Article 226 of the Constitution of India, seeking police protection, under the guise of invoking the powers under Article 144 of the Constitution. The appellants in these contempt appeals were not parties in any of those matters. The decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, due to jurisdictional limitations inherent under Section 92 of the Code, applies only to Kolenchery Church, Varikoli Church and Mannathur Church. Similarly, the decision of the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]** applies only to Kattachira Palli. The decisions cannot be interpreted or stretched to cover a 'religious denomination', as it is not a legally defined entity to be covered, treating it as a Trust.

70. On the other hand, the learned Senior Counsel for respondents 1 and 2 in Con.App.No.8 of 2024 and connected



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

128

matters argued that the true import of the principles laid down and the issues determined by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** are summarised in para 228 of the said decision, which is the reiteration of the decision in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, which was further affirmed in the decision in **Mathews Mar Koorilos [(2018) 9 SCC 672]**. Malankara Church is episcopal in character to the extent it is so declared in the 1934 Constitution. The 1934 Constitution fully governs the affairs of the Parish Churches and shall prevail. The 1995 judgment arising out of the representative suit binds not only the parties named in the suit but all those who have an interest in the Malankara Church. The findings in the Samudayam suit are also binding on Parish Churches and the Parishioners. As the 1934 Constitution is valid and binding upon the Parish Churches, it is not open to any individual Church to have its own Constitution. It is also not permissible to create a parallel system of management in the churches under the guise of spiritual supremacy of the Patriarch. Therefore, the contentions of the appellants in the contempt appeals filed by the party respondents in the respective writ petitions that due to jurisdictional limitations



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

inherent under Section 92 of the Code, the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** applies only to Kolenchery Church, Varikoli Church and Mannathur Church and that, the decision of the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]** applies only to Kattachira Palli, are liable to be rejected as untenable.

71. **Seminary Suit:-** The issue of spiritual and temporal authority between the Malankara Church and the Patriarch of Antioch has been the subject matter of several rounds of litigation in various matters, right from the year 1879. On 04.03.1879, Mar Joseph Dionysius, who was ordained as Malankara Metropolitan by the Patriarch, filed O.S.No.439 of 1054 (Seminary Suit) in the Zilla Court, Alleppey, against Mar Thomas Athanasius, who was ordained as Malankara Metropolitan by Mar Mathew Athanasios. The plaintiff claimed supremacy of the Patriarch, whereas the defendant denied such supremacy. In the year 1889, the suit was decreed by the Travancore Royal Court of Final Appeal. The Court found that the ecclesiastical supremacy of the Patriarch of Antioch over the Malankara Syrian Christian Church in Travancore had all along been recognised and acknowledged by the Jacobite Syrian



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

130

Christian community and their Metropolitans; that the exercise of supreme power consisted in ordaining, either directly or through duly authorised delegates, Metropolitans from time to time to manage the spiritual matters of the local Church, in sending Morone to be used in the Churches for baptismal and other purposes and in general exercising supervision over the spiritual government of the Church; the authority of the Patriarch never extended to temporal affairs of the Church, which in that behalf was an independent Church; that the Metropolitan of the Syrian Christian Church in Travancore should be a native of Malabar consecrated by the Patriarch or by his duly authorised delegate and accepted by the people as their Metropolitan; and that the plaintiff was so consecrated by the Patriarch and accepted by the majority of the people and, therefore, entitled to be recognised and declared as the Malankara Metropolitan and as the trustee of the Church properties.

72. **Arthat Suit:-** The Patriarch of Antioch did not relish the judgment in the Seminary Suit, since it was declared that the Patriarch had no control over the temporal affairs of the Malankara Church. Some local Christians supported the Patriarch of Antioch,



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

which led to the institution of the Arthat Suit before the Court of Appeal of Cochin, in which the findings of the Travancore Royal Court of Final Appeal in the Seminary Suit were affirmed on 15.08.1905. In the Arthat Suit, it was declared that while the Patriarch of Antioch is the spiritual head of the Malankara Syrian Jacobite Christian Church, the Churches and their properties are subject to the spiritual, temporal and ecclesiastical jurisdiction of the Malankara Metropolitan. In other words, the claim of the Patriarch of Antioch, of control over the temporal affairs of the Malankara Church, was negated once again.

73. **Vattipanam Suit:-** The amount of 3000 Star Pagodas deposited by Mar Thoma VI (Dionysius the Great) with the East India Company at 8% interest came to be allotted to the Malankara Jacobite Syrian Church. A dispute arose as to the persons entitled to the interest on 3000 Star Pagodas. An interpleader suit, i.e., O.S.No.94 of 1088 (Vattipanam Suit), was filed before the District Court, Trivandrum, with the rival claimants as defendants. The suit filed in 1913 was converted into a representative suit. The Patriarch and Catholicos factions were parties to the Vattipanam Suit. The District Court upheld the claim



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

132

of the Catholicos group, i.e., defendants 1 to 3, for interest. Defendants 4 to 6 represented the Patriarch group. The election for the post of Malankara Metropolitan was held to be void at law. It was also held that withdrawal of recognition by the Sultan of Turkey did not deprive Abdul Messiah of his functional powers as the Patriarch of Antioch.

74. In 1923, the Patriarch group filed an appeal before the High Court of Travancore against the judgment and decree of the District Court, Trivandrum, in O.S.No.94 of 1088 (Vattipanam Suit). A Full Bench of the High Court allowed the appeal and reversed the judgment and decree of the District Court. Defendants 1 to 3 filed a review petition. The appeal was reheard by another Full Bench. Vide judgment dated 04.07.1928, the Full Bench upheld the decision of the District Judge and confirmed the decree. The Full Bench held that the excommunication of Mar Geevarghese Dionysius (1st defendant) was invalid because of the breach of the rules of natural justice, as he was not apprised of the charges against him and had not been given a reasonable opportunity to defend himself. In other words, he remains the Malankara Metropolitan; that defendants 1 to 3 had not become



heretics or aliens or had not set up a new Church by accepting the establishment of the Catholicate by Abdul Messiah with power to the Catholicos for the time being to ordain Metropolitans and to consecrate Morone and thereby reducing the power of the Patriarch over the Malankara Church to a vanishing point; and that defendants 4 to 6 had not been validly elected.

75. **Samudayam Suit:-** Mar Geevarghese Dionysius died in February 1934, and the trust properties passed into possession of his co-trustees. Thereafter, a draft Constitution was prepared and published. On 03.12.1934, notices were issued convening a meeting on 26.12.1934, of all the Churches at Kottayam, inter alia, for electing the Malankara Metropolitan and adopting the draft Constitution. Proceedings were drawn, whereby the third Catholicos, Mar Basselios Geevarghese II, was elected as the Malankara Metropolitan. The draft Constitution was also adopted at that meeting. In the year 1938, the Patriarch group filed O.S.No.111 of 1113 (Samudayam Suit) in the District Court, Kottayam, for a declaration of their title as trustees of Samudayam properties (common properties of the Malankara Church) and for a further declaration that the defendants to that suit, who



belonged to the Catholicos group, were not lawful trustees. Other incidental reliefs were also prayed for. The suit was dismissed by the District Court on 18.01.1943, against which the plaintiff filed an appeal, which was allowed, and the suit was decreed vide the judgment dated 08.08.1946 of the High Court. The matter was carried to the Apex Court. The Apex Court, vide the decision in **Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius [AIR 1954 SC 526]**, directed the High Court to rehear the appeal on all points. Thereafter, the appeal was reheard, and the same was allowed by the High Court, vide the judgment dated 13.12.1956, whereby the Samudayam Suit was decreed. The defendants, the Catholicos group, carried the matter to the Apex Court. The Apex Court allowed the appeal, on 12.09.1958, vide the decision in **Moran Mar Basselios Catholicos v. Thukalan Paulo Avira [AIR 1959 SC 31]**.

76. In **Moran Mar Basselios Catholicos [AIR 1959 SC 31]**, the Apex Court held that the plaintiffs' election at a meeting held on 22.08.1935, in which the original plaintiff is said to have been elected the Malankara Metropolitan and Plaintiffs 2 and 3 as Kathanar and lay trustees, was invalid. Since the meeting was held



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

135

without notice to the members of the Catholicos group, the defendants and their partisans had not become ipso facto heretics or aliens, or had not gone out of the Church, and the meeting on 22.08.1935 was not held with due notice to all Churches interested. It was held that, consequently, it was not a valid meeting and, therefore, the election of the plaintiffs was not valid and the suit must fail for want of their title as trustees. The Apex Court held that the contentions put forward in paras 19 to 26 of the plaint in Samudayam suit on which issues 14, 15, 16 and 19 have been raised were directly and substantially in issue in the interpleader suit, i.e., O.S.No.94 of 1088, and had been decided by the Travancore High Court on review in favour of Mar Geevarghese Dionysius and his two co-trustees (defendants 1 to 3) and against defendants 4 to 6. In short, the question whether Mar Geevarghese Dionysius and his two co-trustees (defendants 1 to 3) had become heretics or aliens or had gone out of the Church and, therefore, were not qualified to act as the trustees was in issue in the interpleader suit, and it was necessary to decide such an issue. That judgment decided that neither the repudiation of Abdulla II, nor acceptance of Abdul Messiah who had ceased to



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

be a Patriarch, nor acceptance of the Catholicate with powers as hereinbefore mentioned, nor the reduction of the power of the Patriarch to a vanishing point, ipso facto constituted a heresy or amounted to voluntary separation by setting up a new church and that being the position those contentions cannot be reagitated in the present suit.

77. In **Moran Mar Basselios Catholicos [AIR 1959 SC 31]**, the Apex Court held that the case with which the plaintiffs have come to court in Samudhayam Suit, i.e., O.S.No.111 of 1113 before the District Court, Kottayam, is that the defendants had become heretics or aliens or had gone out of the Church by establishing a new Church, because of the specific acts and conduct imputed to the defendants in the present suit, and that the charges founded on those specific acts and conduct are concluded by the final judgment of the High Court of Travancore in the interpleader suit, i.e., O.S.No.94 of 1088, which operates as res judicata. The charge founded on the fact of non-payment of Ressissa, if it is not concluded as constructive res judicata by the previous judgment, must, on merits, and for reasons stated, be found against the plaintiff. The charges now sought to be relied



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

upon as a fresh cause of action are not covered by the pleadings or the issues on which the parties went to trial, that some of them are pure afterthoughts, and should not now be permitted to be raised and that, at any rate, most of them could and should have been put forward in the earlier suit, i.e., O.S.No.94 of 1088, and that not having been done, the same are barred by res judicata or principles analogous thereto.

78. In **Moran Mar Basselios Catholicos [AIR 1959 SC 31]**, the Apex Court agreed with the trial court that it is no longer open to the respondent-plaintiff to re-agitate the question that the appellant-defendant had ipso facto become a heretic or alien or had gone out of the Church, and has, in consequence, lost his status as a member of the Church or his office as a trustee. The Apex Court approved the conclusion of the District Court that the suit was barred by res judicata and that it was founded on the same cause of action as that of O.S.No.2 of 1104. The finding of the District Court was affirmed by the Apex Court. The Apex Court found that M.D. Seminary meeting on 26.12.1934 was properly held, and the first defendant was validly appointed as the Malankara Metropolitan and, as such, became the ex officio



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

trustee of the Church properties. The Apex Court restored the decree of the trial court dismissing the suit. The Apex Court found that M.D. Seminary meeting adopted the Constitution on 26.12.1934.

79. The 1995 judgment - Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]:- The dispute between the Patriarch group and the Catholicos group again arose in the year 1972, due to the nomination of a delegate to the Malankara Sabha by the Patriarch. The nomination implied the exercise of active spiritual supremacy by the Patriarch in Malankara Church and his intervention in the temporal affairs, which was not relished by the Catholicos and other members. On 10.01.1975, the Patriarch suspended the Catholicos from his office until further orders. On 22.05.1975, a meeting of the Malankara Episcopal Synod was held, reiterating the independent nature of Malankara Church and disputing the authority of the Patriarch. On 16.06.1975, the Universal Synod met at Damascus to consider the charges against the Catholicos. Pursuant thereto, a bull of excommunication was issued by the Patriarch excommunicating the Catholicos from the Syrian Orthodox Church, which led to the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

filing of O.S.No.274 of 1973 before the District Court, Kottayam, which was transferred to the High Court along with connected matters and was numbered as O.S.No.2 of 1979, which were decided vide the decision in **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**.

80. O.S.No.2 of 1979 was filed by the Catholicos, challenging the authority of the Patriarch to ordain Bishops and Metropolitans. O.S.No.6 of 1979 was filed by the Catholicos against the Patriarch regarding the ordination of priests in certain dioceses. O.S.No.4 of 1979 filed by the Catholicos was treated as the main suit. The reliefs sought in the main suit were as follows;

- “(i) To declare that the Malankara Church is episcopal in character and is not a union or federation of autonomous Church units and is governed in its administration by the Constitution of the Malankara Church;
- (ii) To declare that Defendants 1 to 3 are not competent to ordain priests and deacons for Malankara Church;
- (iii) To declare that Defendants 1 to 3 are not legally consecrated Metropolitans of the Malankara Church and Defendants 4 to 8 are not legally ordained priests or deacons of the Malankara Church;
- (iv) To declare that no Metropolitan, priest or deacon, unless validly ordained and appointed under the provisions of the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Constitution of the Malankara Church, can officiate in any of the Churches or its institutions in the Malankara Church;

(v) To declare that any priest who refuses to recognise the authority of the first plaintiff and other Metropolitans under him is not entitled to minister in any of the Churches or its institutions in Malankara;

(vi) To prohibit Defendants 1 to 3 by an order or permanent injunction from ordaining priests or deacons or performing any other sacraments, service, etc. for the Malankara Church or its institutions;

(vii) To prohibit Defendant 4 onwards from performing any religious service or sacraments whatsoever in or about any of the Church of Malankara and for the Malankara Church or its constituent Churches or institutions;

(viii) To prohibit the defendants from interfering in any manner with the administration of the Malankara Church.”

81. A learned Single Judge of this High Court dismissed the suits. On appeal, the Division Bench reversed the same and upheld the claim of the Catholicos group to a large extent. The main suit had been decreed, as prayed for, against defendants 1 to 17 without costs and dismissed against defendant 18 (Evangelical Association of the East). With respect to Knanaya Samudayam, the suit had been decreed, but with certain qualifications. In para 148 of the decision in **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court noticed that the following facts



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

are of fundamental significance, which decide the fate of the main dispute;

“(a) The Patriarch of Antioch was undoubtedly acknowledged and recognised by all the members of the Malankara Church as the supreme head of their Church. In the year 1654, they took the oath known as the “Koonan Cross Oath” reaffirming their loyalty to the Syrian Orthodox Christian Church headed by the Patriarch. It was the Patriarch who convened the Mulanthuruthy Synod at which the Malankara Syrian Christian Association was formed. However, the authority of the Patriarch extended only to spiritual affairs - the Syrian Christians in Malankara believed in the efficacy of “Kaivappu” (laying of hands by Patriarch on the head) while consecrating the Metropolitan and considered it essential to a proper ordaining - but not to the temporal affairs of the Malankara Church as declared finally by the Travancore Royal Court of Final Appeal in the year 1889 in the Seminary suit. The Royal Court declared that the authority of the Patriarch never extended to temporal affairs of the Church, which in that behalf was an independent Church. The Royal Court further declared that the Metropolitan of the Church in Travancore should be a native of Malabar consecrated by the Patriarch or his duly authorised delegate and accepted by the people as their Metropolitan, as decided by the Mulanthuruthy Synod. This declaration was affirmed by the Cochin Court of Appeal in the Arthat suit in 1905.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

(b) The revival of the Catholicate in 1912 by Patriarch Abdul Messiah made a qualitative change in the situation. Under Ext.A-14, the Kalpana issued by the Patriarch Abdul Messiah 'It was conceded on both sides (in Vattipanam suit), namely, that the Firman issued to Abdul Messiah was withdrawn and that such withdrawal in itself has no effect on the exercise by a Patriarch of purely spiritual functions.'(Judgment of Chatfield, C.J.). Another learned Judge Parameshwaran Pillai, J., held in the same suit: 'The fact that temporal government withdrew his (Abdul Messiah's) recognition cannot affect the spiritual standing and position of Abdul Messiah.'It is also pointed out in para 42 of the judgment under appeal that no plea has been raised in any of the pleadings alleging the invalidity of, or the grounds of invalidity of, Abdul Messiah continuing to perform his spiritual functions as the Patriarch. The judgment under appeal also refers to the canonical position when there are two Patriarchs. We agree with their views."], (which document was produced in several earlier suits and whose authenticity is not disputed by the Patriarch group before us) and A-13 which precedes A-14, empower the Catholicos to ordain Metropolitans and other officials of the Church in accordance with the canons of the Church and also to consecrate Holy Morone. A-14 states expressly that the power to install a Catholicos on the death of the incumbent is vested in the Metropolitans. It is in this manner that the powers of ordaining Metropolitans and melpattakars and consecrating Holy Morone, which hitherto vested in



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Patriarch, came to be vested in the Catholicos by the Patriarch himself. Further, the power to install a Catholicos on the death or disability of the incumbent was also vested in the Metropolitans of Malankara Church and it is in exercise of this power that on the death of the first Catholicos installed by Patriarch Abdul Messiah in 1913, the second Catholicos Basselios Geevarghese I (Mar Geevarghese Philexinos) was installed in the year 1924 by the Malankara Synod without reference to the Patriarch. Again in 1929, Basselios Geevarghese II was elected as the third Catholicos by the Association and was installed as such. In the M.D. Seminary meeting held on 26.12.1934, the third Catholicos was elected as the Malankara Metropolitan, thus combining both the posts in one person. In other words, the spiritual and temporal powers over the Malankara Church came to be concentrated in one person. It may be that by this act of revival of Catholicate and the Kalpanas A-13 and A-14, the Patriarch is not denuded of the powers delegated by him to the Catholicos - assuming that these powers were not already possessed by the Catholicos and that they came to be conferred upon him only under A-13 and A-14 - yet, reasonably speaking, the Patriarch was, and is, expected to exercise those powers thereafter in consultation with the Catholicos and the Malankara Sabha (Association) - and, of course, in accordance with the 1934 Constitution. This was necessary for the reason (i) to avoid creating parallel authorities leading to conflict and confusion and (ii) the acceptance by the local people was a sine qua non for any



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Metropolitan or melpattakar in Malankara Church as provided in the Mulanthuruthy Synod (convened and presided over by the then Patriarch himself) and given a judicial sanction by the judgment of the Travancore Royal Court of Appeal aforementioned. Without removing the Catholicos in accordance with the canon law and the principles of natural justice, the Patriarch could not have purported to exercise unilaterally the powers delegated by him to the Catholicos under A-14.

(c) It is significant to notice that the Catholicos-cum-Malankara Metropolitan, Basselios Geevarghese II, was accepted and recognised as the Catholicos by the Patriarch Yakub under his Kalpana Ext. A-19 dated 09.12.1958. Basselios Geevarghese II was elected as Catholicos by the local Metropolitans and installed as such by the local melpattakars without reference to the Patriarch and which Catholicos was all through fighting against the Patriarch group in the Samudayam suit. It is no less significant that Patriarch Yakub, who issued the Kalpana A-19, was, before his installation as the Patriarch, the delegate of the Patriarch in India and was prosecuting the Samudayam suit for a number of years. If so, it is reasonable to infer that when he accepted and recognised the Catholicos as such under Ext. A-19, he did so with the full knowledge that he was thereby recognising the Catholicos as revived by Abdul Messiah in 1912 under A-14 and as described and affirmed in the 1934 Constitution. Moreover, the Kalpanas A-19 and A-20 were not issued in an abrupt fashion - they could not have been



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

- but were preceded by a good amount of discussion and negotiations between members of both the groups. Under his Kalpana Ext.A-20 dated 16.12.1958, from the Catholicos to the Patriarch, the Catholicos accepted the Patriarch subject to the Constitution passed by the Malankara Association and as then in force. The Metropolitans ordained by Patriarch duly accepted the authority of Catholicos and participated in several proceedings. There was reallocation of dioceses among the Metropolitans of both the groups. The members of the erstwhile Patriarch group swore loyalty to the 1934 Constitution. (These events have been detailed hereinabove). After all these developments, and after a lapse of four months after A-20, the Patriarch raised an objection to the use of certain expressions employed in Ext. A-20 viz. the Catholicos claiming to be seated on the Throne of St. Thomas and also to the qualification added by the Catholicos to his acceptance to the Patriarch viz. "subject to the Constitution...". But even this objection which is reflected in the correspondence which passed between them during the years 1959 to 1962 (referred to supra) must be deemed to have been given up and abandoned by the Patriarch by his acts and declarations in the year 1964. As stated supra, the Patriarch came to India pursuant to a canonical invitation from the Malankara Synod and consecrated and duly installed the new Catholicos (Mar Ougen), who was elected by the Malankara Association in accordance with the 1934 Constitution. Before he did so, the Patriarch took care to see that the respective territorial jurisdictions of the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Patriarchate and the Catholicate are duly defined and demarcated. The Middle East, which was supposed to be hitherto under the jurisdiction of the Catholicos, was excluded from his jurisdiction, confining his authority to India and East alone.” (emphasis in original)

82. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court accepted the revival of the Catholicate on a threadbare scrutiny of the recorded facts, and held that it was no longer open to the Patriarch or his followers to contend that the revival of Catholicate was not in accordance with the religious tenets and faith of the Syrian Jacobite Christian Church, and that the power of the Patriarch was reduced to a vanishing point due to revival of Catholicate. It was held that the power and authority of the Catholicos were affirmed in Kalpana A-13 and A-14 issued by the Patriarch and were reinforced and enlarged in the 1934 Constitution. It was, however, noted that the Catholicos did, at the same time, not repudiate the spiritual supremacy of the Patriarch. It reaffirmed that he is the primate of the Orthodox Syrian Church. It was also held that the submission of the Patriarch group that the 1934 Constitution was not put forward by the Catholicos group as the basis of their claim in the Samudayam



suit or their objection as to the validity of the Constitution was untenable, as they cannot make a legitimate grievance to all these.

83. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, with respect to the validity of the excommunication of the Catholicos in the Vattipanam suit, it was held that it was not open to the Patriarch to seek excommunication of the Catholicos on the charges which were levelled; Kalpanas Exts.A-13 and A-14 specifically vested the Catholicos with the power to consecrate Metropolitans and other officials of the Church and to consecrate Morone; A-14 empowered the Metropolitans to elect their own Catholicos, and as such, the expression "holiness" or the assertion of being seated at the Throne of St. Thomas in the East or the claim that the Malankara Church was an autocephalous Church could be treated as heresy. This Court also disapproved the act of the Patriarch of sending a delegate over the protestations of all the Metropolitans of Malankara including those belonging to Patriarch group as totally uncalled for vis-à-vis the action of the delegate in ordaining priests and the Patriarch himself ordaining the first defendant in O.S.No.4 of 1979, this Court said that all this



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

certainly could not have been done unilaterally. It observed that it is one thing to say that the Patriarch could do these things in cooperation with the Catholicos but the ordaining of the priests and Metropolitans by him and his delegate without reference to - indeed over the protestations of the Catholicos - was certainly not the right thing to do since it purported to create a parallel administrative mechanism for the Church in spiritual and temporal matters. Therefore, this Apex Court opined that the charges were not available as grounds of excommunication and could not constitute valid grounds therefor. Accordingly, it was held that the excommunication of the Catholicos was not valid and legal.

84. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court ultimately found that the Catholicate was revived and re-established by Patriarch Abdul Messiah in the year 1912; the powers and functions of the Catholicos are set out in Kalpana Ext.A-14; the Patriarch cannot dispute the validity of revival of Catholicate or of Ext.A-14; Patriarch himself has created a centre of power in India, i.e., Catholicate with the said powers, and it would be reasonable to hold that thereafter the Patriarch cannot exercise those powers unilaterally, i.e., without reference



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

to the Catholicos and that he can exercise those powers only in consultation with the Catholicos. Moreover, the person to be appointed as Metropolitan or Malankara Metropolitan has to be accepted by the people, as held in the Seminary suit. The Apex Court held that the Patriarch's power to ordain the Metropolitans now is subject to the Constitution of 1934, and by revival of the Catholicate and by issuing the Kalpana Ext.A-14 and also by accepting the 1934 Constitution, though the power of the Patriarch may have been reduced to a vanishing point, but all the same he remains the supreme head of the Syrian Church of which the Malankara Church is a division. The 1934 Constitution was approved at a validly convened meeting of the Malankara Association, and the Patriarch cannot question its legality and validity in view of the acts and conduct of the Patriarch and the members of his group, subsequent to the judgment of the Apex Court in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]**. It was emphasised that the Patriarch had accepted the validity of the revival of Catholicate vide Kalpana Ext.A-14 and the 1934 Constitution and abandoned and gave up all or any objections they had in that behalf; several members of the group including some



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

of the defendants also accepted the Constitution and took oath to abide by it, and therefore they cannot now turn around and question the same. The Apex Court also found that the territorial jurisdiction of the Catholicate was duly defined in 1964 and was delimited by excluding certain areas in the Middle East from the jurisdiction of the Catholicos. It was held that the Malankara Church is Episcopal to the extent it is so declared in the 1934 Constitution. The said Constitution governs the affairs of the parish churches and shall prevail. It was observed that due to mutual bickering in the Patriarch and the Catholicos, it cannot be said that the Catholicos or his followers have become apostates or that they have deviated from the tenets of the faith. Similarly, the Patriarch cannot be said to have lost his spiritual supremacy in accordance with the 1934 Constitution.

85. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court declared that the common Samudayam properties held by the Malankara Church are vested in Malankara Metropolitan. The Apex Court also issued certain directions for the amendment of the Constitution, and the Constitution was accordingly amended, as approved by the Apex Court. It was also



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

observed by the Apex Court that the election to the Malankara Church shall have to be held so as to keep its character alive and effective. At the same time, the majority opinion expressed in the 1995 judgment was that in the suit, no declaration can be granted affecting the rights of Parish Churches in their absence, nor can it be declared that the properties held by Malankara Parish Churches vest in the Catholicos or the Malankara Metropolitan or the Metropolitan of the diocese concerned, as the case may be. The Apex Court noticed that, indeed, no such specific relief has been asked for in the suit and without impleading the affected parties, no declaration can be claimed by the plaintiffs that their church is episcopal in nature, if that declaration means that it gives the Catholicos/Malankara Metropolitan/the Metropolitan of the Diocese any title to or any control over the properties held by the Parish Churches. The only place in the plaint where a reference is made to the properties of the Parish Churches is in para 24, where all that is alleged is that the defendants and their partisans are trying to intermeddle in the affairs of individual churches and are attempting to make use of the properties of the church to further their illegal and unlawful objects. No list of parish properties is



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

enclosed, nor are the particulars of the alleged intermeddling mentioned in the plaint. In the state of such a pleading, the Apex Court found that the only observation that can be made is that the 1934 Constitution shall govern and regulate the affairs of the Parish Churches too, insofar as the said Constitution provides for the same. However, the Apex Court observed that the 1934 Constitution governs the affairs of the Parish Churches too, insofar as it does. Paragraph 154 of the said decision reads thus;

“154. On a consideration of the relevant material placed before it, the Division Bench has held that while the Orthodox Syrian Church, including the Malankara Church, is Episcopal in spiritual matters, in temporal matters it is not Episcopal. It referred, in our opinion, rightly to the judgment of the Royal Court of Final Appeal of Travancore in the Seminary suit, where it is observed:

“Parties agree that head of Syrian Church in this country or its Metropolitan should be a properly ordained Bishop and that regarding temporal affairs, acceptance of Malankara Metropolitan as such by the community is necessary.”

It was further held in the said judgment that “while the ecclesiastical supremacy of the Patriarch has all along been recognised, the authority of the Patriarch never extended to Government of temporalities of the Church”. The Division Bench at the same time clarified that it does not mean to



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

hold that the Metropolitan has the jurisdiction over the day-to-day management of temporal affairs of Parish Churches. The Division Bench has also referred to the Mulanthuruthy Synod resolutions, which say that the Parish Churches have a degree of autonomy with certain supervisory powers alone being vested in the Managing Committee of the Association or Catholicos or the Malankara Metropolitan, as the case may be. The Division Bench has held that:

“Malankara Church, though it has some episcopal characteristics, is not a purely episcopal church. But we are not able to agree that the individual Parish Churches are independent churches or churches with independent status.... The Parish Churches are constituent parts of the Malankara Church and *enjoy a degree of autonomy*, and the administration of the day-to-day affairs vests in the Parish Assembly and committee elected by the Parish Assembly, subject to supervisory powers of the Metropolitan - and the provisions of the constitution of the Malankara Sabha do not affect this position.” [The words underlined by us in the above quote introduce certain amount of ambiguity in the finding recorded. May be this is the result of granting a declaration without hearing the affected parties.]

We are, however, of the opinion that in this suit no declaration can be granted affecting the rights of Parish Churches in their absence, nor can it be declared that the properties held by Malankara Parish Churches vest in the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Catholicos or the Malankara Metropolitan or the Metropolitan of the diocese concerned, as the case may be. Indeed, no such specific relief has been asked for in the suit and without impleading the affected parties, no declaration can be claimed by the plaintiffs that their church is episcopal in nature, if that declaration means that it gives the Catholicos/Malankara Metropolitan/the Metropolitan of the Diocese any title to or any control over the properties held by the Parish Churches. We have pointed out hereinbefore that the only place in the plaint where a reference is made to the properties of the Parish Churches is in para 24 where all that it is alleged is that the defendants and their partisans are trying to intermeddle in the affairs of individual churches and are attempting to make use of the properties of the church to further their illegal and unlawful objects. No list of parish properties is enclosed, nor are the particulars of the alleged intermeddling mentioned in the plaint. In the state of such a pleading, the only observation that can be made herein is that the 1934 Constitution shall govern and regulate the affairs of the Parish Churches too, insofar as the said Constitution provides for the same. In this connection, the learned counsel for the appellants has brought to our notice the following facts: Inasmuch as the plaintiffs asked for a declaration that Malankara Church is an Episcopal Church and appended a list of more than one thousand churches to their plaint, several Parish Churches came forward with applications under Order I Rule 10(2) of the Civil Procedure Code to implead themselves as



defendants to the suit. All the applications were dismissed by the trial Judge, against which a batch of civil revision petitions was filed before the Kerala High Court, being CRPs Nos. 1029 of 1975 and batch. It was contended by the revision petitioners (Parish Churches who were seeking to be impleaded in the suit) that if the first relief prayed for in O.S.No.142 of 1974 (OS No. 4 of 1979) is granted, it will affect the autonomy and individuality of the individual Parish Churches and, therefore, they should be impleaded as defendants to the suit. This argument was repelled by Khalid, J. (as he then was) in the following words:

“I do not think that this apprehension is well-founded. Even under Order I Rule 10, a party does not have any inherent right to get himself impleaded; that lies in the discretion of the court on being satisfied that the petition is well-founded on merits. *The counsel for the contesting respondents (plaintiffs) would contend that all that the plaintiffs want is for a declaration of the supervisory and spiritual control over the Church.*”

(emphasis supplied)

Accordingly, the revision petitions were dismissed. If the plaintiffs mean merely spiritual control by saying episcopal, probably there may be no difficulty in holding that Catholicos and the Malankara Metropolitan have spiritual control over the Parish Churches, but if it means control over temporal affairs of, or title to or control over the properties of the Parish Churches beyond what is provided for in the Constitution, a declaration to that effect can be obtained



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

only after hearing and in the presence of the Parish Churches concerned. It also appears that each of these Parish Churches/Associations has its own constitution, whereunder the general body of the Parishes is declared to be the final authority in temporal matters. All this is mentioned only to emphasise that in the absence of the Parish Churches and proper pleadings and proof, no declaration touching the Parish Churches can be granted in these suits. In para 103 of its judgment, the Division Bench has held that while the Malankara Metropolitan has supervisory jurisdiction over the Parish properties as provided in the 1934 Constitution, it cannot be said that the administration of the Parish properties vests in him. It held that the administration vests in Parish Assemblies or Parish Churches, subject again to the provisions of the Constitution. In sum, we observe that the 1934 Constitution governs the affairs of the Parish Churches too insofar as it does. The power of the Malankara Metropolitan or the Metropolitan in temporal affairs must be understood in these suits too in the same manner as has been declared in Samudayam judgment, i.e., with respect to the common properties of the Malankara Church as such."

(underline supplied)

86. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court noticed that, in the suit, the plaintiffs asked for a declaration that Malankara Church is an Episcopal Church and appended a list of more than one thousand churches



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

to their plaint, several Parish Churches came forward with applications under Order I Rule 10(2) of the Code to implead themselves as defendants to the suit. All the applications were dismissed by the trial Judge. Against the said order, a batch of civil revision petitions was filed before the High Court, as CRP Nos.1029 of 1975 and connected matters. In the said CRPs, the revision petitioners (the Parish Churches) contended that if the first relief prayed for in O.S.No.142 of 1974 (O.S.No.4 of 1979) is granted, it will affect the autonomy and individuality of the individual Parish Churches and, therefore, they should be impleaded as defendants to the suit. This argument was repelled by the learned Single Judge, based on the contention of the learned counsel for the respondents (plaintiffs) that all that the plaintiffs want is a declaration of the supervisory and spiritual control over the Church. Accordingly, the revision petitions were dismissed. The Apex Court noticed that, if the plaintiffs mean merely spiritual control by saying episcopal, probably there may be no difficulty in holding that Catholicos and the Malankara Metropolitan have spiritual control over the Parish Churches, but if it means control over temporal affairs of, or title to or control over the properties



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

of the Parish Churches beyond what is provided for in the Constitution, a declaration to that effect can be obtained only after hearing and in the presence of the Parish Churches concerned. The Apex Court observed that, as it appears, each of the Parish Churches/Associations has its own constitution, whereunder the general body of the Parishes is declared to be the final authority in temporal matters. The Apex Court made such an observation, only to emphasise that in the absence of the Parish Churches and proper pleadings and proof, no declaration touching the Parish Churches can be granted in these suits. The Apex Court noticed that, in para 103 of its judgment, the Division Bench of the High Court has held that while the Malankara Metropolitan has supervisory jurisdiction over the Parish properties, as provided in the 1934 Constitution, it cannot be said that the administration of the Parish properties vests in him. It was held that the administration is vested in Parish Assemblies or Parish Churches, subject again to the provisions of the Constitution. In sum, the Apex Court observed that the 1934 Constitution governs the affairs of the Parish Churches too insofar as it does. The power of the Malankara Metropolitan or the Metropolitan in temporal affairs



must be understood in these suits too in the same manner as has been declared in the Samudayam judgment, i.e., with respect to the common properties of the Malankara Church as such.

87. In **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**, the Apex Court directed the amendment of Section 68 for the democratic functioning of the Malankara Church. Sections 46 and 71 had been inserted to bring about proportional representation based on the size of the congregation of each Parish Church. The Apex Court also observed that the Association so elected shall be the Association for all purposes within the meaning of and for the purposes of the 1934 Constitution, as amended from time to time. The amendment proposals were considered by the Apex Court in **Most. Rev. P.M.A. Metropolitan v. Moran Mar Marthoma Mathews [(1996) 8 SCC 470]**. The Apex Court permitted the amendment and directed the substitution of Section 68 corresponding to Section 71 and also directed that the election shall take place within three months based on Articles 71 and 46 as amended. The Apex Court further directed the status quo to be maintained until the new Managing Committee was elected.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

88. Subsequently, the matter came up again before the Apex Court pursuant to the decision in **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]** and a revised decree was passed in **Most. Rev. P.M.A. Metropolitan [(1996) 8 SCC 470]**. The Apex Court directed certain modifications in paras 2, 3 and 4. However, in paras 2, 3, 6 and 7, the Apex Court inserted before the last sentence, "The above direction is subject to the condition that any and every person claiming to hold any office or post in this Church shall be bound by and shall swear allegiance to the 1934 Constitution." The Apex Court held in **Most. Rev. P.M.A. Metropolitan v. Moran Mar Marthoma Mathews [(1997) 10 SCC 614]** thus: (SCC pp. 615-16, paras 5-9)

"5. The decree shall then say that the decree passed by the High Court (decree under appeal) shall stand modified to the extent indicated above.

Part II

6. In Part II of the order dated 25.03.1996 [Most. Rev. P.M.A. Metropolitan v. Moran Mar Marthoma Mathews, (1996) 8 SCC 470], the following sentence shall be inserted before the last sentence: 'The above direction is subject to the condition that any and every person claiming to hold any office or post in this Church shall be bound by and shall swear allegiance to the 1934 Constitution.'



Part III

7. In Part I of the order dated 25.03.1996 [Most. Rev. P.M.A. Metropolitan v. Moran Mar Marthoma Mathews, (1996) 8 SCC 470], we had directed that Articles 71 and 46, as drafted by us, shall stand substituted in the place of the existing Articles 71 and 46 in the 1934 Constitution with effect from the date of the said order. In Articles 71 and 46, which were directed to be so substituted, an error has crept in. Instead of mentioning "members of the Parish Assembly", the word "families" is used. We, therefore, direct that wherever the word "family" or "families" occur in the said two articles, as drafted by us, they shall be substituted by the words "member" or "members", as the case may be. It is made clear that when we speak of the "members" in the said articles, we refer to members as contemplated by and as mentioned in clause (7) of the 1934 Constitution (which deals with Parish Church and Parish Assembly).

8. The first proviso in Article 71 is deleted.

Part IV

9. In view of the aforementioned controversies, it is submitted by the counsel for the parties, no elections could so far be held as contemplated and directed by the judgment of this Court. In Part I of the order dated 25.03.1996 [Most. Rev. P.M.A. Metropolitan v. Moran Mar Marthoma Mathews, (1996) 8 SCC 470], it was directed by this Court that the election of members of the Association and the Diocesan Assemblies shall take place within three months therefrom on the basis of the amended/substituted



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Articles 71 and 46. The time for conducting the said elections is extended up to and inclusive of 30.04.1997.”

(emphasis supplied)

89. C.M.P.No.2079 of 1997 was filed in A.S.No.331 of 1980 in execution proceedings before this Court. The Catholicos group claimed that elections had already been held, and hence the execution was completed. That fact was, however, disputed by the Patriarch group. This Court did not go into the question whether the decree stood complied with by holding elections. However, this Court concluded that Moran Mar Marthoma Mathews of the Catholicos group had not been elected as the Malankara Metropolitan. The matter was taken up to the Apex Court in Civil Appeal No.8185 of 2001, in which the order passed by this Court was questioned and by a consent order dated 28.11.2001 - **Moran Mar Thoma Mathews v. Most. Rev. Thomas Mar D. Metropolitan [(2017) 15 SCC 520]** - the Apex Court set aside the judgment dated 06.04.2001 of this Court and directed fresh elections to be conducted to the Malankara Association under the supervision of Justice V.S. Malimath, retired Chief Justice of the Kerala High Court. In Civil Appeal No.8185 of 2001 further order was passed on 12.07.2002 - **Moran Mar Thoma Mathews**



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

163

v. Most. Rev. Thomas Mar D. Metropolitan [(2017) 15 SCC 518] - in which the Apex Court observed that the Association so elected pursuant to the judgment dated 20.06.1995 - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - and the consent order dated 28.11.2001 - **Moran Mar Thoma Mathews v. Most. Rev. Thomas Mar D. Metropolitan [(2017) 15 SCC 520]** - shall be the Association for all purposes within the meaning of and for the purpose of the 1934 Constitution, as amended. The Malankara Association, as constituted by the order of the Apex Court, having decided vide majority that Moran Mar Basselios Mar Marthoma Mathews II is the Malankara Metropolitan, this decision is final and binding and not subject to challenge in any court or other forum. The Patriarch group was still not satisfied. The Patriarch faction tried to form its own Constitution, and the same was registered on 15.07.2002 with retrospective effect from 05.07.2002. As the Apex Court had passed the orders on 12.07.2002 - **Moran Mar Thoma Mathews v. Most. Rev. Thomas Mar D. Metropolitan [(2017) 15 SCC 518]** - the Patriarch then proceeded to consecrate his own Malankara Metropolitan and Catholicos, and they abstained from participating



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

164

in the elections held as per the orders of the Apex Court pursuant to the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]**.

90. **Factual Matrix in K.S. Varghese [(2017) 15 SCC 333]**:- At paragraphs 43 to 48 of the decision in **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed the controversy in O.S.No.43 of 2006 on the file of the District Court, Ernakulam, relating to St. Peter's and St. Paul's Syrian Orthodox Church, Kolenchery (Kolenchery Church), filed under Order I Rule 8 and Sections 26 and 92 of the Code, by K.S. Varghese and two others, to declare that the 1st defendant Church (Kolenchery Church), its assets, including the educational institutions, are liable to be administered only in accordance with the terms of the Udampady dated 13.12.1913; and for other consequential reliefs. Paragraphs 43 to 48 of the said decision read thus;

"43. Civil Suit No. 43 of 2006 relating to Kolenchery Church had been filed under Order 1 Rule 8 and Sections 26 and 92 of the Civil Procedure Code, 1908 (for short "CPC") by K.S. Varghese and two others. The 1st defendant being St. Peter's and St. Paul's Syrian Orthodox Church, Kolenchery Church, and 11 other defendants. Prayer had been made to declare that the 1st defendant Church, its assets, including the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

educational institutions, are liable to be administered only in accordance with the terms of the Udampady dated 13.12.1913. Other reliefs were also sought as per the plaint, viz., to settle a scheme for the administration; to appoint a Court Receiver; and to conduct elections to the Managing Committee. In the plaint, it was averred that the 1st defendant is a Parish Church established by the Jacobite Christian Community at Kolenchery. There are two factions - the Orthodox faction and the Patriarch faction. The 2nd defendant is a Vicar of the Patriarch faction. The 3rd defendant is the priest offering services on behalf of the Orthodox faction. The plaintiffs and defendants 2, 5 and 7 belong to the Patriarch faction, and the other defendants belong to the Catholicos faction. On 13.12.1913, Udampady was executed regarding the manner in which its affairs are to be administered, to which five priests and 15 lay trustees were parties, in which specific provisions for the priests to render services in turns and the trustees to administer the assets of the Church were made. The Church was being administered as per the 1913 Udampady. As the factional fights in the Church erupted, O.S.No.19 of 1980 was filed by the Orthodox faction under Section 92 CPC. An Advocate-Receiver was appointed to manage the assets of the Church. The suit was dismissed vide judgment dated 27.02.1997. The judgment directed the said Receiver appointed to hand over possession of the assets to the survivors among the defendants to that case. The 1st plaintiff and defendant 4 to 9 were also parties to the said suit. Other members of the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Committee in 1980 were also parties. The Receiver handed over the keys of the Church to the 1st plaintiff and the 1st defendant in the said O.S. Thereafter, the services of the Church were being conducted by the priests in turns of the two factions. The Orthodox faction had two priests conducting services for two successive weeks. Father E.P. Zacharia was performing the services on behalf of the Patriarch faction. While so, Father E.P. Zacharia was transferred by the Metropolitan of the Orthodox faction, which resulted in protests from the Patriarch faction. Due to law and order problems, the Church was closed by the Executive Magistrate First Class, Moovattupuzha.

44. The Church remained closed from the year 1998. However, later on Church was opened during day-time and the priests of the two factions were conducting services at their usual turns. When the 1st defendant Church was under closure, separate prayer centres were established by the two factions. A writ petition was filed in 2005 in which the High Court of Kerala passed an order on 09.12.2005 - Thomas M. Alias v. State of Kerala [order dated 09.12.2005 in W.P.(C)No. 20938 of 2005] - that the SDM shall return the keys of the Church to Fr. M.V. Abraham. In writ appeal, the Division Bench on 08.12.2006 - P.M. George v. Thomas M. Alias [2006 SCC OnLine Ker 782] - directed that the keys of the Church will remain with the SDM for 15 days, thereafter, the matter to abide by the orders of the civil court; parties may approach the civil court within 15 days to obtain further orders.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

45. Thus, the plaintiffs averred that the affairs are to be managed as per Udampady dated 13.12.1913, which is a registered document. There had been no fresh elections to the Managing Committee of the Church for the last several years. There is no administration of the assets to the Church. Income was also not properly collected, accounted, preserved or utilised. One set of keys is with the plaintiff, and the other set of keys could be with the Orthodox faction. There is an approved Constitution for the management of the educational institutions. The 1st defendant Church has about 2,500 families and 10,000 parish members in its membership. O.S.No.30 of 1997, which was filed, was dismissed on 14.06.2005. It was observed that two parties were claiming to be governed by different Constitutions, i.e., Catholicos by the 1934 Constitution and the Patriarch by the 2002 Constitution, and such a dispute can be settled by calling upon a general body meeting of the entire parishioners. It was further averred that the defendant Church had not accepted the 1934 Constitution. It is governed by Udampady of 1913. Defendants 3, 10 and 11 were trying to obtain the keys as to when the suit was filed.

