

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NOS. 26064-26069 OF 2024)

V. VENU & ORS.

APPELLANTS

VERSUS

ST. MARYS ORTHODOX CHURCH (ODAKKALI PALLI) & ORS.

RESPONDENTS

WITH

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 27971 OF 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 27970 OF 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 27977 OF 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 28011 OF 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 27978 OF 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 28318 OF 2024)

O R D E R

1. Leave granted.

2. These Civil Appeals have emanated from the judgment dated 17.10.2024 passed by a Division Bench of the High Court of Kerala at Ernakulam, in exercise of its appellate powers under Section

19(1) of the Contempt of Courts Act, 1971, while examining the legality of an interlocutory order dated 30.08.2024 passed by a learned Single Judge of that High Court in various Contempt Petitions referred to in the opening paragraph of the impugned judgment.

3. 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 this Court, firstly, in *K.S. Varghese v. St. Peter's & 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.

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. 29985/2024, in which, notice has been issued separately.

5. Meanwhile, and as noticed earlier, various Contempt Petitions were preferred before the High Court *inter alia* alleging the disobedience of the directions issued by the High Court in writ jurisdiction with respect to giving effect to the judgments of this Court, cited above. In those Contempt Petitions, a learned Single Judge passed the order dated 30.08.2024 directing *suo moto* impleadment of the District Collectors and District Police Chiefs of Ernakulam and Palakkad districts and then issued directions to them to take over possession of certain Churches, the details whereof are given by the High Court in Paragraph 2 of the impugned judgment dated 17.10.2024. A further direction has been issued to the Police Authorities to deploy sufficient police personnel to aid the District Collectors for taking physical possession of those Churches.

6. It seems that the District Collectors and the Chief's of the District Police could not give effect to the interlocutory directions issued by the learned Single Judge, which then prompted the High Court to summoning Senior Officers of the State administration. Such an order of the High Court has prompted the Senior serving/former Officers of the State to approach this Court through some of these civil appeals. We may hasten to add that the alleged contemnors too have filed the connected appeals.

7. When the matter came up for hearing at the preliminary stage, the following order was passed by this Court on 25.11.2024:

- "1. On the suggestion of the parties, the matters are ordered to be listed on 03.12.2024.
2. The Special Leave Petition(Civil) Nos.27970/2024 and 27971/2024 are ordered to be listed along with these matters.
3. The Special Leave Petition (Civil) Diary No.52818/2024 is also ordered to be listed on the said date, subject to curing of the defects, if any.
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".

8. On 03.12.2024, thereafter, this Court passed the following order:

"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) No.27978/2024, SLP(C) No.27977/2024 and SLP(C) No.28011/2024 against the judgment of the High Court dated 17.10.2024, are prima facie in contempt for having willfully disobeyed the decisions of this Court in K.S. Varghese and others vs. Saint Peter's and Saint Paul's Syrian Orthodox Church and others, (2017) 15 SCC 333 and St. Mary's Orthodox Church and others vs. State Police Chief and others, (2020) 18 SCC 329, to the extent these pertain to entrustment of administration of the Churches as per 1934 Constitution.

2. Consequently, we direct these petitioners to handover 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 2 allegiance to 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.

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 the rights and contentions of the parties which shall be considered only if they submit compliance affidavits.

6. Post these matters on 17.12.2024.

7.Tag SLP(C) No.27970/2024, SLP(C) No.27971/2024 and SLP(C) No.28318/2024 along with these matters".

9. Pursuant thereto, respondent no.1, the authorized 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 are 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 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 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 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 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 Rules. The schools are run in accordance with the said Act and 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 religious faith, caste, creed or allegiance to the 1934 Constitution which is not and will not be insisted. In fact, large number of poor patients are given free medical treatment in the hospitals irrespective of their religious faith and without insisting 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 in-advertent 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. Sec.6 of the Act, provides as under:

"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. Sec. 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, they can have funeral services at any other premises by a priest of their choice. Therefore, a strict compliance of Sec.6 read with Sec.3 of the Act is mandatorily followed

for burial in the cemetery of Church.

8. As per the 1934 Constitution, and as per the provision of this Act, it is the duty of the Vicar to maintain burial register. When the close relatives of a dead person furnishes to the Vicar the details regarding the identity, cause of death, 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."

10. Meanwhile, this Court further passed an order on 17.12.2024, the relevant extracts whereof read as under:

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

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

7. The affidavit filed by respondent Nos.1 and 2 in SLP (C) Nos. 26064-26069/2024 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 of the orthodox and Jacobite denominations, 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 Orthodox denomination or 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-a-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 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".

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 Counsels for the respondents, lead by Sh. K. K. Venugopal, Senior Advocate have a serious objection against 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 closed envelope is accordingly returned to learned Standing Counsel for the State.

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 are 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 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?

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 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.

.....J.
(SURYA KANT)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI
JANUARY 30, 2025.

ITEM NO.9

COURT NO.3

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 26064-26069/2024

[Arising out of impugned final judgment and order dated 17-10-2024 in CAC No. 14/2024, CAC No. 15/2024, CAC No. 16/2024, CAC No. 17/2024, CAC No. 18/2024 & CAC No. 19/2024 passed by the High Court of Kerala at Ernakulam]

V. VENU & ORS.

PETITIONER(S)

VERSUS

ST. MARYS ORTHODOX CHURCH (ODAKKALI PALLI) & ORS. RESPONDENT(S)

(IA No. 251580/2024- APPN. FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.295923/2024 - APPLN. FOR INTERVENTION, IA No. 5774/2025 - MODIFICATION OF COURT ORDER)

WITH

SLP(C) No. 27971/2024 (XI-A)
(IA No. 25027/2025 - PERMISSION TO FILE ADDLN. DOCUMENTS, IA No.291063/2024 - PERMISSION TO FILE ADDLN. DOCUMENTS)

SLP(C) No. 27970/2024 (XI-A)
(FOR ADMISSION and I.R.)

SLP(C) No. 27977/2024 (XI-A)
(FOR ADMISSION)

SLP(C) No. 28011/2024 (XI-A)
(IA No. 288909/2024 - PERMISSION TO FILE ADDLN. DOCUMENTS)

SLP(C) No. 27978/2024 (XI-A)
(IA No. 270512/2024 - EXEMPTION FROM FILING C/C OF IMPUGNED JUDGMENT)

SLP(C) No. 28318/2024 (XI-A)
(FOR ADMISSION)

Date : 30-01-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) :

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Mr. C. K. Sasi, AOR
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Mr. Shyam Divan, Sr. Adv.
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Mr. Sunil Jacob, Adv.
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For Respondent(s) :

Mr. P.V Dinesh, Sr. Adv.
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Mr. P. K. Manohar, AOR

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Mr. E. M. S. Anam, AOR
Mr. Ankur Talwar, Adv.
Mr. Kuriakose Varghese, Adv.

Ms. Usha Nandini V., AOR

**UPON hearing the counsel, the Court made the following
O R D E R**

1. Leave granted.
2. IA No.295923/2024 is allowed. Cause title be amended accordingly.
3. The appeals are disposed of in terms of the signed order, which is placed on the file.

**(POOJA SHARMA)
COURT MASTER (SH)**

**(PREETHI T.C.)
ASSISTANT REGISTRAR**