46. Defendants 1, 3 and 9 in their written statement contended that the 1st defendant is a Malankara Orthodox Syrian Church founded centuries ago. The origin and establishment of the Church is in obscurity. The Church was initially administered under an Udampady registered in 1913AD. Thereafter, the Malankara Association framed the Constitution in 1934. Thus, Udampady of 1913 ceased to



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

exist by virtue of Section 132 of the 1934 Constitution, which provides that provisions in Udampady inconsistent with the provisions of the said Constitution shall be void. After promulgation of the 1934 Constitution, the 1st defendant Church is being administered in accordance with the provisions of the 1934 Constitution. After the decision - Moran Mar Basselios Catholicos v. Thukalan Paulo Avira [AIR 1959 SC 31] - of the Supreme Court in 1958, peace and tranquility prevailed in the Church. In pursuance of Kalpana No. 20 of 59 dated 20.02.1959 of the Diocesan Metropolitan, the annual general meeting held on 08.03.1959 was presided over by Augen Mar Thimothiose, in which the Parish Church Assembly unanimously resolved to adopt and accept the 1934 Constitution. After the decision of the Parish Assembly dated 08.03.1959, the 1st defendant Church, its assets and educational institutions are being administered under the 1934 Constitution, as is evident from the Pothuyogam Diary of the Church. In the annual general meeting of Parish Assembly dated 16.12.1973, 15 members were elected to the Managing Committee in accordance with the 1934 Constitution. Parish Assembly also sent the representatives of the Church to the Malankara Association. In 1974, again a dispute arose, which led to the filing of the suits. One such suit being O.S.No.19 of 1980. Subsequently, two parishioners of the 1st defendant Church filed O.S.No.31 of 1998 against Fr. E.P. Zacharia. This Court held in 1998 that the 1st defendant is a constituent of Malankara Church and is administered under the 1934 Constitution, and the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Diocesan Metropolitan was competent to transfer the priest, and issued an interim order of temporary injunction, which was affirmed by the High Court in appeal and by this Court on 12.07.2000. Later, Fr. M.V. Abraham was appointed as Vicar of the 1st defendant Church by the Diocesan Metropolitan.

47. The 1st defendant Church is a constituent Church of Malankara Church governed and administered under the 1934 Constitution. This Court in the 1995 judgment - Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [(1995) Supp. 4 SCC 286] - has upheld the validity of the 1934 Constitution and declared all the parish churches of Malankara Church to be episcopal and are to be governed by the 1934 Constitution, due to which proceedings under Section 144(1) CrPC were resorted to. On 11.07.2005, the Church was closed down by the SDM. The keys were ordered to be returned to Fr. M.V. Abraham. In writ appeal, the Division Bench dismissed the appeal as withdrawn, but at the same time directed that the civil court may decide the custody of the keys in the suit to be filed within 15 days from the date of the order. The annual general meeting of the 1st defendant Church was periodically held from 2008 to 2010, and the Committee so elected was continuing with the administration of the Church. The Church was under the management of the trustees and the Committees so elected. Prof. T.P. Peter and Shri Paul Mathai were the lay trustees. There was proper administration and management of the Church. It was not a big trust of religious nature but was



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

established to meet the religious needs of the faithful of the Malankara Orthodox Syrian Christian community. The plaintiffs have deviated from the Malankara Orthodox Syrian faith for which the Church was established and formed a new Sabha, called the Yakobava Suriyani Christian Association, in the year 2002. They have no right or authority to interfere in the temporal and ecclesiastical affairs of the Church, the 1st defendant. It was true that two priests of two factions were conducting services in turns, by way of an interim arrangement. The 1st defendant is in possession of the keys as per the order dated 02.10.2010 passed by the trial court.

48. Another written statement filed by defendants 1, 2 and 5 supporting the Patriarch states that it was governed as per the Udampady and not by the 1934 Constitution. An additional written statement was also filed by additional defendants 13 and 15 supporting the plaintiff. It was contended that the religious services in the Church can only be performed by those religious dignitaries who accept the supreme spiritual headship of his holiness the Patriarch of Antioch. The Church was subservient to the ecclesiastical supremacy of the Patriarch of Antioch and governed by the Udampady and not by the 1934 Constitution. An additional written statement had been filed by defendants 1, 3 and 9 resisting the claim. Defendants 13 and 15 also have prayed that a referendum be held to ascertain the allegiance of the parishioners of the Church and for a declaration that the parish church and its assets are to be governed according



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

to the faith and will be professed by the majority of the parishioners. A decree be passed that the Church and its assets are to be administered as per the decision of the majority of the parishioners and to restrain the 3rd defendant, his men or agents and the religious dignitaries, who have not accepted the spiritual supremacy of the Patriarch of Antioch. An additional written statement was filed by defendants 1, 3 and 9 resisting the counterclaim raised by defendants 13 and 15. In their written statement, they reasserted the supremacy of the 1934 Constitution and submitted that the counterclaim be rejected.”

(underline supplied)

91. In **K.S. Varghese [(2017) 15 SCC 333]**, at paragraphs 49 to 51, the Apex Court noticed the controversy in O.S.No.10 of 2003 on the file of the District Court, Ernakulam, relating to St. Mary's Orthodox Church, Varikoli (Varikoli Church), filed under Order I Rule 8 and Sections 26 and 92 of the Code, by Mathai Varghese and nine others, seeking a permanent prohibitory injunction against the 2nd and 3rd defendants, their men or agents or anybody claiming under them, from bringing any Vicar/priest for conducting religious ceremonies, who are not appointed by the Diocese Metropolitan in accordance with the 1934 Constitution;



and for other consequential reliefs. Paragraphs 49 to 51 of the said decision read thus;

"49. O.S.No.10 of 2003 was filed by Mathai Varghese and nine others in the District Court, Ernakulam, as against 10 orthodox Churches. St. Mary's Orthodox Church, Varikoli, defendants 1 and 9 others. It was also a representative suit under Order I Rule 8 and under Section 92 CPC. It was averred that the 1st defendant Church is under the Kandanad Diocese and is a public trust. It is for the benefit of innumerable parishioners. Defendants 2 to 4 are claiming to be trustees and the Vicar of the 1st defendant Church. Parishioners are too many and thus the suit was instituted in a representative capacity under Order I Rule 8 CPC. The plaintiffs averred that the administration and management of 1st defendant Church has to be carried out as per the provisions of the 1934 Constitution, as held by the Supreme Court in the 1995 judgment - Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [(1995) Supp. 4 SCC 286]. It has also held that whatever be the status of the parties, whether he is a Catholicos, Bishop, priest, trustee or parishioner, he shall swear allegiance to the 1934 Constitution to get the benefit of the status quo ordered by it. Kandanad Diocese Dr Thomas Mar Athanasius, being the Metropolitan of the Kandanad Diocese, including the 1st defendant Church, has been discharging all the functions of the Diocesan Metropolitan in respect of all churches, including 1st defendant Church, falling under the Diocese.



The Vicars, including the 4th defendant, were appointed by the said Diocesan Metropolitan in accordance with Section 40 of the 1934 Constitution. Elections to the Managing Committee were held on 20.03.2002 and were affirmed - Moran Mar Thoma Mathews v. Most Rev. Thomas Mar D. Metropolitan [(2017) 15 SCC 518] (para 2) by the Supreme Court. After bifurcation of the Diocese into East and West, a fresh Kalpana 58/2002 was issued confirming the appointment of the 4th defendant as Vicar of the 1st defendant Church. Defendants 2 and 3 were claiming to be trustees of the 1st defendant Church. They were elected as trustees for a period of one year only by the Pothuyogam dated 17.01.1999. Thereafter, no Pothuyogam had been convened. No other appointment was extended further by the Diocesan Metropolitan. As per Section 12 of the 1934 Constitution, the 4th defendant Vicar had to call for Pothuyogam in respect of the 1st defendant Church, which has to be convened twice every year. The Secretary, trustee and managing committee members were elected as per Section 17, for a period of one year, so as to write and keep the minutes of the Church and get signatures of the Diocesan Metropolitan. Accounts have to be maintained and submitted. The 4th defendant was asked to take steps for conducting Pothuyogam.

50. The defendants have taken a position that they were not bound to obey the decision of the Apex Court as well as the 1934 Constitution. Defendants 2 and 3 have no right or authority to claim as trustees of the 1st defendant Church.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

As per the 1934 Constitution, the Vicar had been appointed by the Diocesan Metropolitan and was conducting religious ceremonies in the 1st defendant Church. Cause of action arose on 20.01.2000, when the term of the defendant expired as per the decree and declaration that the 1st defendant Church was governed by the 1934 Constitution, as upheld by the Supreme Court, and that the 2nd and 3rd defendants have no right or authority to claim as trustees of the 1st defendant Church. Permanent prohibitory injunction was claimed against the 2nd and 3rd defendants, their men or agents or anybody claiming under them, from bringing any Vicar/priest for conducting religious ceremonies, who are not appointed by the Diocese Metropolitan in accordance with the 1934 Constitution. Prayer was also made to restrain such persons from conducting religious ceremonies in the 1st defendant Church and the cemetery attached thereto; the 2nd and 3rd defendants be restrained from being trustees of the 1st defendant Church. A decree of mandatory injunction to direct the 4th defendant was prayed for to call for an immediate Pothuyogam of the 1st defendant Church and to conduct elections of a new Managing Committee, including trustees, and other office-bearers in accordance with the 1934 Constitution.

51. In the written statement filed by defendants 1 to 3, it was contended that the 1st defendant Church is not a Church constituent of Malankara Orthodox Church. Suit is not maintainable. The Church was established in 1928 by the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

people of the locality for religious worship as per the Jacobite faith and traditions. They are always loyal to the Patriarch of Antioch and believe in the Apostolic succession of St. Peter Thomas through the Patriarch of Antioch. The Church and its parishioners, ever since its establishment, had only accepted and approved the hierarchy of priests ordained or loyal to the Patriarch of Antioch, which is their fundamental faith. The Church is not governed by the 1934 Constitution. Meeting dated 30.06.2002 adopted the 2002 Constitution of the Jacobite Syrian Christian Church and the 1st defendant Church as a member of the Jacobite Syrian Christian Association. The Church and the parishioners have the freedom to adopt the 2002 Constitution, in view of Articles 19(1)(c), 25 and 26 of the Constitution of India. The plaintiffs or the 4th defendant have no authority or right to question the decisions and resolutions of the Parish Assembly dated 30.06.2002. The 1995 judgment - Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [(1995) Supp. 4 SCC 286] has no relevance to the administration of the Church in the light of the adoption of the 2002 Constitution. Since the 4th defendant had deviated from the fundamental faith of the Church, the present Diocesan Metropolitan of the Jacobite Church H.G. Kuriakose Mar Divascorous, as per his Kalpana No.KND 35 of 2003 removed him from the post and appointed Fr. Thomas Murikkal as Vicar of the Church. Defendants 2 and 3 were elected as trustees on 17.01.1999, but the Annual General Body Meeting of the Church on 09.02.2003 elected new



trustees, namely, P.A. George Padiyil and Paul Varghese Keelppillil. They were not impleaded in the suit, thus it suffered from non-joinder of necessary parties. Since the 4th defendant had abdicated the faith, he could not continue as Vicar of the Church. Membership of the Church is open to those who are obedient and loyal to the Holy Throne of Antioch. The Church is not governed by the 1934 Constitution. The Church or the parishioners have no right or authority to deviate from the fundamental faith of the Jacobite Syrian Community. There is no cause of action for the suit. An additional written statement has also been filed by defendants 1 to 3. The contentions raised in Para 6-A of the plaint were denied. The trustees and the Vicar working at the time of filing the amendment application have not been impleaded. The other defendants 6 to 10 also filed their separate written statements. They have supported the stand taken by defendants 1 to 3. The 5th defendant endorsed in the aforesaid written statement dated 30.11.2010 as he could not sign it when it was filed, being away in the USA."

92. In **K.S. Varghese [(2017) 15 SCC 333]**, at paragraphs 52 to 53, the Apex Court noticed the controversy in O.S.No.41 of 2003 on the file of the District Court, Ernakulam, relating to St. George Jacobite Syrian Church, Mannathoor (Mannathoor Church), filed under Order I Rule 8 and Sections 26 and 92 of the Code, by Ouseph Cheriyan and two others, seeking



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

a declaration that Vicar of the 1934 Constitution have right to conduct "holiness"; a declaration that parishioners who do not give a written oath of allegiance to the 1934 Constitution have no right to continue as parishioners of the 1st defendant Church; and for other consequential reliefs. Paragraphs 52 to 56 of the said decision read thus;

"52. With respect to St. George Jacobite Syrian Church at Mannathoor, O.S.No.41 of 2003 was filed by Ouseph Cheriyan and two others, as against the 1st defendant Church and 25 others in the form of a representative suit. The plaintiffs were the parishioners belonging to the Catholicos faction. They have relied upon the 1995 judgment - Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [(1995) Supp. 4 SCC 286] of the Constitution of 1934. Father Elias was appointed as Vicar of the Church and had been discharging the duties of the 1st defendant Church. Defendants 3, 4 and 5 were claiming to be trustees and Secretary respectively of the Church. Suit, O.S.No.16 of 1977 was filed before the First Additional District Court, Ernakulam with respect to the 1st defendant Church. The Court, vide judgment and decree dated 27.09.1996 held that the 1st defendant Church is governed and administered by the 1934 Constitution. Thereafter, O.S.No.11 of 1997 was filed, which was dismissed for want of compliance under Section 92 CPC. Other averments were more or less the same as in the aforesaid case. As Pothuyogam was not



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

called, it became necessary to file suit. Declaration was prayed that defendants 3 to 5 have no right or authority to claim the status of trustees and Secretary and be removed from the posts of the 1st defendant Church. Declaration also be granted that Vicar of the 1934 Constitution have right to conduct "holiness". Declaration be granted as well that parishioners who do not give written oath of allegiance to the 1934 Constitution, have no right to continue as parishioners of the 1st defendant Church. Permanent prohibitory injunction was sought against defendants 4 and 5 from functioning as trustees and Secretary of the Church. Mandatory injunction to call for Pothuyogam for holding elections as per the 1934 Constitution was also prayed.

53. Defendants 1, 3, 4 and 5 contended that the 1st defendant Church was governed by the Udampady of 1890 registered with SRO, Muvattupuzha. They are not governed by the 1934 Constitution. An Association was convened on 20.03.2002 and Yacobaya Suriyani Christiyani Sabha promulgated the Constitution in the year 2002. The Patriarch faction association never participated in the elections held as per the 1995 judgment - Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma [(1995) Supp. 4 SCC 286]. Pothuyogam was held on 30.03.2003 in tune with the Udampady of 1890. Other similar pleas as in the aforesaid case have been raised. There was excommunication of Metropolitan Dr Thomas Mar Athanasious. First defendant Church never accepted the 1934 Constitution. Defendants 7 to 27 also filed their additional written statements. A.S.No.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

176 of 2002 was pending, the suit was not maintainable. They also relied upon Udampady of 1890 and 2002 Constitution.

54. The High Court, vide judgment and decree dated 04.10.2013 - Varghese K.S. v. St. Peter's and St. Paul's Syrian Orthodox Church [2013 SCC OnLine Ker 24171 : 2014 (1) KLJ 84] dismissed R.F.A.Nos. 589 and 655 of 2011, arising out of O.S.No.43 of 2006 filed by the appellants. Review petition filed before the High Court was dismissed vide order dated 11.04.2014. The appeals arising therefrom are Civil Appeal Nos.3682 and 3683 of 2015. The High Court has upheld the judgment of the trial court dismissing the suit filed by the plaintiff and the counterclaim filed by defendants 13 and 15. It has been held that the 1934 Constitution is binding and Udampady of 1913 cannot be enforced. The High Court has found that from 1959 to 1973 there was total unity among the two factions of the Church. The 1934 Constitution has been accepted by the Church in the meeting dated 08.03.1959. The High Court has also found that the parish churches are constituent units of Malankara Church. They have a fair degree of autonomy subject to supervisory powers vested in the Managing Committee of the Malankara Association as per the 1934 Constitution which is binding on the Malankara Association, Community, Diocese as well as parish churches and parishioners.

55. In Civil Appeal Nos.8789 and 8790 of 2015 Varikoli Church matters arise out of O.S.No.10 of 2003. The trial



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

court has found that the Church is to be administered as per the 1934 Constitution and only the Vicars and priests appointed under the 1934 Constitution can conduct the ceremonies in the Church. The trial court dismissed the suit on the ground that there were two factions of the parishioners and, as the 1st defendant Church and the plaintiff did not recognise the Patriarch of Antioch as the supreme religious head of Malankara Church in whom many of the parishioners reposed faith, therefore, they were not entitled to the discretionary relief prayed for in the suit. The High Court, vide the impugned judgment and decree dated 21.08.2015 - Mathai Varghese v. St. Mary's Orthodox Church [2015 SCC OnLine Ker 25601] has reversed the judgment and decree of the trial court, allowing the appeal and the suit has been decreed, that the 1st defendant Church is governed by the 1934 Constitution of the Malankara Church and that only Vicars and priests appointed in accordance with the 1934 Constitution of the Malankara Church are competent to conduct religious services in the 1st defendant Church. Permanent prohibitory injunction has also been granted in favour of the plaintiff restraining the defendants and their supporters from causing obstruction to the continuation of religious ceremonies in the Church by Vicars and priests appointed in accordance with the 1934 Constitution. Mandatory injunction has been granted, directing the 4th respondent, the Vicar of the Church to convene fresh Parish Assembly to elect Managing Committee including Trustees and Secretary of the Church



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

in accordance with the 1934 Constitution. Aggrieved thereby the appeals have been preferred.

56. With respect to Church at Mannathoor, the trial court has passed similar decree as passed by the High Court in the Varikoli Church matter, upholding the 1934 Constitution and similar directions have been issued. The High Court has affirmed the judgment and decree of the trial court, hence the four civil appeals have been preferred arising out of SLPs (C)Nos.35599, 28797 and 35211 of 2015 and CC No. 22129 of 2015, which arise out of R.F.A.No.320 of 2014 and O.S.No.41 of 2003.” (underline supplied)

93. The true import of the principles laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** is that the properties would always remain as Malankara Church properties. Only office-holders have to subscribe to the 1934 Constitution as held by the Court. The Parishioners can take no Church property away, neither Catholicos faction by majority, and the submission is based on a misconception as to the nature of rights in such property. It has to remain in the Malankara Church. Neither the Church nor the Cemetery can be confiscated by anybody. It has to remain with Parishioners as per the customary rights, and nobody can be deprived of the right one enjoys being a Parishioner in the Church or to be buried honourably in the cemetery, in case he



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

182

continues to have faith in Malankara Church. Even if the Vicar performs functions which are religious, there would not be infringement of the rights under Article 25 and Article 26 of the Constitution of India in case the Diocesan Metropolitan appoints the Vicar as provided in the Constitution of 1934, and it is clear that the Patriarch of Antioch has not reserved this power to himself. As a matter of fact, the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - settled such disputes between the parties, in which the Court tried its best to take care of the prevailing situation while passing the decree. Once there is a Malankara Church, it has to remain as such. No group or denomination can take away the Church and form another group for its management, as that would virtually tantamount to usurping its properties and the Church itself. When the Church has been created and is for the benefit of beneficiaries, it is not open for beneficiaries, even by majority, to usurp its property or management. The dispute in the Samudayam Suit was with respect to community property. But, considering the rival claims, various issues which were raised had been gone into, and the findings had been recorded thereupon, in order to decide the said



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

controversy, which are binding as the suit was a representative suit. Thus, the issues which were decided in the suit cannot be reopened, including the question of adoption of the 1934 Constitution, its validity and binding nature. The Malankara Church, its properties, and other matters are to be governed by the 1934 Constitution, and even the majority of Parishioners have no right to take away and usurp the Church itself or to create a new system of management contrary to the 1934 Constitution. It was a trust created as the Malankara Church that is supreme, for once a trust, always a trust. The majority view in the 1995 judgment refused to give a declaration with respect to property in the absence of Parish Churches. However, it was observed that the 1934 Constitution shall govern and regulate the affairs of the Parish Churches insofar as the Constitution provides for the same. In the absence of any further prayer made, suffice it to hold that the 1934 Constitution shall govern the affairs of the Parish Churches in respect of temporal matters also, insofar as it so provides, and discussed by the Court. The Malankara Church is Episcopal to the extent it is so declared in the 1934 Constitution, as held in the 1995 judgment. The 1934 Constitution governs the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

affairs of the Parish Malankara Churches and shall prevail. Otherwise, also, property cannot be taken away by the majority, or otherwise, and it will remain in Trust as it has been for time immemorial, for the sake of beneficiaries. It is for the benefit of beneficiaries. No one can become an owner by majority decision or be permitted to usurp the Church itself. It has to remain in perpetual succession for the purpose it has been created a Malankara Church. The Parish Assembly, by majority, cannot take away the property and divert it to a separate and different Church that is not a Malankara Church administered as per the 1934 Constitution, though it is open to amend the Constitution of 1934. The main conclusions of the Apex Court in paragraph 228 of the decision in **K.S. Varghese [(2017) 15 SCC 333]** have already been extracted hereinbefore at paragraph 54.

94. In **K.S. Varghese [(2017) 15 SCC 333]**, it was argued that the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp.4 SCC 286]** - cannot be read as if the appellant Church cannot leave the Malankara Association, as the same would result in infringement of the fundamental rights of the majority of the Parishioners, who belong to the Patriarch



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

faction. The Apex Court rejected the said contention for various reasons. Firstly, no one can deny the right under Article 20 of the Universal Declaration of Human Rights. No one may be compelled to belong to an association. There is no compulsion with any of the Parishioners to be part of the Malankara Church or the Parish Church. There can be an exercise of unfettered volition not to be a part of an association, but the question is whether one can form another association within the same association and run a parallel system of management of the very same church, which is not permissible. Leaving a Church is not the right denied, but the question is whether the existing Malankara Church can be regulated otherwise than by the 1934 Constitution. If the effort of certain group of Patriarch otherwise is to form a new Constitution of 2002 to appoint Vicars, Priests, etc., giving a go by to the 1934 Constitution, and to form a new Church under the guise of the same Malankara Church, it is not permissible. The Malankara Church, its properties, and other matters are to be governed by the 1934 Constitution, and even the majority of Parishioners have no right to take away and usurp the Church itself or to create a new system of management contrary to the 1934 Constitution. On



the facts of the cases at hand, the Apex Court noticed that the Udampadies of 1890 and 1913 are with respect to the administration of Churches and are not documents of the creation of the Trust and are not of utility at present, and even otherwise cannot hold the field containing provisions inconsistent with the 1934 Constitution, as per Section 132 thereof. The Udampady also cannot hold the field in view of the authoritative pronouncements made by the Apex Court in the earlier judgments as to the binding nature of the 1934 Constitution. The formation of the 2002 Constitution is the result of an illegal and void exercise. It cannot be recognised, and the parallel system created thereunder for the administration of the Parish Churches of Malankara Church cannot hold the field. It has to be administered under the 1934 Constitution. It was not necessary, after the amendment of the plaint in the Mannathur Church matter, to adopt the procedure once again of representative suit under Order I Rule 8 of the Code. It remained a representative suit, and proper procedure has been followed. It was not necessary to obtain fresh leave. The 1934 Constitution is appropriate and adequate for the management of the Parish Churches; as such, there is no necessity of framing a



scheme under Section 92 of the Code. The Apex Court found no ground to make an interference, and accordingly, the appeals relating to Kolenchery Church, Varikoli Church and Mannathoor Church were dismissed.

95. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, as already noticed hereinbefore at paragraph 55, the appellants/ plaintiffs, namely, the Metropolitan of Quilon Diocese of the Malankara Orthodox Syrian Church and the Vicar appointed by him for St. Mary's Church, Kattachira filed O.S.No.187 of 1977 against the Parishioners of the Church, seeking a declaration that they have exclusive right to conduct religious services in the plaint Church, Cemetery and Kurisumthotty and prayed for prohibitory injunction restraining the defendants and others who do not obey the plaintiffs from entering the plaint Church and plaint schedule properties. The case of the plaintiffs was that as per Ext. A3 (original of which is Ext. B19) assignment-cum-gift deed dated 29.06.1972, the 1st defendant C.K. Koshy assigned the plaint schedule properties along with the Church and Cemetery, etc. situated thereon, to the Metropolitan, Quilon Diocese and that they are entitled to conduct religious services and to manage the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Church and its properties. The Parishioners who question such authority are not entitled to hold any office as members of the Church Committee or to enter the Church. On the other hand, the respondents/defendants who are said to be the representatives of the Parishioners contended that the Church was founded with the object of conducting religious services by religious dignitaries who possess the spiritual grace transmitted from the Patriarch of Antioch and All the East, for the benefit of the Parishioners. The Church and its properties constitute a trust and can be used only for the purpose for which it was founded.

96. The true import of the principles laid down by the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]** is that the issue of spiritual and temporal authority between Malankara Church and the Patriarch of Antioch has been the subject matter of the Constitution Bench judgment in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]**; the judgment of Three-Judges Bench in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and the latest judgment in **K.S. Varghese [(2017) 15 SCC 333]**. The conclusions in paragraph 228 of **K.S. Varghese [(2017) 15 SCC 333]** are well in consonance with **Moran Mar**



Basselios Catholicos [AIR 1959 SC 31] and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** judgments. The detailed discussions and conclusions arrived at in **K.S. Varghese [(2017) 15 SCC 333]** settle the disputes between the appellant Patriarch and the respondent Malankara. As per the consistent view taken in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**, the 1934 Constitution is valid and binding upon the Parishioners. The Parish Church has to be managed as per the powers conferred under the 1934 Constitution. It is not open to any individual church to have a parallel system of management in the churches under the guise of spiritual supremacy in the Patriarch.

97. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, on the facts of the case at hand, the Three-Judge Bench noticed that the plaint Church, namely, St. Mary's Church, Kattachira, was listed as Serial No.41 among 1064 Parish Churches included in the plaint schedule in the representative suit, i.e., O.S.No.4 of 1979. The recitals in Ext.A3 assignment-cum-gift deed executed by C.K. Koshy in favour of Metropolitan of Quilon Diocese make it clear



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

190

that St. Mary's Orthodox Syrian Church, Kattachira, and the properties have been gifted in favour of Malankara Metropolitan to be treated as Bhadrasanam properties, subject to the control of the Metropolitan in appointing Vicar, Priests, etc. The Three-Judge Bench held that, as per the decision of the Apex Court in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, St. Mary's Church, Kattachira is bound by Ext.A1 1934 Constitution and the control of the Metropolitan. The Three-Judge Bench concluded that, considering the recitals in Ext.A3 and the judgments in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, the trial court and the learned Single Judge rightly held that St. Mary's Church, Kattachira is a constituent of Malankara and the power to appoint Vicar, Priests, etc. is vested with Malankara Metropolitan or his representatives. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Three-Judge Bench endorsed the view taken in **K.S. Varghese [(2017) 15 SCC 333]** [Para.146] that the 1934 Constitution cannot be said to be in violation of Article 25 and Article 26 of the Constitution of India.



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

191

98. In **St. Mary's Orthodox Church [(2020) 18 SCC 329]**, as already noticed hereinbefore at paragraph 66, the Apex Court was dealing with SLP(C)Nos.12461 of 2019 and 13424 of 2019 arising out of the judgment dated 13.03.2019 of a Division Bench of this Court in W.P.(C)No.33282 of 2018 and connected matters. W.P.(C)No. 33282 of 2018 was filed by St. Mary's Orthodox Church (Kattachira Palli) and its Vicar, the 1st and 2nd petitioners therein, seeking a direction to the Police authorities of the State to render adequate and sufficient police protection to the life of the 2nd petitioner and other Clergy members, including Vicars, Priests, Deacons, Prelates, Metropolitans and the Catholicos of the Malankara Orthodox Church appointed under the 1934 Constitution, to conduct religious services in the 1st petitioner Church, its cemetery and kurishadies, and the parishioners of the 1st petitioner Church, who declare allegiance to the 1934 Constitution, in participating in such religious services without any obstruction from respondents 11 to 17, their men, agents or followers of Jacobite faction and anybody claiming under them. W.P.(C)No.16248 of 2018 was filed by St. Mary's Orthodox Church, Varikoli, and its Vicar and trustees seeking similar relief



in relation to the said Church. W.P.(C)No.40172 of 2018 was filed by the parishioners of St. Mary's Jacobite Syrian Church, Piravom, who were trustees of the said Church, seeking similar relief in relation to the said Church. By the judgment dated 13.03.2019, the Division Bench closed the writ petitions, by taking note of the steps taken by the State Government towards an amicable resolution of the disputes between the orthodox faction and the Patriarch faction of the Malankara Syrian Orthodox Church. The Apex Court observed that, in view of the Judgment passed in **K.S. Varghese [(2017) 15 SCC 333]**, there is absolutely no scope to construe the order passed by the Division Bench of the High Court in a different manner than the said order passed by the Apex Court.

99. The true import of the principles laid down by the Apex Court in **St. Mary's Orthodox Church [(2020) 18 SCC 329]**, is that there cannot be any violation of the order in **K.S. Varghese [(2017) 15 SCC 333]** by anyone concerned. Even the State Government cannot act contrary to the Judgment and the observations made by the Apex Court, and has a duty to ensure that the Judgment of the Apex Court is implemented forthwith.



The Apex Court ordered that any observation made by the High Court contrary to the Judgment passed by the Apex Court stands diluted. The State and all parties shall abide by the Judgment passed by the Apex Court in totality and cannot solve the matter in any manner different than the Judgment passed by the Apex Court. No parallel system can be created.

F. Issue No.(ii) - Who are the parties that shall be bound by the dictum of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, **Mathews Mar Koorilos [(2018) 9 SCC 672]** and **St. Mary's Orthodox Church [(2020) 18 SCC 329]**:-

100. On issue No.(ii), the learned Senior Counsel/learned counsel for the appellants in the contempt appeals filed by the party respondents in the respective writ petitions argued that the decision of the Apex Court **K.S. Varghese [(2017) 15 SCC 333]** arises out of three original suits filed under Section 92 of the Code in respect of St. Peter's Church, Kolenchery (Kolenchery Church), St. Mary's Church, Varikoli (Varikoli Church) and St. George Jacobite Syrian Church, Mannathur (Mannathur Church), and the decision of the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]** arises out of an original suit in respect of St. Mary's



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Orthodox Church, Kattachira (Kattachira Palli). The parties to the above suits alone are bound by the dictum laid down by the Apex Court in the said decisions rendered in exercise of civil appellate jurisdiction under Article 136 of the Constitution of India. Due to jurisdictional limitations inherent under Section 92 of the Code, the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** applies only to Kolenchery Church, Varikoli Church and Mannathur Church. The decision of the Apex Court in **Mathews Mar Koorilos [(2018) 9 SCC 672]**, which arises out of writ petitions seeking police protection in respect of Kattachira Palli, applies only to Kattachira Palli. The parties to the said suits and writ petitions alone are bound by the dictum laid down by the Apex Court in the said decisions.

101. On issue No.(ii), the learned Senior Counsel for respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters argued that the issues determined by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, which are summarised at para 228, are only reiteration of the dictum laid down in the decision in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**. It was further affirmed in the decision in **Mathews**



Mar Koorilos [(2018) 9 SCC 672]. The 1995 judgment arising out of the representative suit binds not only the parties named in the suit but all those who have an interest in the Malankara Church. The findings in the Samudayam suit are also binding on Parish Churches and the Parishioners. Therefore, the dictum laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, **Mathews Mar Koorilos [(2018) 9 SCC 672]** and **St. Mary's Orthodox Church [(2020) 18 SCC 329]** binds all those who have an interest in the Malankara Church, i.e., the Parish Churches and the Parishioners.

102. As already noticed hereinbefore, in **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court was dealing with Civil Appeals arising out of the controversy in O.S.No.43 of 2006 on the file of the District Court, Ernakulam, relating to St. Peter's and St. Paul's Syrian Orthodox Church, Kolenchery (Kolenchery Church); O.S.No.10 of 2003 on the file of the District Court, Ernakulam, relating to St. Mary's Orthodox Church, Varikoli (Varikoli Church); and O.S.No.41 of 2003 on the file of the District Court, Ernakulam, relating to St. George Jacobite Syrian Church, Mannathoor



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

(Mannathoor Church). All three suits were filed under Order I Rule 8 and Sections 26 and 92 of the Code.

103. O.S.No.43 of 2006 was filed seeking a declaration that Kolenchery Church, its assets, including the educational institutions, are liable to be administered only in accordance with the terms of the Udampady dated 13.12.1913; and for other consequential reliefs. O.S.No.10 of 2003 was filed seeking a permanent prohibitory injunction against the 2nd and 3rd defendants, their men or agents or anybody claiming under them, from bringing any Vicar/priest for conducting religious ceremonies in Varikoli Church, who are not appointed by the Diocese Metropolitan in accordance with the 1934 Constitution; and for other consequential reliefs. O.S.No.41 of 2003 was filed seeking a declaration that the Vicar of the 1934 Constitution has the right to conduct "holiness" at Mannathoor Church; a declaration that parishioners who do not give a written oath of allegiance to the 1934 Constitution have no right to continue as parishioners of Mannathoor Church; and for other consequential reliefs.

104. As already noticed hereinbefore, in **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Metropolitan of Quilon



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

197

Diocese of the Malankara Orthodox Syrian Church and the Vicar appointed by him for St. Mary's Church, Kattachira filed O.S.No.187 of 1977 against the Parishioners of the Church, seeking a declaration that they have exclusive right to conduct religious services in St. Mary's Church, Kattachira, Cemetery and Kurisumthotty and prayed for prohibitory injunction restraining the defendants and others who do not obey the plaintiffs from entering the plaint Church and plaint schedule properties.

105. In **Ahmad Adam Sait v. M.E. Makhri [AIR 1964 SC 107]**, a Three-Judge Bench of the Apex Court noticed that a suit under Section 92 of the Code is a representative suit and is brought with the necessary sanction required by it on behalf of all the beneficiaries interested in the Trust. Section 92 of the Code authorises two or more persons having an interest in the Trust to file a suit for claiming one or more of the reliefs specified in clauses (a) to (h) of sub-section (1), after consent in writing prescribed thereunder has been obtained. Thus, when a suit is brought under Section 92 of the Code, it is brought by two or more persons interested in the Trust who have taken upon themselves the responsibility of representing all the beneficiaries of the Trust. In



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

such a suit, though all the beneficiaries may not be expressly impleaded, the action is instituted on their behalf, and relief is claimed in a representative character. This position immediately attracts the provisions of Explanation VI to Section 11 of the Code, which provides that where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating. It is clear that Section 11, read with Explanation VI, leads to the result that a decree passed in a suit instituted by persons to which Explanation VI applies will bar further claims by persons interested in the same right in respect of which the prior suit had been instituted. Explanation VI thus illustrates one aspect of constructive res judicata. Where a representative suit is brought under Section 92 of the Code and a decree is passed in such a suit, law assumes that all persons who have the same interest as the plaintiffs in the representative suit were represented by the said plaintiff and, therefore, are constructively barred by res judicata from reagitating the matters directly and substantially in issue in the said earlier suit.



106. In **Ahmad Adam Sait [AIR 1964 SC 107]**, the Apex Court noticed that a similar result follows if a suit is either brought or defended under Order I, Rule 8 of the Code. In that case, persons either suing or defending an action are doing so in a representative character, and so, the decree passed in such a suit binds all those whose interests were represented either by the plaintiffs or by the defendants. Thus, it is clear that in determining the question about the effect of a decree passed in a representative suit, it is essential to enquire which interests were represented by the plaintiffs or the defendants. If the decree was passed in a suit under Section 92 of the Code, it will become necessary to examine the plaint to decide in what character the plaintiffs had sued and what interests they had claimed. If a suit is brought under Order I Rule 8, the same process will have to be adopted, and if a suit is defended under Order I Rule 8, the plea taken by the defendants will have to be examined with a view to decide which interests the defendants purported to defend in common with others.

107. In **Ahmad Adam Sait [AIR 1964 SC 107]**, on the facts of the case at hand, the Apex Court found that the application



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

for sanction proceeded on the narrow and specific ground that the Mosque belonged to the Cutchi Memon Community, and the interest which the petitioners purported to represent was the interest of the Cutchi Memon Community and no other. The plaint, like the application for the sanction of the Collector, proceeded on a clear and unambiguous basis that the Mosque belonged to the Cutchi Memon Community and the suit was instituted only on behalf of the Cutchi Memon Community by persons who claimed to be interested in the Mosque as Cutchi Memons. There is, therefore, no doubt that the plaintiffs in the said suit did not claim and, in fact, did not represent the interests of any community other than the Cutchi Memon Community. The allegations made in the plaint, as well as the averments made by the respective defendants in their written statements, do not justify the contention that the earlier suit was either filed by persons who could claim to represent non-Cutchi Memons or was defended by persons who could make a similar claim. If that be so, the very basis on which the binding character of a decree passed in a suit under Section 92 of the Code rests disappears. The basis of the principle that a decree under Section 92 suit binds all persons



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

interested in the Trust is that the interests of all persons interested in the Trust are represented in the suit as required by Explanation VI to Section 11. If that basis is absent, the decree cannot create a bar of res judicata against persons claiming an interest not represented in the earlier suit. Paragraphs 18 to 20 of the said decision read thus;

“18. Let us, therefore, examine the plaint filed in the earlier suit of 1924. Before filing the said suit, an application had been made to obtain the sanction of the Collector as required by Section 92. In that application, the petitioners had specifically averred that the Masjid in question was an ancient and important institution belonging to the Cutchi Memon Community and there were properties attached to it worth over a lakh of rupees; the net income from them being about Rs.2,400/- per annum. On this basis, the petitioners claimed that they were interested in the Trust and wanted a scheme to be framed. It would thus be clear that the application for sanction proceeded on the narrow and specific ground that the Mosque belonged to the Cutchi Memon Community, and the interest which the petitioners purported to represent was the interest of the Cutchi Memon Community and no other.

19. After permission was obtained from the Collector, the suit was filed. In the plaint, the same position was adopted. It was averred that the Mosque had been mainly founded by the Cutchi Memon Mohammedens residing at Bangalore,



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

and it was alleged that the Mohammeden communities other than the Cutchi Memon had established other independent mosques for their use and benefit, and for the last over a century, the Cutchi Memons had been maintaining and managing the said mosque. The plaint further claimed that the plaintiffs, as members of the Cutchi Memon community, were interested in the proper management of the suit Mosque and that as Mohammedens and members of the said Community they had the right to perform therein their daily and usual prayers as well as funeral and other special prayers. Consistent with this attitude, the plaint in its prayer clause claimed, inter alia, that a scheme should be framed safeguarding the rights and privileges of the Cutchi Memon Community. It is thus clear that the plaint, like the application for the sanction of the Collector, proceeded on a clear and unambiguous basis that the Mosque belonged to the Cutchi Memon Community and the suit was instituted only on behalf of the Cutchi Memon Community by persons who claimed to be interested in the Mosque as Cutchi Memons. There is, therefore, no doubt that the plaintiffs in the said suit did not claim and, in fact, did not represent the interests of any community other than the Cutchi Memon Community. Once it is found, as it has been in the present case, that this basis of the claim made in the plaint was not well-founded and that the Mosque belongs to all the Sunni Mohammedens of Bangalore, it would be difficult to accept the argument that the suit instituted on the narrow basis to which we have just referred can be regarded as a



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

representative suit so far as the interest of Muslim Communities other than the Cutchi Memon Community residing in Bangalore are concerned. Those who filed the said suit expressly pleaded that no other community was concerned or interested in the said Trust and, therefore, it would be idle for them now to contend that they purported to represent the interests of the other communities.

20. It is true that defendants 1 to 7 who had been impleaded in that suit were non-Cutchi Memons, but as we have already observed, these defendants were sued as trespassers and their only interests in defending the suit were to support their individual rights to manage the property. The written statements filed by them leave no doubt at all that they did not purport to represent non-Cutchi Memons residing in Bangalore. Their pleas centered around the rights which they claimed under the Wills of Abdul Gaffar. Similarly, the written statements filed by defendants 8 to 13 in that suit cannot be pressed into service for supporting the argument that non-Cutchi Memons' interests were represented. These defendants were Cutchi Memons and, in substance, they agreed with the plaintiffs in that suit that the Mosque belonged to Cutchi Memons alone. No doubt, they made some other pleas disputing some of the allegations made in the plaint, but these pleas have no relevance on the point with which we are concerned. It is thus clear that the allegations made in the plaint, as well as the averments made by the respective defendants in their written statements, do not justify the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

contention that the earlier suit was either filed by persons who could claim to represent non-Cutchi Memons or was defended by persons who could make a similar claim. If that be so, the very basis on which the binding character of a decree passed in a suit under Section 92 of the Code rests disappears; we have already seen that the basis of the principle that a decree under Section 92 suit binds all persons interested in the Trust, is that the interests of all persons interested in the Trust are represented in the suit as required by Explanation VI to Section 11; and if that basis is absent, the decree cannot create a bar of res judicata against persons claiming interest not represented in the earlier suit." (underline supplied)

108. In **R. Venugopala Naidu v. Venkatarayulu Naidu Charities [(1989) Supp. 2 SCC 356]**, the Apex Court reiterated that the legal position which emerges from the decision in **Ahmad Adam Sait [AIR 1964 SC 107]** is that a suit under Section 92 of the Code is a suit of a special nature for the protection of public rights in the public trusts and charities. The suit is fundamentally on behalf of the entire body of persons who are interested in the trust. It is for the vindication of public rights. The beneficiaries of the trust, which may consist of public at large, may choose two or more persons amongst themselves for the purpose of filing a suit under Section 92 of the Code and the suit-title in that event would



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

show only their names as plaintiffs. On the question as to whether the persons whose names are on the suit title are the only parties to the suit, the answer would be in the negative. The named plaintiffs, being the representatives of the public at large who are interested in the trust, all such interested persons, would be considered in the eye of the law to be parties to the suit. A suit under Section 92 of the Code is thus a representative suit and, as such, binds not only the parties named in the suit title but all those who are interested in the trust. It is for that reason that Explanation VI to Section 11 of the Code constructively bars by res judicata the entire body of interested persons from reagitating the matters directly and substantially in issue in an earlier suit under Section 92 of the Code. A suit, whether under Section 92 of the Code or under Order I Rule 8 of the Code, is by the representatives of a large number of persons who have a common interest. The very nature of a representative suit makes all those who have a common interest in the suit as parties. On the facts of the case at hand, the Apex Court concluded that all persons who are interested in Venkatarayulu Naidu Charities, which is admittedly a public trust, are parties to the original suit and, as



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

206

such, can exercise their rights under clauses 13 and 14 of the scheme decree dated 09.09.1910.

109. In **Jamia Masjid v. Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, a Three-Judge Bench of the Apex Court reiterated that a representative suit is binding on all the interested parties. In the said decision, the primary issue was whether O.S.No.149 of 1998 filed by the appellant Jamia Masjid Gubbi through its President seeking a declaration that the State Wakf Board is the owner in possession of the suit schedule property, a non-agricultural land with a cinema building; a decree for possession against the defendants; an injunction to restrain the defendants from interfering with the possession and enjoyment of the plaintiff; and a decree for mesne profits is barred by the principles of res judicata. The Apex Court noticed that, in order to analyse whether the doctrine of res judicata is attracted, it is necessary to decide on the plea with respect to the three prior suits, i.e., O.S.No.92 of 1950-51; O.S.No.748 of 1968; and O.S.No.100 of 1983. O.S.No. 92 of 1950-51 (the first suit) was filed by the members of the mosque Jamayat Masjid in which Abdul Khuddus (the predecessor of defendants 5 to 9) was a party. In the said suit, the District



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

207

Judge, by a judgment dated 31.03.1954, declared the suit schedule property to be the personal property of Abdul Khuddus. Abdul Khuddus filed an appeal before the High Court challenging a portion of the order of the District Judge. The High Court upheld the judgment of the District Judge on 14.08.1959. Since the parties and the subject matter of the first suit and O.S.No.149 of 1998 (the present suit) are the same, it was contended that the present suit instituted by the appellant is barred by res judicata. O.S.No.748 of 1968 (the second suit) was instituted by the Mysore Board of Wakf against Abdul Khuddus seeking a declaration that the suit property is a wakf and for possession of the said property. The suit was decreed in terms of the compromise petition filed by the parties, and therefore, the Wakf Board gave up its claim in respect of the suit schedule property. O.S.No.100 of 1983 (the third suit) was instituted by the Karnataka Board of Wakf seeking an injunction restraining the defendants (the heirs of Abdul Khuddus) from interfering with the peaceful possession of the suit property. The said suit was withdrawn by the plaintiff. The trial court, by its judgment dated 03.02.2006, held that the suit was barred by res judicata, by virtue of the decisions in the suits



instituted earlier. An appeal against the decree of the trial court was dismissed by the Additional District Judge-III, Tumkur, on 02.07.2007. The High Court, by the judgment dated 02.07.2008, allowed a regular second appeal and remanded the matter to the trial court for disposal in accordance with law. Defendants 1 to 4 challenged the judgment of the High Court by filing SLP(C)No. 26047 of 2008. By the judgment dated 30.08.2010, the Apex Court remanded the matter back to the High Court on the ground that the High Court had heard only one of the defendant- caveator and that all the defendants were not represented before the High Court. After remand, the High Court, by the judgment dated 23.01.2012, dismissed the appeal for the following reasons;

“(i) The ownership of the suit schedule property has been conclusively decided in O.S.No.92 of 1950-51 in favour of Abdul Khuddus.

(ii) The judgment in a representative suit under Section 92 CPC binds the parties to the suit and those who are interested in the trust - R. Venugopala Naidu v. Venkatarayulu Naidu Charities [(1989) Supp. 2 SCC 356].

(iii) When a suit is filed for the determination of a scheme for the administration of a trust, the court must primarily be satisfied that the property belongs to the trust. The court has the power under Sections 92(e) and (cc) CPC to order



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

delivery of possession of the property to any person who is entitled to possession.

(iv) If a declaration was made by Khazi Abdul Khuddus declaring the suit property as a Wakf property in 1965, there is no explanation as to why the plaintiff was silent till the filing of O.S.No.100 of 1983.

(v) An issue that was substantially decided by a competent court of limited jurisdiction will operate as res judicata, though such a court, in view of its limited jurisdiction, would not be competent to try the subsequent suit - Sulochana Amma v. Narayanan Nair [(1994) 2 SCC 14].

(vi) The judgment obtained through a consent decree in O.S.No.748 of 1968 was intended to put the litigation to an end. It would thus operate as res judicata in the subsequent suits."

110. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, after quoting the provision of Section 11 of the Code, the Apex Court observed that, in order to attract the principles of res judicata, the following ingredients must be fulfilled;

"(i) The matter must have been directly and substantially in issue in the former suit;

(ii) The matter must be heard and finally decided by the Court in the former suit;

(iii) The former suit must be between the same parties or between parties under whom they or any of them claim, litigating under the same title; and



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

(iv) The Court in which the former suit was instituted is competent to try the subsequent suit or the suit in which such issue has been subsequently raised.”

In **Syed Mohd. Salie Labbai v. Mohd. Hanifa [(1976) 4 SCC 780]**, S. Murtaza Ali, J. speaking for a Bench of two Judges, observed that before a plea of res judicata can be given effect, it must be proved that the litigating parties must be the same; that the subject-matter of the suit also must be identical; that the matter must be finally decided between the parties; and that the suit must be decided by a court of competent jurisdiction. The best method to decide the question of res judicata is first to determine the case of the parties, as they are put forward in the respective pleadings of the previous suits, and then to find out as to what had been decided by the judgments, which operate as res judicata. In **Syed Mohd. Salie Labbai [(1976) 4 SCC 780]**, it was held that the judgment in the previous suit was confined to the following two points; (i) The plaintiffs claimed certain rights for the performance of ceremonies in the properties and a share in the income accruing to the mosque from the worshippers; and (ii) A claim, insofar as the graveyard was concerned, for receiving pit fees for burials. Consequently, the trial court had not decided



upon either the public character of the mosque or the mode and manner or the effect of the dedication of the site for the purpose of the mosque or the graveyard. The court while undertaking an analysis of the applicability of the plea of res judicata determines first, if the requirements of Section 11CPC are fulfilled; and if this is answered in the affirmative, it will have to be determined if there has been any material alteration in law or facts since the first suit was decreed as a result of which the principle of res judicata would be inapplicable.

111. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court noticed that the court, while undertaking an analysis of the applicability of the plea of res judicata, first determines whether the requirements of Section 11 of the Code are fulfilled. If this is answered in the affirmative, the court will have to determine whether there has been any material alteration in law or facts since the first suit was decreed, as a result of which the principle of res judicata would be inapplicable. On the facts of the case at hand, the Apex Court noticed that a determination of the components of res judicata turns on the pleadings and judgments in the earlier suits which have been brought on the record. The



issue has been argued on that basis before the trial court and the first appellate court; followed by two rounds of proceedings before the High Court, the second round upon an order of remand by the Apex Court on the ground that all parties were not heard. All the documentary material necessary to decide the issue is before the Court, and arguments have been addressed by the contesting sides fully on that basis.

112. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court referred to the proceedings in the three previous suits to decide if the bar of res judicata would be applicable to O.S.No.149 of 1998, in view of judgments in any of the previous suits. In order to adjudicate on the applicability of the plea of res judicata vis-à-vis the first suit, the Apex Court framed the following three issues;

- “(a) The scope of the first suit, which was instituted under Section 92 CPC.
- (b) Whether the parties in the first suit and the instant proceedings are the same.
- (c) Whether the issue of title over the suit property was conclusively decided in the first suit.”

113. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, it was noticed that in **Pragdasji Guru Bhagwandasji v. Patel**



Ishwarlalbai Narsibhai [(1952) 1 SCC 323], a Three-Judge Bench explained the ambit of a representative suit under Section 92 of the Code. In that case, one of the reliefs sought was a declaration of the suit property as the religious and charitable trust property of Kaivalya or Karuna Sagar Panth, while the defendant contended that the suit property was a private property. B.K. Mukherjea, J., speaking for the Bench, expounded on the scope of a suit under Section 92 of the Code, particularly in view of the relief seeking a declaration, as follows;

“9. A suit under Section 92 CPC is a suit of a special nature which presupposes the existence of a public trust of a religious or charitable character. Such a suit can proceed only on the allegation that there is a breach of such trust or that directions from the Court are necessary for the administration thereof, and it must pray for one or other of the reliefs that are specifically mentioned in the Section. It is only when these conditions are fulfilled that the suit has to be brought in conformity with the provisions of Section 92 CPC. As was observed by the Privy Council in **Abdur Rahim v. Mohd. Barkat Ali [(1927-28) 55 IA 96]**, a suit for a declaration that certain property appertains to a religious trust may lie under the general law but is outside the scope of Section 92 CPC.



10. In the case before us, the prayers made in the plaint are undoubtedly appropriate to the terms of Section 92 CPC, and the suit proceeded on the footing that the defendant, who was alleged to be the trustee in respect of a public trust, was guilty of breach of trust. The defendant denied the existence of the trust and denied further that he was guilty of misconduct or breach of trust. The denial could not certainly oust the jurisdiction of the court, but when the courts found concurrently, on the evidence adduced by the parties, that the allegations of breach of trust were not made out, and as it was not the case of the plaintiffs, that any direction of the court was necessary for proper administration of the trust, the very foundation of a suit under Section 92 CPC, became wanting and the plaintiffs had absolutely no cause of action for the suit they instituted. In these circumstances, the finding of the High Court about the existence of a public trust was wholly inconsequential, and as it was unconnected with the grounds upon which the case was actually disposed of, it could not be made a part of the decree or the final order in the shape of a declaratory relief in favour of the plaintiffs.

11. It has been argued by the learned counsel for the respondents that even if the plaintiffs failed to prove the other allegations made in the plaint, they did succeed in proving that the properties were public and charitable trust properties - a fact which the defendant denied. In these circumstances, there was nothing wrong for the court to give the plaintiffs a lesser relief than what they actually



claimed. The reply to this is that in a suit framed under Section 92 CPC, the only reliefs which the plaintiff can claim and the court can grant are those enumerated specifically in the different clauses of the section. A relief praying for a declaration that the properties in suit are trust properties does not come under any of these clauses. When the defendant denies the existence of a trust, a declaration that the trust does exist might be made as ancillary to the main relief claimed under the section, if the plaintiff is held entitled to it; but when the case of the plaintiff fails for want of a cause of action, there is no warrant for giving him a declaratory relief under the provision of Section 92 CPC. The finding as to the existence of a public trust in such circumstances would be no more than an obiter dictum and cannot constitute the final decision in the suit.”

(underline supplied)

114. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court found that **Pragdasji Guru Bhagwandasji [(1952) 1 SCC 323]** lays down the following principles on the ambit of a representative suit under Section 92 of the Code;

“(i) The plaintiff can only seek reliefs that fall under any of the clauses in Section 92 CPC. A declaration that the suit property belongs to the trust does not fall under the scope of any of the reliefs enumerated in Section 92 CPC and is outside the scope of the provision.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

(ii) Merely because the defendant denies the title of the trust over the suit property, the jurisdiction of the court cannot be ousted.

(iii) When the title of the trust is contested, a determination of the title of the suit property is necessary for the purpose of adjudication on the final relief, and thus it can be made ancillary to the main relief, if the plaintiff is entitled to the relief sought under Section 92 CPC.

(iv) If the plaintiff is not entitled to the relief sought, then in that case no determination on the title of the suit property can be made since it would be inconsequential to the final decision in the suit."

On applying the aforesaid principles evolved in **Pragdasji Guru Bhagwandasji [(1952) 1 SCC 323]** to the facts of the case at hand, the Apex Court found in **Sri. K.V. Rudrappa [(2022) 9 SCC 225]** that the relief sought in the first suit under Section 92 of the Code was for the determination of a scheme of management of the mosque. A determination of the title of the suit property with respect to the mosque was ancillary to the main relief, under Section 92 of the Code.

115. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, on the question as to whether the parties in O.S.No.149 of 1998 are the same as in O.S.No.92 of 1950-51 (the first suit), the Apex Court



noticed that the first suit was a representative suit filed by interested parties of the mosque Jamia Masjid, while O.S.No.149 of 1998 was filed by the President of the Jamia Masjid in his representative capacity. In **Raje Anandrao v. Shamrao [AIR 1961 SC 1206]**, it was held that a suit under Section 92 of the Code is a representative suit and binds not only the parties thereto but all those who are interested in the trust. In **Ahmad Adam Sait v. M.E. Makhri [AIR 1964 SC 107]**, it was held that Section 11 of the Code, read with Explanation VI, leads to the result that a decree passed in a suit instituted by persons to which Explanation VI applies will bar further claims by persons interested in the same right in respect of which the prior suit had been instituted. Explanation VI thus illustrates one aspect of constructive res judicata. Where a representative suit is brought under Section 92, and a decree is passed in such a suit, law assumes that all persons who have the same interest as the plaintiffs in the representative suit were represented by the said plaintiffs and, therefore, are constructively barred by res judicata from reagitating the matters directly and substantially in issue in the said earlier suit. The same principle was reiterated in **R.**



Venugopala Naidu v. Venkatarayulu Naidu Charities

[(1989) Supp. 2 SCC 356]. As per the decisions referred to supra, a representative suit is binding on all the interested parties. Therefore, the judgment of the court in O.S.No.92 of 1950-51 (the first suit) would be binding on Jamia Masjid and would preclude it from instituting another suit on the same issue if it has been conclusively decided.

116. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, while analysing if the substantive issue in O.S.No.149 of 1998 (the present suit) was conclusively decided in O.S.No.92 of 1950-51 (the first suit), the Apex Court noticed that the locus classicus on the point of determining if an issue was 'directly and substantially' decided in the previous suit is the decision in **Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer [(2000) 3 SCC 350]**, wherein the Court analysed the expression 'directly and substantially in issue' in Section 11 of the Code and laid down the twin test of essentiality and necessity. The words used in Section 11 of the Code are 'directly and substantially in issue'. If the matter was in issue directly and substantially in a prior litigation and decided against a party, then the decision would be



res judicata in a subsequent proceeding. Judicial decisions have, however, held that if a matter was only 'collaterally or incidentally' in issue and decided in an earlier proceeding, the finding therein would not ordinarily be res judicata in a latter proceeding where the matter is directly and substantially in issue. Adverting to the earlier decisions in **Pragdasji Guru Bhagwandasji v. Patel Ishwarlalbhai Narsibhai [(1952) 1 SCC 323]**, **Run Bahadoor Singh v. Lachoo Koer [(1884-85) 12 IA 23]** and **Asrar Ahmed v. Durgah Committee [AIR 1947 PC 1]**, the Court held that those were instances where in spite of adverse findings in an earlier suit, the finding on that specific issue was not treated as res judicata, as it was purely incidental, auxiliary or collateral to the main issue in each of those cases and not necessary in the earlier case. In **Gram Panchayat of Village Naulakha v. Ujagar Singh [(2000) 7 SCC 543]**, it was held that the decision in an earlier suit for injunction, where no question of title was adjudicated upon, will not be binding on the question of title. However, in **Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer [(2000) 3 SCC 350]**, an earlier judgment in **Sulochana Amma v. Narayanan Nair [(1994) 2 SCC 14]**



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

220

and the judgment of the Madras High Court in **Vangarai Selliamman Ayyanar Uthirasomasundareswarar Temple v. Rajanga Asari [AIR 1965 Mad 355]** were referred to emphasise on the unique facts of each case and its importance for the determination of whether the issue was substantially decided. While in **Sulochana Amma [(1994) 2 SCC 14]**, it was held that by the doctrine of res judicata, the finding would bar the subsequent suit, in **Vangarai Selliamman Ayyanar [AIR 1965 Mad 355]**, it was held that the title was not conclusively decided and that the subsequent suit would not be barred. It was observed that the twin tests of necessity and essentiality might lead to different conclusions on suits of a similar nature based on the facts and circumstances in each of them. In **Nand Ram v. Jagdish Prasad [(2020) 9 SCC 393]**, it was reiterated that if a matter has only collaterally or in an auxiliary manner been in issue or decided in an earlier proceeding, the finding would not ordinarily be res judicata in a later proceeding where the matter is directly and substantially in issue. In view of the authorities referred to supra, the twin test that is used for the identification of whether an issue has been conclusively decided in the previous suit is (a)



whether the adjudication of the issue was 'necessary' for deciding on the principal issue (the necessity test); and (b) whether the judgment in the suit is based upon the decision on that issue (the essentiality test).

117. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, on applying the necessity test to the facts of the case at hand, the Apex Court proceeded to identify if the decision on the principal issue of framing a scheme for the administration of the mosque could not have been arrived at without adjudication of the title of the suit property. The Apex Court noticed that the plaint contains two distinct allegations against the defendant, Abdul Khuddus; (i) that he was misappropriating the funds of the mosque; and (ii) that he was setting up his own title to the suit property. The defendant contested that the suit property belonged to him. Therefore, since the title was contested, it was necessary that the court in O.S.No.92 of 1950-51 (the first suit) determine if the suit property belonged to the mosque, to adjudicate on the scheme of administration of the mosque. The contention that the trial court could not have adjudicated on the title of the suit property in a representative suit has already been addressed, relying



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

222

on **Pragdasji Guru Bhagwandasji [(1952) 1 SCC 323]**. On applying the essentiality test to the judgment in the first suit, it has to be identified if the final decision rendered by the court in that case would be altered if the issue on title was determined otherwise. Whether the scheme for the administration of the mosque would also cover the suit property was necessary for adjudication in the former suit.

118. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court found that, apart from the issue whether the title to the suit property was conclusively decided in O.S.No.92 of 1950-51 (the first suit), it is necessary to identify if the matters in issue in the former and the subsequent suits are the same. The Apex Court noticed that the first suit under Section 92 of the Code was for settling a scheme of administration of Jamia Masjid and the management of its properties and the rendering of accounts of its funds and income by the defendant. In the subsequent suit, the prayer was for the declaration of the suit property as a wakf property. In the first suit, it was held that the suit property was prima facie the property of Abdul Khuddus; that it was given to his forefathers as a service inam, for his functions as a khazi. The



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

cause of action in the subsequent suit arose because the successors of Abdul Khuddus alienated the suit property. The Apex Court found that the matters adjudicated upon in the former suit are not the same as those in the subsequent suit for two reasons; firstly, there was a changed circumstance resulting from the notification declaring the suit property as a wakf property which was issued after the first suit was decreed; secondly, in the first suit, which was essentially a suit for administration, the suit property was observed to prima facie belong to Abdul Khuddus as a khazi inam. The adjudication on the suit property was focused on whether it belonged to the mosque. Though the suit property was prima facie declared not to belong to the mosque, it would not, as a corollary, mean that it was the personal property of Khazi Abdul Khuddus over which he possessed an absolute or inalienable right, particularly in view of his deposition that the property was given as an inam to his forefathers for their services as khazi. There was no discussion whether the suit property was a personal inam or an inam attached to the office; there was no adjudication in the earlier suit on the terms of the grant. Thus, no adjudication



on the absolute title over the suit property was rendered in the former suit.

119. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, on an analysis of the findings in the judgment of the trial court in O.S.No.92 of 1950-51 (the first suit), the Apex Court found that there was no adjudication in the earlier suit that Abdul Khudus had an absolute title to the suit property. Thus, the matters which were in issue before the court in the first suit and the proceedings at hand are distinct.” For the reasons stated in paragraphs 54.1 to 54.4, the Apex Court concluded that the suit that gives rise to the proceedings at hand is not barred by O.S.No.92 of 1950-51 (the first suit). Paragraphs 53 to 54.4 of the said decision read thus;

“53. On reading together the findings which have been arrived at in para 7 and para 10 of the judgment of the trial court in the first suit, it is evident that the District Judge did not enter into a conclusive finding that Item 2 of the schedule to that suit (which corresponds to the suit schedule property in the present case) was the personal property of Abdul Khuddus. In fact, the use of the expression ‘prima facie right’ in para 10 extracted above (in para 33 hereinabove) clearly indicates that there was no conclusive finding in the judgment of the District Judge. The District Judge also noted it would be open to the trust to take steps



as they deem fit in respect of Item 2 and Item 3 of the schedule in that suit, if the defendant had not fulfilled the terms specified in the grant. Thus, the finding on issue No.1 that schedule items 1, 4 and 15 belong to the mosque must specifically be read in the context of what has been stated above. From the above analysis, it becomes clear that there was no adjudication in the earlier suit that Abdul Khudus had an absolute title to the suit property.

54. In view of the above discussion, the suit that gives rise to the instant proceedings is not barred by the first suit for the following reasons;

54.1. The court in the first suit was not ousted from determining if the suit property belonged to the mosque while settling a scheme for administration in a suit under Section 92 CPC.

54.2. The suit under Section 92 is of a representative character and the decree would bind all persons interested in the trust property.

54.3. There was a 'prima facie' finding in the former suit that the suit property belonged to Abdul Khuddus.

54.4. In the context of a suit for settling a scheme of administration, the issue in the first suit was whether the suit property belonged to Jamia Masjid. There was no adjudication or finding that Khazi Abdul Khuddus had an absolute title over the property, particularly in view of the deposition of Abdul Khuddus that the property was given as a khazi inam, coupled with the observation of the court that he had a "prima facie" right over the property. Therefore,



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

226

the alleged claim of title of Abdul Khuddus was not adjudicated. Thus, the matters which were in issue before the court in the first suit and the instant proceedings are distinct." (underline supplied)

120. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court noticed that the second suit, i.e., O.S.No.748 of 1968, was instituted by the Mysore State Board of Wakf, seeking a declaration that the suit property constitutes a wakf; and a decree for possession of the suit property. Abdul Khuddus and H.S. Gururajaro were impleaded as the first and second defendants to the suit. The compromise decree in the second suit envisages that H.S. Gururajaro would pay the rent to the first defendant and hand over possession of the suit property to the first defendant on the completion of the tenure of the lease. There is no clause in the compromise deed that Abdul Khuddus had an absolute title to the property. Therefore, no part of the claim was abandoned on the question of the title of Abdul Khuddus. Before the Apex Court, it was contended that in view of the compromise deed, the claim of title to the suit property had been abandoned and could not be raised in the subsequent suit. In **Pulavarthi Venkata Subba Rao v. Valluri Jagannadha Rao [AIR 1967 SC 591]** and



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

227

Sunderabai v. Devaji Shankar Deshpande [AIR 1954 SC

82], it was held that since a compromise decree is not a decision of the court, the principle of res judicata cannot be made applicable. However, it was held that the compromise decree may, in effect, create estoppel by conduct between the parties, and the parties by estoppel will be prevented from initiating a subsequent suit. On a perusal of the compromise deed in the second suit, i.e., O.S.No.748 of 1968, the Apex Court found that a compromise was reached only on the issue of possession and lease. When no compromise was arrived at between the parties on the title to the suit property, then no estoppel by conduct could also be inferred. Dealing with the contention of the respondent, after referring to Order XXIII Rule 3A of the Code, that a subsequent suit is barred when the previous suit is dismissed through a compromise decree, the Apex Court found that the said provision would not apply to the case at hand, since it only bars the challenge to a compromise decree on the ground that it is unlawful. Therefore, the Apex Court found that the disposal of the second suit, i.e., O.S.No.748 of 1968, in view of the compromise, would not bar the filing of the suit out of which the proceedings at hand arise.



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

228

121. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court noticed that the third suit, i.e., O.S.No.100 of 1983, was instituted by the Karnataka Wakf Board. The first defendant was Khazi Abdul Masood, son of Abdul Khuddus, while defendants 2 to 5 were persons to whom the property was sought to be alienated by the first defendant. The relief sought in the suit was a permanent injunction restraining the defendants from interfering with the possession of the plaintiff Wakf Board, and the suit was instituted on 04.08.1983. The Apex Court noticed that the suit out of which the dispute at hand arises was instituted on 05.11.1984, seeking a declaration and possession. It was only thereafter, on 22.11.1984, that O.S.No.100 of 1983 was withdrawn. O.S.No.100 of 1983 was a suit for a bare injunction, and no declaration was claimed. In any event, there was no adjudication on the merits. Therefore, the Apex Court found that the decision in the third suit would not bar the initiation of the suit out of which the proceedings at hand arise.

122. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, the Apex Court found that the High Court dismissed the second appeal, on arriving at a finding that the courts conclusively decided on the



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

title to the suit property in the first suit (O.S.No.92 of 1950-51) and that, a subsequent suit on the same issue of title would be barred by the principles of res judicata, which is erroneous. While holding that the judgment in the first suit has conclusively decided that the title over the suit property belongs to Abdul Khuddus, the High Court has lost sight of the observations in paras 7 and 10 of the judgment of the trial court, wherein it has been specifically held that the suit property was a khazi service Inam and that Abdul Khuddus has a prima facie right to the suit property, and there was no adjudication to the effect that Abdul Khuddus had an absolute title to the suit property. Additionally, the decision of the courts in the first suit (O.S.No.92 of 1950-51) was delivered before the suit property was notified as a wakf property in view of Notification No. MWB 19(11) dated 06.07.1965. The principle of res judicata can thus not be applied without taking into consideration the changed circumstances. The Apex Court opined that the High Court committed an error in applying the principle of res judicata based on the judgment in the second suit, i.e., O.S.No.748 of 1968. It was observed by the High Court that the second suit that was decreed in terms of the compromise was



intended to put the litigation to an end and would thus bar any subsequent suit on the title to the suit property by virtue of the principle of res judicata. For this purpose, reliance was placed on the decision in **Byram Pestonji Gariwala v. Union Bank of India [(1992) 1 SCC 31]**, wherein it was held that a challenge to a consent decree six years later was vitiated by reason of delay, estoppel, and res judicata. However, the High Court lost sight of the fact that the compromise deed was entered into specifically with regard to the handing over of possession of the suit property by the lessee at the end of the lease, and no compromise on the title to the suit property was arrived at. The Apex Court allowed the appeal and set aside the impugned judgment of the High Court of Karnataka dated 23.01.2012. O.S.No.149 of 1998 was restored to the file of the Principal Civil Judge (Senior Division), Tumkur, for trial. The Apex Court summarised its conclusions in paragraph 66 of the decision, which read thus;

“66. In view of the discussion above, we summarise our findings below;

66.1. Issues that arise in a subsequent suit may either be questions of fact or of law or mixed questions of law and fact. An alteration in the circumstances after the decision in



the first suit will require a trial for the determination of the plea of res judicata if there arises a new fact which has to be proved. However, the plea of res judicata may, in an appropriate case, be determined as a preliminary issue when neither a disputed question of fact nor a mixed question of law or fact has to be adjudicated for resolving it.

66.2. While deciding on a scheme for administration in a representative suit filed under Section 92 CPC the court may, if the title is contested, have to decide if the property in respect of which the scheme for administration and management is sought belongs to the trust.

66.3. A suit under Section 92 CPC is of a representative character, and all persons interested in the trust would be bound by the judgment in the suit, and persons interested would be barred by the principle of res judicata from instituting a subsequent suit on the same or substantially the same issue.

66.4. Since the first suit (O.S.No.92 of 1950-51) was filed by members interested in the Jamia Masjid and the suit out of which the instant proceedings arise (O.S.No.149 of 1998) was filed by the President of Jamia Masjid, the formulation in para 66.3 above is satisfied.

66.5. There was no adjudication in the first suit (O.S.No.92 of 1950-51) on whether Abdul Khuddus had an absolute title to the suit property. There was only a prima facie determination that items 2 and 3 of the schedule of properties in the first suit belonged to Abdul Khuddus. The matters substantially in issue in O.S.No.92 of 1950-51,



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

which was a suit for administration and management of trust properties and for accounts, are distinct from the issues in the suit out of which the instant proceedings arise. Therefore, O.S.No.149 of 1998 is not barred by res judicata in view of the decision in the first suit.

66.6. While a compromise decree in a prior suit will not bar a subsequent suit by virtue of res judicata, the subsequent suit could be barred by estoppel by conduct. However, neither the compromise petition dated 27.10.1969 nor the final decree in the second suit dated 27.10.1969 indicates that a compromise on the title to the suit property was arrived at. The compromise was restricted to the issue of the erstwhile lessee handing over possession of the suit property at the end of the lease.

66.7. The third suit (O.S.No.100 of 1983) was a suit for an injunction simpliciter. The third suit was withdrawn after the suit out of which the instant proceeding arises was filed for seeking a substantive declaration and an injunction. No adjudication on the rights of the parties was made in the third suit." (underline supplied)

123. As held by a Three-Judge Bench of the Apex Court in **Ahmad Adam Sait [AIR 1964 SC 107]**, as clear from Section 11 of the Code, read with Explanation VI, a decree passed in a suit instituted by persons to which Explanation VI applies will bar further claims by persons interested in the same right in respect of which the prior suit had been instituted. Explanation VI thus



illustrates one aspect of constructive res judicata. Where a representative suit is brought under Section 92 of the Code and a decree is passed in such a suit, law assumes that all persons who have the same interest as the plaintiffs in the representative suit were represented by the said plaintiff and, therefore, are constructively barred by res judicata from reagitating the matters directly and substantially in issue in the said earlier suit. A similar result follows if a suit is either brought or defended under Order I, Rule 8 of the Code. In that case, persons either suing or defending an action are doing so in a representative character, and so, the decree passed in such a suit binds all those whose interests were represented either by the plaintiffs or by the defendants.

124. As held by the Apex Court in **Ahmad Adam Sait [AIR 1964 SC 107]**, in determining the question about the effect of a decree passed in a representative suit, it is essential to enquire which interests were represented by the plaintiffs or the defendants. If the decree was passed in a suit under Section 92 of the Code, it will become necessary to examine the plaint to decide in what character the plaintiffs had sued and what interests they had claimed. If a suit is brought under Order I Rule 8, the same



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

process will have to be adopted, and if a suit is defended under Order I Rule 8, the plea taken by the defendants will have to be examined with a view to decide which interests the defendants purported to defend in common with others.

125. The Apex Court reiterated in **R. Venugopala Naidu [(1989) Supp. 2 SCC 356]** that a suit under Section 92 of the Code is thus a representative suit and, as such, binds not only the parties named in the suit title but all those who are interested in the trust. It is for that reason that Explanation VI to Section 11 of the Code constructively bars by res judicata the entire body of interested persons from reagitating the matters directly and substantially in issue in an earlier suit under Section 92 of the Code. A suit, whether under Section 92 of the Code or under Order I Rule 8 of the Code, is by the representatives of a large number of persons who have a common interest. The very nature of a representative suit makes all those who have a common interest in the suit as parties.

126. In **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, a Three-Judge Bench of the Apex Court, reiterated the law laid down by a Two-Judge Bench in **Syed Mohd. Salie Labbai [(1976) 4 SCC**



780], that before a plea of res judicata can be given effect, it must be proved that the litigating parties must be the same; that the subject-matter of the suit also must be identical; that the matter must be finally decided between the parties; and that the suit must be decided by a court of competent jurisdiction. The best method to decide the question of res judicata is first to determine the case of the parties, as they are put forward in the respective pleadings of the previous suits, and then to find out as to what had been decided by the judgments, which operate as res judicata.

127. As noticed by the Apex Court in **Sri. K.V. Rudrappa [(2022) 9 SCC 225]**, while undertaking an analysis of the applicability of the plea of res judicata, the court first determines whether the requirements of Section 11 of the Code are fulfilled. If this is answered in the affirmative, the court will have to determine whether there has been any material alteration in law or facts since the first suit was decreed, as a result of which the principle of res judicata would be inapplicable. On analysing the expression 'directly and substantially in issue' in Section 11 of the Code, the twin test of essentiality and necessity laid down in



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Sajjadanashin Sayed Md. B.E. Edr. [(2000) 3 SCC 350], and also the law laid down in the decisions on the point, the Three-Judge Bench held that if the matter was in issue directly and substantially in a prior litigation and decided against a party, then the decision would be res judicata in a subsequent proceeding. The judicial decisions have, however, held that if a matter was only 'collaterally or incidentally' in issue and decided in an earlier proceeding, the finding therein would not ordinarily be res judicata in a latter proceeding where the matter is directly and substantially in issue. The twin test that is used for the identification of whether an issue has been conclusively decided in the previous suit is (a) whether the adjudication of the issue was 'necessary' for deciding on the principal issue (the necessity test); and (b) whether the judgment in the suit is based upon the decision on that issue (the essentiality test).

128. As already noticed hereinbefore, in the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, the Apex Court declared that the common Samudayam properties held by the Malankara Church are vested in Malankara Metropolitan. The majority opinion expressed in the 1995



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

judgment was that in the suit, no declaration can be granted affecting the rights of Parish Churches in their absence, nor can it be declared that the properties held by Malankara Parish Churches vest in the Catholicos or the Malankara Metropolitan or the Metropolitan of the diocese concerned, as the case may be. The Apex Court noticed that, indeed, no such specific relief has been asked for in the suit and without impleading the affected parties, no declaration can be claimed by the plaintiffs that their church is episcopal in nature, if that declaration means that it gives the Catholicos/Malankara Metropolitan/the Metropolitan of the Diocese any title to or any control over the properties held by the Parish Churches. The only place in the plaint where a reference is made to the properties of the Parish Churches is in para 24, where all that is alleged is that the defendants and their partisans are trying to intermeddle in the affairs of individual churches and are attempting to make use of the properties of the church to further their illegal and unlawful objects. No list of parish properties is enclosed, nor are the particulars of the alleged intermeddling mentioned in the plaint. In the state of such a pleading, in the 1995 judgment, the Apex Court found that the only observation



that can be made is that the 1934 Constitution shall govern and regulate the affairs of the Parish Churches too, insofar as the said Constitution provides for the same. However, the Apex Court observed that the 1934 Constitution governs the affairs of the Parish Churches too, insofar as it does. Paragraph 154 of the 1995 judgment is extracted hereinbefore at paragraph 85.

129. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the majority view in the 1995 judgment refused to give a declaration with respect to property in the absence of Parish Churches. The 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - settled such disputes between the parties, in which the Court tried its best to take care of the prevailing situation while passing the decree. Once there is a Malankara Church, it has to remain as such. No group or denomination can take away the Church and form another group for its management, as that would virtually tantamount to usurping its properties and the Church itself. When the Church has been created and is for the benefit of beneficiaries, it is not open for beneficiaries, even by majority, to usurp its property or management. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**,



the Three-Judge Bench held that the conclusions in paragraph 228 of **K.S. Varghese [(2017) 15 SCC 333]** are well in consonance with **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** judgments. The detailed discussions and conclusions arrived at in **K.S. Varghese [(2017) 15 SCC 333]** settle the disputes between the appellant Patriarch and the respondent Malankara.

130. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court was dealing with Civil Appeals arising out of the controversy in O.S.No.43 of 2006 relating to St. Peter's and St. Paul's Syrian Orthodox Church, Kolenchery (Kolenchery Church); O.S.No.10 of 2003 relating to St. Mary's Orthodox Church, Varikoli (Varikoli Church); and O.S.No.41 of 2003 relating to St. George Jacobite Syrian Church, Mannathoor (Mannathoor Church). O.S.No.43 of 2006 was filed seeking a declaration that Kolenchery Church, its assets, including the educational institutions, are liable to be administered only in accordance with the terms of the Udampady dated 13.12.1913, and for other consequential reliefs; O.S.No.10 of 2003 was filed seeking a permanent prohibitory injunction against the 2nd and 3rd defendants from bringing any Vicar/priest



for conducting religious ceremonies in Varikoli Church, who are not appointed by the Diocese Metropolitan in accordance with the 1934 Constitution, and for other consequential reliefs; and O.S.No.41 of 2003 was filed seeking a declaration that the Vicar of the 1934 Constitution has the right to conduct "holiness" at Mannathoor Church, and for other consequential reliefs. In **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the Apex Court was dealing with Civil Appeals arising out of the controversy in O.S.No.187 of 1977 relating to St. Mary's Church, Kattachira. In O.S.No.187 of 1977 filed against the Parishioners, the Metropolitan of Quilon Diocese of the Malankara Orthodox Syrian Church and the Vicar appointed by him sought a declaration that they have the exclusive right to conduct religious services in St. Mary's Church, Kattachira, Cemetery and Kurisumthotty.

131. In **K.S. Varghese [(2017) 15 SCC 333]** and **Mathews Mar Koorilos [(2018) 9 SCC 672]**, the interests represented by the plaintiffs and defendants in the suits filed under Order I Rule 8 and Sections 26 and 92 of the Code relate to the disputes in the management of Kolenchery Church, Varikoli Church, Mannathoor Church and St. Mary's Church, Kattachira, in



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

which the Parishioners of the respective Churches defended in common with others. In **St. Mary's Orthodox Church [(2020) 18 SCC 329]**, the Apex Court was dealing with SLP(C)Nos.12461 of 2019 and 13424 of 2019 arising out of the judgment dated 13.03.2019 of a Division Bench of this Court in W.P.(C)No.33282 of 2018 and connected matters, seeking police protection to conduct religious services by the Vicars, Priests, etc., appointed under the 1934 Constitution, in St. Mary's Orthodox Church, Kattachira, St. Mary's Orthodox Church, Varikoli, and St. Mary's Jacobite Syrian Church, Piravom. The Parishioners of the respective Churches, who were arrayed as the respondents, opposed the relief of police protection sought for in the respective writ petitions. The interests represented by the plaintiffs/petitioners and the defendants/respondents in those original suits/writ petitions were confined to the disputes in the management of respective Churches. The Parishioners of the respective Churches alone are bound by the decree/directions passed/issued by the Apex Court in the said decisions. The law laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, which was found by the Three-Judge Bench in **Mathews Mar Koorilos [(2018) 9**



SCC 672], well in consonance with the decisions in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, shall apply in the resolution of disputes relating to the management of Parish Churches governed by the 1934 Constitution. In view of the law laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** that the 1934 Constitution is appropriate and adequate for the management of the parish churches, and as such, there is no necessity of framing a scheme under Section 92 of the Code, no suit relating to such a dispute can be dismissed as not maintainable for want of leave under Section 92 of the Code.

G. Issue Nos.(iii) and (iv) - Whether the decree in **K.S. Varghese [(2017) 15 SCC 333]** and **Mathews Mar Koorilos [(2018) 9 SCC 672]**, which attained finality, has been satisfied/fulfilled; and if not, which part of the decree remains unfulfilled, and what remedial action in that regard is required to be taken:-

132. On issue Nos.(iii) and (iv), the learned Senior Counsel/learned counsel for the appellants in the contempt appeals filed by the party respondents in the respective writ



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

petitions, except the learned Senior Counsel for the appellants in Con.App.No.13 of 2024, argued that the decree of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** in three original suits filed in respect of St. Peter's Church, Kolenchery (Kolenchery Church), St. Mary's Church, Varikoli (Varikoli Church) and St. George Jacobite Syrian Church, Mannathur (Mannathur Church), and the decree in **Mathews Mar Koorilos [(2018) 9 SCC 672]** in the original suit filed in respect of St. Mary's Orthodox Church, Kattachira (Kattachira Palli) are confined to resolution of disputes raised in the respective suits relating to the management of the respective Parish Churches. The execution of the decrees in those suits is beyond the scope of the issues involved in these contempt appeals. They would also point out that respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters have no case that decrees in those suits remain unsatisfied.

133. On issue Nos.(iii) and (iv), the learned Senior Counsel for respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters argued that though the decree of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** is in relation to three original suits filed in respect of St. Peter's Church, Kolenchery (Kolenchery



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

244

Church), St. Mary's Church, Varikoli (Varikoli Church) and St. George Jacobite Syrian Church, Mannathur (Mannathur Church), the said decree applies to all constituent Parish Churches of Malankara Orthodox Syrian Church. The said decree remains unsatisfied insofar as those Parish Churches wherein parallel services are being conducted, and the administration is being conducted in violation of the law laid down in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**.

134. As already noticed hereinbefore, in **K.S. Varghese [(2017) 15 SCC 333]**, the interests represented by the plaintiffs and defendants in the suits filed under Order I Rule 8 and Sections 26 and 92 of the Code relate to the disputes in the management of Kolenchery Church, Varikoli Church and Mannathoor Church. The interests represented by the plaintiffs and the defendants in those original suits were confined to the disputes in the management of respective Churches. The Parishioners of the respective Churches alone are bound by the decree passed by the Apex Court in the said decisions. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the majority view in the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

245

1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - refused to give a declaration with respect to property in the absence of Parish Churches. Though the law laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, which was found by the Three-Judge Bench in **Mathews Mar Koorilos [(2018) 9 SCC 672]**, well in consonance with the decisions in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, shall apply in the resolution of disputes relating to the management of Parish Churches governed by the 1934 Constitution, it cannot be contended that the decree in **K.S. Varghese [(2017) 15 SCC 333]** applies to all constituent Parish Churches of Malankara Orthodox Syrian Church, and that the said decree remains unsatisfied insofar as those Parish Churches wherein parallel services are being conducted, and the administration is being conducted in violation of the law laid down in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**. We notice that, as pointed out by the learned Senior Counsel/learned counsel for the appellants in the contempt appeals filed by the party respondents



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

in the respective writ petitions, respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters have no case that decrees in those suits in **K.S. Varghese [(2017) 15 SCC 333]** remain unsatisfied.

H. Issue Nos.(v) and (vi) - What is the legal effect of the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020; What is the legal effect of the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020:-

135. On issue Nos.(v) and (vi), the learned Senior Counsel/ learned counsel for the appellants in the contempt appeals filed by the party respondents in the respective writ petitions argued that the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020 (the 2020 Act), legislatively recognises denominations of the Church. The long title of the Act, as well as the definition of 'Christian' in Section 2(b), read with the Explanation to Section 3, refers to denomination. The 2020 Act recognises by legislation that the Malankara Church is no longer united and respects the religious freedom under Article 26(b) and (d) of the Constitution of India.



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

247

This change in law also renders the doctrine of res Judicata inapplicable to pending and future suits and appeals, and its applicability to writ petitions filed under Article 226 of the Constitution of India. Section 3 of the 2020 Act also acknowledges and upholds the religious rights of the Jacobite faction to conduct burial in accordance with their religious beliefs and freedom of conscience. It also protects cemeteries, which are part of the property, and the right of management in the hands of the Jacobite faction, as well as the Orthodox faction. The 2020 Act represents one of the modes by which the 1934 Constitution can be amended in accordance with law, as observed by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** at paras 228.20 and 228.28. In view of the non-applicability of res judicata, particularly Section 11 of the Code and the subsequent changes in law, the question of contempt of court does not arise.

136. On issue Nos.(v) and (vi), the learned Senior Counsel for respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters argued that the 2020 Act is under challenge in W.P.(C) No.2987 of 2021 filed before this Court and the same is still pending. In accordance with the 2020 Act, burial is being



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

248

conducted in the cemeteries of all churches of the Malankara Church. The legal effect of the Act is to provide a right of burial in the cemetery attached to the Malankara Church, with an option to the relatives of the deceased member of a Parish to forego funeral services in Church or its cemetery or opt for funeral services at any other premises by a Priest of their choice. The 2020 Act enables the members of the bereaved family to conduct last rites in the respective houses of the deceased or members of that family and to conduct the actual burial in the cemetery without performing any burial services inside the Church, as per the choice of the relatives. By virtue of Section 3(2) of the 2020 Act, the members of the deceased family may forego funeral services in the Church or its Cemetery or opt for funeral services at any other premises by a Priest of their choice. So, by virtue of Section 3(2), the Vicar appointed under the 1934 Constitution is not obligated to conduct funeral services. Since the 2020 Act itself facilitates conduct of funeral services at any other premises other than the Church or the Cemetery by a Priest of their choice, the right of a Vicar appointed under the 1934 Constitution to conduct religious services in the Church has no impact on the right conferred under



the said Act. There is no legal impact of the 2020 Act on the contempt proceedings. Till now, no case has been registered against the Orthodox faction against any violation of the 2020 Act.

137. On issue Nos.(v) and (vi), the learned Additional Advocate General argued that the 2020 Act is a constitutionally valid enactment within the exclusive legislative competence of the Kerala Legislature. It secures the fundamental right to a dignified burial under Article 21 of the Constitution of India, and the same is not in contravention of any essential religious practice of any denomination. The State has a duty to ensure decent burial, rooted in the right to dignity and fair treatment, even after death. This right, derived from Article 21 of the Constitution, extends to ensuring dignified disposal of bodies, including burial or cremation according to religious customs.

138. The 1st respondent State of Kerala enacted the 2020 Act, to provide for the burial of corpse and funeral services of Christians belonging to Malankara Orthodox-Jacobite denominations and for matters connected therewith or incidental thereto. Clause (b) of Section 2 defines 'Christian' to mean any person belonging to the Orthodox-Jacobite denominations of



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Malankara Christian Church who believes in the Bible and accepts Jesus Christ as the only begotten Son of God and has been baptised. Section 3, which deals with right to burial of corpse, reads thus;

“3. Right to burial of corpse.- (1) All members of the families belonging to a parish shall have the right to be buried in the cemetery where their ancestors were buried.

(2) The relatives of the deceased member of a parish may forego funeral services in church or its cemetery or opt for funeral services at any other premises by a priest of their choice.

Explanation.- For the purpose of this section member of a family belonging to a parish includes descendants of all persons who have been buried in that cemetery, but shall not include those who have left the faith of Orthodox-Jacobite Church and have embraced other denominations of Christian Church or other religions.” (underline supplied)

139. Section 4 of the 2020 Act deals with penalty. S per Section 4, whoever prevents or attempts or abets to prevent the burial of corpse in violation of the provisions contained in Section 3 shall, on conviction, be sentenced to imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

140. On issue Nos.(v) and (vi), we notice that Malankara



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

251

Orthodox Syrian Church, Muttambalam along with two others filed W.P.(C)No.2987 of 2021, invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking a declaration that the 2020 Act published in Kerala Gazette Extraordinary Vol.IX No.560 dated 18.02.2020 is an attempt to overreach the directions of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, as affirmed in **Mathews Mar Koorilos [(2018) 9 SCC 672]** and violate Articles 14, 25 and 26 of the Constitution of India and transgresses the constitutional limitations and therefore unconstitutional. Other consequential reliefs are also sought in that writ petition, which was one filed on 04.02.2021. On 05.02.2021, when W.P.(C)No.2987 of 2021 came up for admission, it was admitted on file. The learned Government Pleader took notice for the 1st respondent State and the 2nd respondent Law Secretary. Notice was ordered to respondents 3 and 4, i.e., Malankara Yacobaya Suriyani Christiani Sabha and its Catholicos. In the said writ petition, the 4th respondent has filed a counter affidavit dated 29.03.2021, opposing the reliefs sought for. A counter affidavit dated 11.04.2023 on behalf of the 1st respondent State was filed on 12.04.2023. A counter affidavit



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

252

dated 12.06.2023 on behalf of the 3rd respondent was filed on 13.06.2023. The said writ petition is pending consideration before the learned Single Judge. Another writ petition, i.e., W.P.(C)No. 4743 of 2021 filed by the parishioners of Malankara Orthodox Syrian Church, Muttambalam is also pending consideration, in which the reliefs sought for include a declaration that the constitutionality of Kerala Right to Burial of Corpus in Christian (Malankara-Orthodox-Jacobite) Cemeteries Act, 2020, which confers right of burying the dead according to the faith and tradition of Jacobite Christians cannot be adjudicated without the 1064 churches and trustees on the party array. The said writ petition, which was admitted on 24.02.2021, is listed along with W.P.(C)No.2987 of 2021.

141. Since the challenge made in W.P.(C)No.2987 of 2021 against the 2020 Act, on the ground that the said Act is an attempt to overreach the directions of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, as affirmed in **Mathews Mar Koorilos [(2018) 9 SCC 672]** and violate Articles 14, 25 and 26 of the Constitution of India and transgresses the constitutional limitations and therefore unconstitutional, is pending before the



learned Single Judge, we deem it appropriate not to consider the rival contentions on issue Nos.(v) and (vi) in these contempt appeals, since it is not in dispute that, till now, no case has been registered against any faction alleging violation of the 2020 Act.

I. Issue No.(vii) - Should a High Court in a dispute relating to religious affairs direct the Civil Administration to take over physical possession of the religious places, and if so, to what extent such intervention would be necessitated in the public interest:-

142. On issue No.(vii), the learned Senior Counsel/learned counsel for the appellants in the contempt appeals filed by the party respondents in the respective writ petitions argued that the impugned directions issued by the learned Single Judge in the respective contempt cases are legally impermissible. While issuing such directions, the learned Single Judge went far beyond the scope of the provisions under Article 215 of the Constitution of India and Section 12 of the Contempt of Courts Act, 1971. No courts, including the Constitutional Courts, have the power to order the takeover of physical possession of religious institutions in the event of disputes between denominational factions. The power to restrict or regulate fundamental rights under Article



26(c) and (d) of the Constitution of India in respect of religious denominations is circumscribed by three factors, i.e., public order, morality and health. In **K.S. Varghese [(2017) 15 SCC 333]**, question No.70.3 was related to the Parishioners of the three churches concerned, to follow their faith under Article 25 of the Constitution of India, and to manage their affairs under Article 26. Though the argument was that their fundamental rights would be infringed, significantly, the Apex Court did not examine the issue of denominational rights of the entire Malankara Orthodox Church. In the said decision, the Apex Court did not have occasion to deal with any legislation like the 2020 Act. The High Court exercises powers under Article 226 for the enforcement of fundamental rights under Part III of the Constitution of India. The said power cannot be used for denying such rights to a particular denomination, at the instance of another denomination. In furtherance of the order of the Apex Court dated 03.12.2024 in SLP(C)Nos.26064-69 of 2024, the Head of Malankara Orthodox Syrian Church has sworn to an affidavit, wherein it is stated that the burial of the dead cannot be done in the cemetery as the Patriarch group is a totally different religious faith and their Priests



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

255

are aliens. In short, two denominations are admitted in the said affidavit. The 2020 Act also refers to Malankara Orthodox-Jacobite denominations. Therefore, the said statute also accepts two denominations. The learned Additional Advocate General for the appellants in the contempt appeals filed by the official respondents in the respective writ petitions argued that the impugned directions issued by the learned Single Judge in the respective contempt cases are legally impermissible. While issuing such directions, the learned Single Judge went far beyond the scope of the provisions under Article 215 of the Constitution of India and Section 12 of the Contempt of Courts Act, 1971.

143. On issue No.(vii), the learned Senior Counsel for respondents 1 and 2 in Con.App.No.8 of 2024 and connected matters argued that the High Court can direct the civil administration to take over physical possession of the religious places as held in **Marthoman Church Mulanthuruthy and others v. State of Kerala and others [2020 (3) KHC 448]** - judgment dated 18.05.2020 in W.P.(C)No.33316 of 2019 - which was affirmed by the Division Bench in the judgment dated 05.11.2020 in W.A.No.1366 of 2020, which was affirmed by the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

256

Apex Court in the order dated 29.09.2020 in SLP(C)No.11212 of 2020. Further in para 16 of the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024, the Apex Court permitted this Court to pass appropriate orders for the enforcement of the Court orders, if it is found to have been willingly and deliberately not given effect in its true letter and spirit. Vol.No.III of the Compilation, inter alia, consists of 16 orders successively passed by this Court in contempt cases, which are contained in Sl.Nos.1 to 27 in the said Compilation by respondents 1 and 2. Vol.No.III of the Compilation also contains repeated affidavits filed by the State containing lame excuses for not implementing the judgment and seeking time from time to time. The affidavits filed by the State, along with photographs appended to those affidavits, clearly demonstrate how the members of the Patriarch faction have deliberately flouted the Court orders and how the Police are physically prevented from enforcing the Court orders. The affidavits and photographs explicitly describe a sad state of affairs where the State failed in its duty to implement the judgment and thereby rendered a mockery of justice. The law is binding upon all, irrespective of their position. This is the public interest



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

involved, since the State is the role model in the implementation of the law. Hence, in the public interest, the direction to take possession of the Church only for the purpose of implementing the judgment is correct. The attempts to flout the judgments in Seminary Suit and Arthat Suit and the dissention in the Church continue despite the decision in Vattippanam Suit, Samudayam Suit and the 1995 judgment. Hence, nobody shall be permitted to flout the law, which is highly demonstrated in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**.

144. In **P.R. Murlidharan v. Swami Dharmananda Theertha Padar [(2006) 4 SCC 501]**, the Apex Court was dealing with a case in which the 1st respondent therein claimed himself to be a Sanyasi in the tradition of 'Sree Chattambi Swamy Thiruvadikal' and Madathipathi and Sthiradhyakshan of Parama Bhattara Gurukula Seva Sangham, known as 'Vadayampadi Asharamam'. He filed a suit in the Munsiff's Court, Kolenchery, as O.S.No.71 of 2000, for a declaration that he was entitled to continue in the said capacity, and he was not allowed to discharge his duties attached to the said office in terms of the purported



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

258

order dated 20.01.1996 of Kailasanatha Theertha Padar. The said suit was dismissed for default. An application for restoration of the said suit was filed, which was also dismissed. In relation to the affairs of the trust, a suit as O.S.No.30 of 2002 is pending in the Munsiff's Court, Kolenchery. The said suit was filed by one G. Parameswaran Nair, a founder member of Vadayampadi Asharamam, questioning the purported resolution dated 07.01.2001. Brahmasree Kailasanatha Theertha Padar filed an interlocutory application for getting himself impleaded as a party, alleging that, as per the bye-laws, he had admittedly been serving in the said capacity since 1996 and, thus, in law continues to be the Madathipathi and Sthiradhyakshan. The said applicant, as also the 1st respondent before the Apex Court, are parties in O.S.No.30 of 2002. Though O.S.No.71 of 2000 filed by the 1st respondent therein was dismissed, he filed W.P.(C)No.16047 of 2004 before this Court, praying for police protection. A Division Bench of this Court went into the question as to whether the 1st respondent therein was entitled to hold the office of Madathipathi and Sthiradhyakshan for the purpose of issuing an appropriate direction as regards the grant of police protection. This Court



opined that the State and the police officials have a legal obligation to give protection to the life and property of the appellant upon arriving at a finding of fact that he was entitled to hold the said office. Aggrieved by that judgment, the appellant approached the Apex Court.

145. In **P.R. Murlidharan [(2006) 4 SCC 501]**, the Apex Court noticed that the construction of the trust and the rights and obligations thereunder were in question. The 1st respondent therein filed a suit on that behalf, which was dismissed. In terms of Order IX, Rule 9 of the Code of Civil Procedure, 1908, another suit would not be maintainable at his instance. Another suit, i.e., O.S.No.30 of 2002, filed by one G. Parameswaran Nair, is pending in the Munsiff's Court. The High Court, despite noticing the said fact, sought to usurp the jurisdiction of the civil court and determined the contentious issues, which were required to be proved in terms of the provisions of the Evidence Act, 1872. It is one thing to say that in a given case a person may be held to be entitled to police protection, having regard to the threat perception, but it is another thing to say that he is entitled thereto for holding an office and discharging certain functions, when his



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

right to do so is open to question. A person could not approach the High Court for the purpose of determining such disputed questions of fact, which were beyond the scope and purport of the jurisdiction of the High Court, while exercising writ jurisdiction, as it also involved the determination of disputed questions of fact. The 1st respondent therein, who sought to claim a status, was required to establish the same in a court of law, in an appropriate proceeding. He, for one reason or the other, failed to do so. The provisions of Order IX, Rule 9 of the Code stare on his face. He, therefore, could not have filed a writ petition for getting the selfsame issues determined in his favour, which he could not do even by filing a suit. Indeed the jurisdiction of the writ court is wide while granting relief to a citizen of India so as to protect his life and liberty as adumbrated under Article 21 of the Constitution of India, but while doing so, it could not collaterally go into that question, determination whereof would undoubtedly be beyond its domain. What was necessary for the determination of the question arising in the writ petition was not the interpretation of the documents alone, but it required adduction of oral evidence as well. Such evidence was necessary for the purpose of explaining



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

261

the true nature of the deed of trust, as also the practice followed by this trust. In any event, the impleading applicant in O.S.No.30 of 2002 has raised a contention that he alone was ordained to hold the said office as per the bye-laws of the trust. The qualification of the 1st respondent therein to hold the office was also in question. In this view of the matter, the Apex Court held that such disputed questions could not have been gone into by the High Court in a writ proceeding. Furthermore, the jurisdiction of the civil court is wide and plenary. In a case of this nature, a writ proceeding cannot be a substitute for a civil suit. For the said reasons, the Apex Court set aside the impugned judgment of the Division Bench of this Court. However, the appeal was allowed with the observation that, in the event the 1st respondent therein feels that he, as a person, should receive protection to his life, he may make an appropriate representation to the Superintendent of Police, who, after causing an inquiry to be made on that behalf, may pass an appropriate order as is permissible in law.

146. In **P.R. Murlidharan [(2006) 4 SCC 501]**, P.K. Balasubramaniam, J., in his concurring judgment, observed that a writ petition under the guise of seeking a writ of mandamus



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

directing the police authorities to give protection to a writ petitioner cannot be made a forum for adjudicating on civil rights. It is one thing to approach the High Court, for issuance of such a writ on a plea that a particular party has not obeyed a decree or an order of injunction passed in favour of the writ petitioner, was deliberately flouting that decree or order and in spite of the petitioner applying for it, or that the police authorities are not giving him the needed protection in terms of the decree or order passed by a court with jurisdiction. But, it is quite another thing to seek a writ of mandamus directing protection in respect of property, status or right which remains to be adjudicated upon, and when such an adjudication can only be got done in a properly instituted civil suit. It would be an abuse of process for a writ petitioner to approach the High Court under Article 226 of the Constitution seeking a writ of mandamus directing the police authorities to protect his claimed possession of a property without first establishing his possession in an appropriate civil court. The temptation to grant relief in cases of this nature should be resisted by the High Court. The wide jurisdiction under Article 226 of the Constitution would remain effective and meaningful only when it



is exercised prudently and in appropriate situations. On the facts of the case at hand, the learned Judge noticed that various disputed questions arose based on a deed of trust and the facts pleaded by the writ petitioner and controverted by the other side. The High Court should have normally directed the writ petitioner to have his rights adjudicated upon, in an appropriate suit in a civil court. The fact that a writ petitioner may be barred from approaching the civil court, in view of Order IX, Rule 9 of the Code of Civil Procedure, or some other provisions, is no ground for the High Court to take upon itself, under Article 226 of the Constitution, the duty to adjudicate on the civil rights of parties for the purpose of deciding whether a writ of mandamus could be issued to the police authorities for the protection of the alleged rights of the writ petitioner. A writ of mandamus directing the police authorities to give protection to the person of a writ petitioner can be issued, when the court is satisfied that there is a threat to his person and the authorities have failed to perform their duties and it is different from granting relief for the first time to a person either to allegedly protect his right to property or his right to an office, especially when the pleadings themselves



disclose that disputed questions are involved. As rightly pointed out in the judgment, the High Court was in error in proceeding to adjudicate on the rights and obligations arising out of the trust deed merely based on the affidavits and the deed itself. The High Court should not have undertaken such an exercise on the basis that the right of the writ petitioner under Article 21 of the Constitution is sought to be affected by the actions of the contesting respondents and their supporters, and that can be prevented by the issue of the writ of mandamus prayed for. A writ for 'police protection', so called, has only a limited scope, as when the court is approached for protection of rights declared by a decree or by an order passed by a civil court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.

147. In **Moran M. Baselios Marthoma Mathews II v. State of Kerala [(2007) 6 SCC 517]**, the Apex Court was dealing with a case in which the controversy was regarding the interpretation of the decision of the said Court in **Most Rev.**



P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]. The appellants filed a writ petition before this Court praying, inter alia, for the following reliefs;

“(a) In the above facts and circumstances of the case this Hon'ble Court may kindly be pleased to issue a writ of mandamus or any other appropriate writ, order or directions commanding Respondents 1 to 4 and their subordinates to give effective and adequate police protection to the first petitioner to exercise his rights, duties and privileges as the Catholicos cum Malankara Metropolitan of the Malankara Church with respect to the Parishes mentioned in Exhibit P4 and institutions of the Malankara Church without any threat or obstruction from Respondents 5 to 13 or their agents or servants in any manner.

(b) To issue a writ of mandamus or any other appropriate writ, order or directions commanding Respondents 1 to 4 to give effective and adequate police protection to the petitioners to exercise their rights, duties and privileges as Metropolitans of the Malankara Orthodox Syrian Church under the first petitioner without any threat or obstruction from Respondents 5 to 13 or their agents or servants in any manner.

(c) To issue a writ of mandamus or any other appropriate writ, order or directions commanding Respondents 1 to 4 to give effective and adequate police protection to other Bishops similarly placed as well as to the faithful members of the Malankara Church for the purpose of participating in



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

the conduct of religious services in the said Parish Churches of the Malankara Church by the petitioners without any threat or obstruction from Respondents 5 to 13 or their agents or servants in any manner.

(d) Issue a writ of mandamus or any other appropriate writ, order or direction commanding Respondents 1 to 4 to take steps to see that Respondents 5 to 13 do not enter into any of the churches of the Malankara Orthodox Syrian Church mentioned in Exhibit P4 and institutions of the Malankara Church in any capacity either as Catholics, Bishop, Priest or in any other manner.

(e) Issue appropriate directions to Respondents 1 to 4 to restrain Respondents 5 to 13 from in any way obstructing the petitioners from exercising the powers in accordance with the provisions of the 1934 Constitution of the Malankara Church with respect to the Parish Churches of the Malankara Church mentioned in Exhibit P4 and institutions of the Church.

(f) Direct Respondents 5 to 13 to pay the cost of this petition to the petitioners."

148. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, the Apex Court noticed that, one of the contentions, which was raised before the High Court, was on the maintainability of the writ petition, on the premise that it could not have gone into the disputed questions of fact and, particularly, the application of the said judgment in relation to Parish Churches.



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

The appellants raised a contention that the writ petition was maintainable as the State and its officers, having regard to the provisions contained in Article 144 of the Constitution of India, are duty-bound to give effect to the decision of the Apex Court in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**. This Court, in view of the rival contentions, formulated the following questions for consideration;

“1. Are the contesting respondents bound by the judgment of their Lordships of the Supreme Court in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**.

2. Is a case for the issue of a writ of mandamus as prayed for by the petitioners made out.”

149. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, the Apex Court noticed that, upon noticing the contentions raised by the parties, including the claim of the appellants over the properties of the Parish Churches, in relation to which there exists a serious dispute, and about 200 civil suits are pending in different courts in the State of Kerala, the High Court, however, went into the merit of the matter and opined that so far as the rights of Parish Churches are concerned, there was



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

no declaration as against them, having not been impleaded in the proceedings before the Apex Court. Having opined so, the High Court held:

“(i) The rights of the Parish Churches were not determined by the Supreme Court in the 1995 decision. Thus, it cannot be said that the contesting respondents have no right to manage their properties or that the 1st petitioner has any right over the Churches which were not parties in the case.

(ii) All the Churches listed in Ext.P4 having not been impleaded as parties, no order affecting the rights of those who are not before the Court can be passed.

(iii) The Churches had the right to form a separate association. They were also entitled to leave the Malankara Association under Articles 19, 25 and 26. It has not been shown that they had acted illegally in doing so.

(iv) Police help cannot be ordered for the mere asking. It involves expense for the State. It is not a substitute for proceedings before an appropriate authority or court. It can be normally granted only when there is clear evidence of an existing danger to a person or property. In matters involving religious institutions, it would normally be inappropriate to order the grant of police protection unless a clear case for allowing the entry of the police is made out.

(v) Keeping in view the peculiar facts and circumstances as noticed above, no ground for the issue of a writ of mandamus as prayed for by the petitioners is made out.”

150. In **Moran M. Baselios Marthoma Mathews II**



[(2007) 6 SCC 517], the short question considered by the Apex Court was as to whether, in a situation of the above nature, the High Court should have gone into the rival contentions of the parties. The answer by the Apex Court was 'no'. The Apex Court found that there cannot be any doubt whatsoever that a prayer for issuance of a writ of mandamus may be granted against the State commanding it to perform its legal duties when it fails and/or neglects to do so. It is, however, another thing that while considering only that aspect of the matter, the Court in the garb of rendering a decision on that limited aspect would go into the disputed question of title and/or interpretation of a judgment of the Apex Court wherefor other remedies are not only available; but, as already noticed, in fact, more than 200 suits, touching one aspect of the matter or the other, are pending in different civil courts.

151. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, the Apex Court opined that a distinction must be borne in mind regarding the exercise of jurisdiction under Article 226 of the Constitution of India in relation to matters providing for public law remedy vis-à-vis private law remedy. The



High Court, while exercising its jurisdiction under Article 226 of the Constitution, no doubt, exercises a plenary power, but then certain limitations in regard thereto are well accepted. Ordinarily, a writ of or in the nature of mandamus would be issued against a 'State' within the meaning of Article 12 of the Constitution of India or the public authorities discharging public functions or a public utility concern or where the functions of the respondents are referable to a statute, which a fortiori would mean that save and except for good reasons the Court would not entertain a matter involving private law remedy.

152. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, the Apex Court noticed that the question as regards the grant of a relief for providing police protection in a somewhat similar case came up for consideration in **P.R. Murlidharan [(2006) 4 SCC 501]**, wherein it was held that the jurisdiction of the civil court is wide and plenary. In a case of this nature, a writ proceeding cannot be a substitute for a civil suit. Balasubramanyan, J., in his concurring opinion, observed that it would be an abuse of process for a writ petitioner to approach the High Court under Article 226 of the Constitution of India seeking



a writ of mandamus directing the police authorities to protect his claimed possession of a property without first establishing his possession in an appropriate civil court. The temptation to grant relief in cases of this nature should be resisted by the High Court. The wide jurisdiction under Article 226 of the Constitution would remain effective and meaningful only when it is exercised prudently and in appropriate situations.

153. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, before the Apex Court, the learned Senior Counsel for the respondents contended that the appellants cannot be permitted to take a different stand now, nor can they be allowed to play fast and loose. The High Court had arrived at its opinion only at their behest. The attention of the Apex Court was also drawn to the grounds taken by the appellants to contend that a writ of or in the nature of mandamus was sought for enforcing the purported legal right of the appellant vis-à-vis the State and its officers and not as against the private persons. The Apex Court found that such disputed questions in regard to title of the properties or the right of one group against the other in respect of the management of such a large number of Churches could not



have been the subject-matter for determination by a writ court under Article 226 of the Constitution of India in the garb of grant of police protection to one or the other appellants. Despite the fact that the appellants had insisted upon before the High Court for issuance of a writ or in the nature of mandamus upon the State or its officers for the purpose of grant of police protection as the Apex Court has exercised its appellate jurisdiction under Article 136 of the Constitution of India, it can and should go into that question as well viz., as to whether the writ petition itself could have been entertained or not, particularly, when the appeal is a continuation of the original proceedings.

154. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, before the Apex Court, the learned counsel for the respondents submitted that different Benches of the High Court may take different views in regard to the interpretation of the judgment of the Apex Court in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and in support thereof has placed before the Apex Court a judgment of the learned Single Judge in *St. George Jacobite Syrian Christian Church v. State of Kerala* – W.P.(C)Nos.28865 and 32114 of 2006 - wherein a view



different from the one taken by the Division Bench of the High Court in the impugned judgment has been taken. Having regard to the opinion expressed hereinbefore, and in view of the fact that, admittedly, a writ appeal against the said decision has been filed by the aggrieved parties before the Division Bench of the High Court, the Apex Court did not go into the said contention. [The said writ appeal, i.e., W.A.No.1484 of 2007, arising out of the judgment dated 28.02.2007 in W.P.(C)No.28865 of 2006, was disposed of by the judgment dated 26.06.2007, making it clear that whatever observations and findings rendered by the learned Single Judge will have no bearing on the issues involved in the civil suit and the findings recorded are only for the disposal of the writ petition.]

155. In **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, the Apex Court opined that the High Court committed a manifest error in going into the disputed questions of title as also the disputed questions in regard to the rights of a particular group to manage the Churches, in exercise of its writ jurisdiction, particularly, when such questions are pending consideration before competent civil courts. Therefore, any



observation made by the High Court should not influence the courts concerned in arriving at their independent decisions, and in respect thereof, all contentions of the parties shall remain open. The Apex Court made those observations, particularly in view of the fact that even a large number of persons who have filed different suits in different courts of law were not parties before the High Court in the writ petition, and thus any observation and findings of the High Court would otherwise also not be binding on them. While disposing of the appeals, the Apex Court clarified that the Court has not expressed any opinion on the merits of the issue pending before the civil courts.

156. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court held that the Malankara Church, its properties, and other matters are to be governed by the 1934 Constitution, and even the majority of Parishioners have no right to take away and usurp the Church itself or to create a new system of management contrary to the 1934 Constitution. It was a trust created as the Malankara Church that is supreme, for once a trust, always a trust. The Malankara Church is Episcopal to the extent it is so declared in the 1934 Constitution, which governs the affairs of the Parish



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Churches and shall prevail. Otherwise, also, property cannot be taken away by the majority, or otherwise, and it will remain in Trust as it has been for time immemorial, for the sake of beneficiaries. It is for the benefit of beneficiaries. No one can become an owner by majority decision or be permitted to usurp the Church itself.

157. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court held that the properties would always remain as Malankara Church properties. Only office-holders have to subscribe to the 1934 Constitution as held by the Court. The Parishioners can take no Church property away, neither Catholicos faction by majority, and the submission is based on a misconception as to the nature of rights in such property. It has to remain in the Malankara Church. Neither the Church nor the Cemetery can be confiscated by anybody. It has to remain with Parishioners as per the customary rights, and nobody can be deprived of the right one enjoys being a Parishioner in the Church or to be buried honourably in the cemetery, in case he continues to have faith in Malankara Church. Even if the Vicar performs functions which are religious, there would not be infringement of the rights under



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

Article 25 and Article 26 of the Constitution of India in case the Diocesan Metropolitan appoints the Vicar as provided in the Constitution of 1934, and it is clear that the Patriarch of Antioch has not reserved this power to himself. As a matter of fact, the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - settled such disputes between the parties, in which the Court tried its best to take care of the prevailing situation while passing the decree. Once there is a Malankara Church, it has to remain as such. No group or denomination can take away the Church and form another group for its management, as that would virtually tantamount to usurping its properties and the Church itself. When the Church has been created and is for the benefit of beneficiaries, it is not open for beneficiaries, even by majority, to usurp its property or management.

158. In **Baby C.J. v. Fr. Jiju Varghese [2019 (2) KHC 692]**, the Apex Court was dealing with SLP(C)Diary No.4972 of 2019 and connected matters arising out of the order dated 10.07.2018 of a learned Single Judge of this Court in F.A.O.Nos. 96 of 2018 and 99 to 101 of 2018. Those appeals were filed



challenging the order dated 20.03.2018 of the First Addl. District Court, Ernakulam, in I.A.No.5432 of 2017 in O.S.No.7 of 2014 and the orders passed by the said court in similar interlocutory applications filed in O.S.Nos.9 of 2015, 23 of 2014 and 5 of 2017, whereby leave granted under Section 92 of the Code was revoked, and the suits were struck off from the file. In fact, only after institution of the suits, I.A.No.1009 of 2012 and connected applications filed under Section 92(1) of the Code were allowed, granting leave. The common question that came up for consideration before the learned Single Judge of this Court was whether revocation of the leave under Section 92 of the Code and striking off the suits from the file could be justified. According to the plaintiffs, the Churches are to be administered under the 1934 Constitution. On the other hand, the defendants contended that the Churches in question are not to be administered under the 1934 Constitution. Relying on the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, the appellants-plaintiffs contended that there is no legal infirmity in seeking leave under Section 92 of the Code, through an interlocutory application filed along with the suit. On the other hand, the respondents-



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

defendants contended that, without sanctioning leave under Section 92 of the Code, institution of the suit itself is bad in law, and it cannot be rectified by any subsequent act. The learned Single Judge noticed that in **B.K.N. Pillai v. George Mendez [1988 (2) KLT 605]**, after elaborately considering the provisions in Sections 91 and 92 of the Code, a Division Bench of this Court observed that the following words "having obtained the leave of the court may institute a suit" appearing in Section 92 of the Code make it clear that obtaining leave is sine qua non for institution of the suit. Sub-section (2) of Section 92 makes the position further clear as the institution of suit without obtaining leave is not permitted. The learned Single Judge held that the defect goes to the root of the matter as the institution itself is bad for want of sanction, which is a precondition for the institution of a suit under Section 92 of the Code. It is settled that leave once granted can be revoked at a later point in time, provided the conditions for revocation of leave have been established. Therefore, the District Court exercised its jurisdiction correctly and found that the suits were not properly instituted, as leave was not obtained before the institution of the suits.



159. In **Baby C.J. [2019 (2) KHC 692]**, the Apex Court held that, as the controversy in question has been finally decided on 03.07.2017, in the case of **K.S. Varghese [(2017) 15 SCC 333]**, which holds the field, nothing further survives in the matters for adjudication. Consequently, the appeals were disposed of in view of the above judgment. The Apex Court directed all the concerned courts and authorities to act in terms of that judgment. The Apex Court made it clear that, let there be no multiplicity of litigation on this aspect any more in various courts and that the decision rendered in the representative suit is binding on all.

160. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, a learned Single Judge of this Court was dealing with a writ petition relating to the affairs of Marthoman Church, Mulanthuruthy. Admittedly, the said Church is part of the Malankara Church. There arose a dispute regarding the administration of the affairs of the Church. A scheme suit was filed as O.S.No.1 of 1124 (ME). A preliminary decree was passed on 11.12.1959, allowing the prayer for framing a scheme. Pursuant to the preliminary decree, a final decree was passed approving the scheme. Accordingly, the scheme (Ext.P8) was framed. Based on



the decision in **K.S. Varghese [(2017) 15 SCC 333]**, an application was filed to pass a supplementary decree to substitute the scheme by the 1934 Constitution. The District Court allowed the prayer, as per the order dated 25.10.2019 in I.A.No.624 of 2007. The application was mainly resisted by the rival Patriarch faction, contending that more than 90% of the Parishners in the Church belonged to the Patriarch faction, and Bishops of a microscopic minority belonging to the Catholicos faction cannot be accepted. This objection was overruled by the District Court, relying on the decision in **K.S. Varghese [(2017) 15 SCC 333]**.

161. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the resistance to the prayers for police protection was on the ground that a writ of mandamus cannot be used to enforce the judgment of the Apex Court, so as to enforce the supplementary decree passed by the District Court. The petitioners' prayer is mainly to accord police protection to the Vicar appointed in accordance with the 1934 Constitution to conduct religious services and other affairs related to the Church, by contending that the judgment of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** is a declaration of law regarding the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

281

management of affairs of the Malankara Orthodox Syrian Church. Per contra, the party respondents contended that the judgment of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** cannot be enforced by invoking the powers of this Court under Article 226 of the Constitution of India. This argument is premised on Article 142 of the Constitution of India. In exercise of the powers conferred by clause (1) of Article 142, an order was issued by the President of India titled 'The Supreme Court (Decrees and Orders) Enforcement Order, 1954' ('the Enforcement Order'). Therefore, the decree of the Apex Court can only be executed in the manner provided therein. The Enforcement Order refers to the enforcement of orders and decrees of the Apex Court by following the provisions of the law, for the time being in force, for the enforcement of a decree or order. The learned State Attorney has also raised a contention that the decree has to be executed through the civil court. He also pointed out the difficulties faced by the State and the Police Officers in identifying the true faction representing the 1934 Constitution. The learned Senior Counsel for the petitioners contended that this is not a case where a dispute has arisen in a claim made for recovery of possession. The



dispute concerning the management of affairs cannot be addressed by the civil court when there is a law and order issue. The learned Senior Counsel, placing reliance on the judgments of the Division Bench of this Court in similar instances in W.P.(C)No.25202 of 2017 and W.P.(C) No.10727 of 2019, and the judgment of a learned Single Judge in W.P.(C)No.25089 of 2019, argued that the High Court has necessary power to enforce the directions given by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**.

162. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the learned Single Judge noticed that the Division Bench of this Court in W.P.(C)No.25202 of 2017 filed by Catholicos had observed that in **K.S. Varghese [(2017) 15 SCC 333]** the Apex Court has declared that the 1934 Constitution governs the affairs of the Parish Churches. It binds not only the parties named in the suit but all those who have an interest in the Malankara Church. Findings in the earlier representative suit also bind the Parish Churches/Parishioners. The Patriarch, the Court declared, cannot interfere in the governance of Parish Churches by appointing Vicar, Priests, Deacons, Prelates (High Priests), etc.



Therefore, the Patriarch cannot create parallel administration. The Division Bench further observed that the judgment in **K.S. Varghese [(2017) 15 SCC 333]** has put an end to all earlier interim arrangements. In W.P.(C)No.25202 of 2017, the Division Bench, noting that the dispute has resulted in law and order issues, ordered police protection. The Division Bench in another writ petition, i.e., W.P.(C)No.10727 of 2019, also accorded police protection in a similar dispute. In W.P.(C)No.25089 of 2019, a learned Single Judge accorded police protection in similar circumstances.

163. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the learned Single Judge held that the rule of law is not just about the Governing. It also requires that citizens respect and comply with legal norms even if they disagree with them. When there is a dispute and the conflict is resolved by judicial decision, the rule of law demands respect for the judicial decision. The Apex Court judgment in **K.S. Varghese [(2017) 15 SCC 333]** put an end to the whole controversy regarding the dispute. The resistance made before the District Court against the passing of the supplementary decree shows that the Patriarch faction is



not prepared to give up. The resistance has become a law and order issue. There appears to be a patronised resistance in regard to many churches, as revealed from many writ petitions filed before this Court. Whether the judgment of the Apex Court can be enforced through a civil court or not, becomes an academic question when issues boil up to such levels beyond the manageable stands of the civil court. The power and authority of the civil court to enforce the decree would exist when something remains executable. On the declaration of law by the Apex Court, what is expected from the Patriarch faction is its obedience to the Apex Court judgment to uphold the rule of law. When the stream of law is attempted to be diverted by repeated disobedience, resulting in a law and order situation, the constitutional court can alone render justice. There is a subtle difference between implementation and enforcement. Implementation is in the nature of execution which, normally, the civil court resolves to implement its decree or order. Enforcement has different facets which take in the implementation by preventive or coercive actions or maintaining law and order through the force of law.

164. In **Marthoman Church, Mulanthuruthy [2020 (3)]**



KHC 448], the learned Single Judge held further that the law and order is a matter of governance. The civil court has no role in itself to interfere or supervise a matter of governance. The civil court has only limited jurisdiction and power. It can order police assistance as an aid to execute the decree. When nothing remains as executable, the executing power of the civil court cannot be invoked for police protection alone. The constitutional courts are not only the courts of arbiter resolving disputes but also courts protecting the rights guaranteed to the citizens. The constitutional courts have a duty to maintain and uphold the rule of law. When there is a challenge to the rule of law by a citizen, who is bound to obey the same, the Court can step in by invoking its power of mandamus. The Court has to consider whether any effective measures are available otherwise. If there are no other measures, the High Court has to invoke its power of writ for the reasons of justice.

165. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the learned Single Judge noticed that the history of writ of mandamus refers to the use of mandamus as a prerogative writ, when there is no legal remedy available. Lord Mansfield, in



Rex v. Barker, Et Al'. [(1762) 3 Burr 1265 : (1762) 97 E.R. 823], as early as 1762, referred to the scope of writ of mandamus as a prerogative writ when there is no specific legal remedy. It is opined in **Rex v. Barker** as follows;

"Lord Mansfield - A mandamus is a prerogative writ; to the aid of which the subject is entitled, upon a proper case previously shewn to the satisfaction of the Court. The original nature of the writ, and the end for which it was framed, direct upon what occasions it should be used. It was introduced to prevent disorder from a failure of justice and a defect of the police. Therefore, it ought to be used upon all occasions where the law has established no specific remedy, and wherein justice and good government, there ought to be one."(sic)

The police protection jurisdiction exercised by this Court, invoking the writ of mandamus, is for the reason that there is no specific legal remedy available to the party. Lord Mansfield's ruling in **Rex v. Barker** would justify such an exercise of jurisdiction by the High Court. Interestingly, Lord Mansfield referred to the power of the court for issuing a writ of mandamus in a dispute related to a meeting-house, for the public worship of God by a congregation of Protestant Dissenters, and elucidated the scope of mandamus in such a dispute, as follows:



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

"Where there is a right to execute an office, perform a service, or exercise a franchise; (more especially, if it be in a matter of public concern, or attended with profit;) and a person is kept out of possession, or dispossessed of such right, and has no other specific legal remedy; this Court ought to assist by a mandamus; upon reasons of justice, as the writ expresses - Nos A. B. debitam et festinam justitiam in hac parte fieri violentes, ut est justum; and upon reasons of public policy, to preserve peace, order, and good government."

166. In **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the learned Single Judge held that law and order is part of the field of enforcement and its domain is beyond the manageable standards of the civil court. Therefore, the constitutional court alone has the power to enforce the directions of the Apex Court when there is a blatant breach of the directions of the Apex Court resulting in a law and order issue. The judgment in **K.S. Varghese [(2017) 15 SCC 333]** was delivered by the Apex Court on 03.07.2017. On the facts of the case at hand, the learned Single Judge noticed that the 4th petitioner has been appointed as a Vicar by the Diocesan Metropolitan of Kochi Diocese. Petitioners 5 to 7 are the Assistant Vicars appointed by the same authority. The party respondents have no case that they



have been appointed as per the 1934 Constitution. Their case is that when a scheme has been framed pursuant to the decree of the civil court, any further change can only be effected by varying the scheme and the Constitution thereon. It is their case that the Apex Court judgment in **K.S. Varghese [(2017) 15 SCC 333]** can be given effect only by amending the constitution, based on the scheme, in a proper manner. The learned Single Judge noticed that the dispute had been resolved by the Apex Court perpetually. By declaration of the law, all that happened by way of decree or order of the civil court has become redundant inasmuch as the parties are bound to follow the declaration of law laid down by the Apex Court. Therefore, those orders of the civil court will have to yield to the directions given in **K.S. Varghese [(2017) 15 SCC 333]**. No party can claim that they would follow the civil court judgment and not the direction of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**. The subsequent judgment in the representative suit in **K.S. Varghese [(2017) 15 SCC 333]** would bind the parties in respect to the Malankara Church and not the orders of the civil court contrary to it. Therefore, any other contention to resist the enforcement of the declaration of law by



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

289

the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]** will have to be repelled and negated. In the result, the learned Single Judge granted police protection to the petitioners, as prayed for.

Paragraph 14 of the judgment reads thus;

“14. In the result, this Court has to grant police protection to the petitioners as prayed. The police shall give effective protection to the petitioners to conduct religious service in Mulanthuruthy Marthoma Church as against any obstruction being caused by party respondents and others. The police shall ensure that no persons other than the petitioners are allowed to conduct religious services in the Church. The police shall ensure that the affairs of the church managed by the petitioners are not obstructed by the respondents. If any force is required to take over management and entrust the same to the petitioners, it shall also be done by the police. However, it is made clear that all parishioners are free to attend the services of the Church and the petitioners shall not deny them any religious services. The police shall take necessary measures as above until peace is achieved.”

167. The judgment of the learned Single Judge in **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, was affirmed by the Division Bench in the judgment dated 05.11.2020 in W.A.No.1366 of 2020. The said judgment was under challenge before the Apex Court in SLP(C)No.11212 of 2020 -



Mathai Vaniyath v. Marthoman Church Mulanthuruthy. The Apex Court dismissed SLP(C) No.11212 of 2020 by order dated 29.09.2020. In the said order, the Apex Court observed that O.P.(Civil) No.57469 of 2019 and the regular appeal filed against the order dated 25.10.2019 of First Additional District Judge should be decided on its own merits. In the said order, the Apex Court noticed that the petitioners' case is that their case is not covered by **K.S. Varghese [(2017) 15 SCC 333]**, whereas the case of the respondents is that the case is fully covered by **K.S. Varghese [(2017) 15 SCC 333]**. The order dated 29.09.2020 reads thus;

"We do not find any ground to entertain this special leave petition. The special leave petition is dismissed.

However, we observe that O.P.(Civil) No.57469 of 2019 and the regular appeal filed against the order dated 25.10.2019 of First Additional District Judge should be decided on its own merits. We also note that the petitioners' case is that their case is not covered by **K.S. Varghese v. St. Peter's and St. Paul's Syrian Orthodox Church [(2017) 15 SCC 333]**, whereas the learned counsel for the respondents submits that this case is fully covered by the judgment of this Court in **K.S. Varghese (supra).**" (underline supplied)



168. In **Mathai Vaniyath v. Marthoman Church Mulanthuruthy** - order dated 29.09.2020 in SLP(C) No.11212 of 2020 - the Apex Court, while declining interference on the judgment of this Court granting police protection to the Vicar appointed in accordance with the 1934 Constitution to conduct religious services and other affairs related to Marthoman Church, Mulanthuruthy, noticed the case of the petitioner that their case is not covered by **K.S. Varghese [(2017) 15 SCC 333]**, and that of the respondents that the case is fully covered by **K.S. Varghese [(2017) 15 SCC 333]**. In the said order, the Apex Court observed that O.P.(Civil) No.57469 of 2019 and the regular appeal filed against the order dated 25.10.2019 of First Additional District Judge should be decided on its own merits.

169. In the aforesaid case, there arose a dispute regarding the administration of the affairs of Marthoman Church, Mulanthuruthy. A scheme suit was filed as O.S.No.1 of 1124 (ME), in which a preliminary decree was passed on 11.12.1959, allowing the prayer for framing a scheme. Pursuant to the preliminary decree, a final decree was passed approving the scheme. Accordingly, the scheme (Ext.P8) was framed. Based on the



decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, an application was filed to pass a supplementary decree to substitute the scheme by the 1934 Constitution. The District Court allowed the prayer, as per the order dated 25.10.2019 in I.A.No.624 of 2007. The resistance to the prayers for police protection was on the ground that a writ of mandamus cannot be used to enforce the judgment of the Apex Court, so as to enforce the supplementary decree passed by the District Court. The learned Single Judge noticed that when the stream of law is attempted to be diverted by repeated disobedience, resulting in a law and order situation, the constitutional court can alone render justice. The law and order is part of the field of enforcement, and its domain is beyond the manageable standards of the civil court. The constitutional court alone has the power to enforce the directions of the Apex Court when there is a blatant breach of the directions of the Apex Court, resulting in a law and order issue. Therefore, the learned Single Judge granted police protection to the Vicar appointed in accordance with the 1934 Constitution to conduct religious services and other affairs related to Marthoman Church, Mulanthuruthy. While declining interference on the



judgment of the Division Bench, whereby the judgment of the learned Single Judge granting police protection was affirmed, the Apex Court observed that O.P.(Civil) No.57469 of 2019 and the regular appeal filed against the order dated 25.10.2019 of First Additional District Judge should be decided on its own merits. In the said order, the Apex Court noticed the rival contentions on the applicability of the law laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, in religious services and other affairs related to Marthoman Church, Mulanthuruthy.

170. As held by the learned Single Judge in **Marthoman Church, Mulanthuruthy [2020 (3) KHC 448]**, the constitutional courts are not only the courts of arbiter resolving disputes but also courts protecting the rights guaranteed to the citizens. The constitutional courts have a duty to maintain and uphold the rule of law. When there is a challenge to the rule of law by a citizen, who is bound to obey the same, the Court can step in by invoking its power of mandamus. The Court has to consider whether any effective measures are available otherwise. If there are no other measures, the High Court has to invoke its power of writ for the reasons of justice.



171. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the majority view in the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - refused to give a declaration with respect to property in the absence of Parish Churches. As held by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, the properties would always remain as Malankara Church properties. It has to remain in the Malankara Church. Neither the Church nor the Cemetery can be confiscated by anybody. It has to remain with Parishioners as per the customary rights, and nobody can be deprived of the right one enjoys being a Parishioner in the Church or to be buried honourably in the cemetery, in case he continues to have faith in Malankara Church. Only office-holders have to subscribe to the 1934 Constitution as held by the Court. In a dispute relating to the religious affairs of a Church, which is a Parish Church governed by the 1934 Constitution, the High Court cannot direct the Civil Administration to take over possession of the Church. In appropriate cases, when repeated disobedience of the decree passed by the competent court has resulted in a law and order situation, the High Court, being the constitutional court, can



render justice by granting police protection to ensure that there are no law and order issues in the conduct of religious services and other affairs in the said Church, in accordance with the 1934 Constitution. As held by the Apex Court in **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, after referring to the concurring opinion of Balasubramanyan, J. in **P.R. Murlidharan [(2006) 4 SCC 501]**, it would be an abuse of process for a writ petitioner to approach the High Court under Article 226 of the Constitution of India seeking a writ of mandamus directing the police authorities to protect his claimed possession of a property without first establishing his possession in an appropriate civil court.

J. Conclusions in these contempt appeals:-

172. As already noticed hereinbefore, these contempt appeals arise out of the order dated 30.08.2024 of the learned Single Judge of this Court in Con. Case (C)Nos.1761 of 2023, 1803 of 2023, 1824 of 2023, 299 of 2024, 329 of 2024 and 330 of 2024. The said contempt cases were filed, invoking the provisions under Section 12 of the Contempt of Courts Act, 1971, and Article 215 of the Constitution of India, alleging willful disobedience of the



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

296

judgment dated 31.01.2023 of the learned Single Judge in W.P.(C)No.25645 of 2019 and connected matters. The common relief sought for in all the writ petitions is a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent State and the official respondents to act strictly adhering to the decision of the Apex Court reported in **K.S. Varghese [(2017) 15 SCC 333]** ensuring that no Priests or Prelates appointed otherwise than in accordance with the 1934 Constitution conduct any sacraments including Holy Mass in the 1st petitioner Church in the respective writ petitions, its Parish hall, cemetery or any other appurtenant buildings thereto. The writ petitioners moved those writ petitions before this Court, after submitting representations before the official respondents, claiming police protection to ensure strict adherence to the decision of the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**. As already noticed hereinbefore at paragraphs 17 to 22, those writ petitions were disposed of by Annexure A1 judgment in the respective contempt cases by directing the police to see that appropriate steps are taken in compliance of the decision of the Apex Court. It was also ordered that adequate protection shall be



2026:KER:25384

[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

297

granted to the petitioners in the respective writ petitions, who are the lawfully appointed Vicars, Priests, etc., of the respective Churches in accordance with the 1934 Constitution to conduct religious services in the respective Churches, cemeteries, Parish halls, etc., without any obstruction, interruption or hindrance from the party respondents therein, i.e., the appellants in these contempt appeals, other than the contempt appeals filed by the official respondents.

173. By the order dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters, while remitting Cont.App.No.8 of 2024 and connected matters to this Court to decide the controversy afresh, after hearing all the parties concerned, the Apex Court directed this Court to determine the relevant issues enumerated in paragraph 12 of the said order; which includes, (i) What is the true import of the principles laid down or issues determined by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, **Mathews Mar Koorilos [(2018) 9 SCC 672]** and **St. Mary's Orthodox Church [(2020) 18 SCC 329]**; and (ii) Who are the parties that shall be bound by the dictum of the Apex Court in the said decisions. Issue No.(i) has been answered hereinbefore



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

at paragraphs 93, 94, 96, 97 and 99. Issue No.(ii) has also been answered hereinbefore at paragraph 134. On issue No.(ii), this Court held that, in **K.S. Varghese [(2017) 15 SCC 333]**, the interests represented by the plaintiffs and defendants in the suits filed under Order I Rule 8 and Sections 26 and 92 of the Code relate to the disputes in the management of Kolenchery Church, Varikoli Church and Mannathoor Church. The interests represented by the plaintiffs and the defendants in those original suits were confined to the disputes in the management of respective Churches. The Parishioners of the respective Churches alone are bound by the decree passed by the Apex Court in the said decisions. In **K.S. Varghese [(2017) 15 SCC 333]**, the Apex Court noticed that the majority view in the 1995 judgment - **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** - refused to give a declaration with respect to property in the absence of Parish Churches. In **K.S. Varghese [(2017) 15 SCC 333]**, the interests represented by the plaintiffs and defendants in the suits filed under Order I Rule 8 and Sections 26 and 92 of the Code relate to the disputes in the management of Kolenchery Church, Varikoli Church and Mannathoor Church. The interests represented



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

by the plaintiffs and the defendants in those original suits were confined to the disputes in the management of respective Churches. The Parishioners of the respective Churches alone are bound by the decree passed by the Apex Court in the said decisions. Though the law laid down by the Apex Court in **K.S. Varghese [(2017) 15 SCC 333]**, which was found by the Three-Judge Bench in **Mathews Mar Koorilos [(2018) 9 SCC 672]**, well in consonance with the decisions in **Moran Mar Basselios Catholicos [AIR 1959 SC 31]** and **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]**, shall apply in the resolution of disputes relating to the management of Parish Churches governed by the 1934 Constitution, it cannot be contended that the decree in **K.S. Varghese [(2017) 15 SCC 333]** applies to all constituent Parish Churches of Malankara Orthodox Syrian Church, and that the said decree remains unsatisfied insofar as those Parish Churches wherein parallel services are being conducted, and the administration is being conducted in violation of the law laid down in **Most Rev. P.M.A. Metropolitan [(1995) Supp. 4 SCC 286]** and **K.S. Varghese [(2017) 15 SCC 333]**.



174. As held by this Court on issue No.(ii), in **K.S. Varghese [(2017) 15 SCC 333]**, the interests represented by the plaintiffs and defendants in the suits filed under Order I Rule 8 and Sections 26 and 92 of the Code relate to the disputes in the management of Kolenchery Church, Varikoli Church and Mannathoor Church. Since the interests represented by the plaintiffs and the defendants in those original suits were confined to the disputes in the management of respective Churches, the Parishioners of the respective Churches alone are bound by the decree passed by the Apex Court in the said decisions. Though the law laid down by the Apex Court in the said decision, shall apply in the resolution of disputes relating to the management of Parish Churches governed by the 1934 Constitution, it cannot be contended that the decree in the said suits applies to all constituent Parish Churches of Malankara Orthodox Syrian Church. As held by the Apex Court in **Moran M. Baselios Marthoma Mathews II [(2007) 6 SCC 517]**, a writ petition under Article 226 of the Constitution of India seeking police protection, cannot be a substitute for a civil suit in which disputed questions in regard to title of the properties or the right of one group against the other



[Con.App. (C) Nos. 8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

in respect of the management of a church could be decided. In view of the aforesaid conclusion on issue No.(ii), we find no reason to sustain the directions contained in the impugned order dated 30.08.2024 of the learned Single Judge in Cont.Case (C)Nos.1761 of 2023 and connected matters.

175. We have considered the above aspect in these contempt appeals, since it is ordered in paragraph 16 of the order of the Apex Court dated 30.01.2025 in SLP(C)Nos.26064-69 of 2024 and connected matters that it is for the High Court to pass appropriate orders for the enforcement of the court orders, if it is found to have been willfully and deliberately not given effect in its true letter and spirit. We also notice that the judgment dated 06.09.2024 of the Division Bench of this Court in W.A.No.945 of 2023 [arising out of the judgment dated 13.04.2023 of the learned Single Judge in W.P.(C)No.27081 of 2021, which is the subject matter in Con.App.Nos.13 of 2024 and 18 of 2024, arising out of the order dated 30.08.2024 in Con.Case(C)No.1803 of 2023], is under challenge in SLP(C)No.29985 of 2024, in which the Apex Court has already issued notice.



2026:KER:25384

[Con.App.(C)Nos.8/2024, 9/2024, 10/2024,
11/2024, 12/2024, 13/2024, 14/2024, 15/2024,
16/2024, 17/2024, 18/2024, 19/2024]

302

176. In the above circumstances, Cont. App.(C)No.8 of 2024 and connected matters are allowed by setting aside the order dated 30.08.2024 of the learned Single Judge in Cont.Case (C)Nos.1761 of 2023 and connected matters.

It is for the learned Single Judge to proceed with the contempt cases, taking note of the law laid down by this Court in this judgment.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

Aj/gbg/Min/AV/bkn