

CF.RS-180
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TH-3-24

IN THE COURT OF THE I ADDITIONAL MUNSIFF, ERNAKULAM

Present :- Sri. Padmakumar.G., I Additional Munsiff.

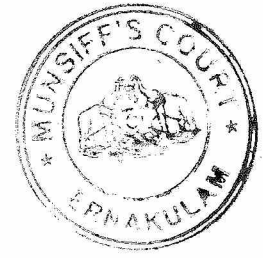
Wednesday, the 13th day of March, 2024/29th phalgun, 1945.

IA 2/2024 in O.S No. 121/2024, IA 2/2024 in O.S No. 122/2024 and IA

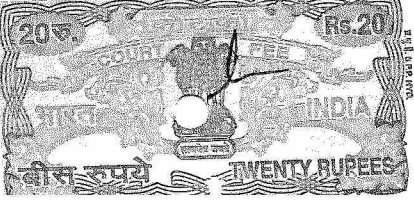
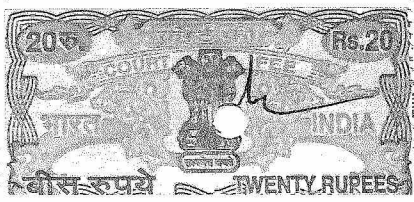
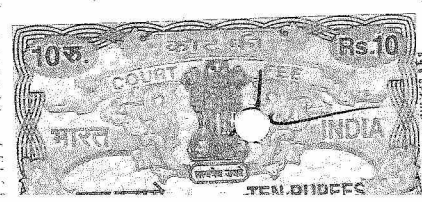
2/2024 in O.S No. 136/2024

IA 2/2024 in O.S No. 121/2024

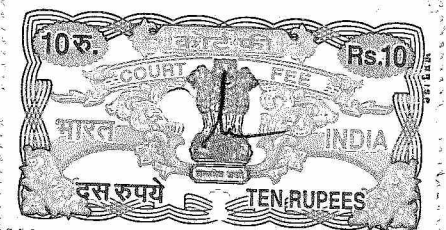
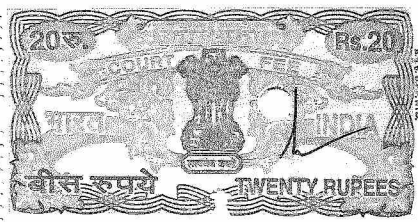
Petitioners/Plaintiffs:-



1. Xavier Alexander, 62 years, S/o T.S.Alexander, residing at 32/564 F, Madavana Karmala Bhavanam, Bethel Enclave, Pallissery Road, Edapally South Village, Kanayannor Taluk, Ernakulam – 682 025.
2. T.M.Ouseph, 65 years, S/o K.J.Mathew, residing at Thayidail, 32/564 A Bethel Enclave, Pallissery Road, Edapally South Village, Kanayannor Taluk, Ernakulam – 682 025.
3. Lukose Joseph, 59 years, S/o Late Joseph Joseph, residing at NERRWA- 105, Arookuzuppil, Nethaji Road, Edapally P.O, Edapally South Village, Kanayannur Taluk, Ernakulam – 682 024.
4. Beena Justy, 55 years, W/o Justy Mathew T, resident of 104, national Presia, South Janatha road, Ernakulam, and presently residing at Villa No. 15, DD Village, May First Road, Thammanam, Poonithura Village, Kanayannur Taluk, Kochi – 682 032..
5. K.C.Francis, 82 years, S/o late Francis Chacko, residing at Kalacherry Kattathra, Door No. XL/648, AMRA – 17A, Automobile Road, Kanayannur Taluk, Edapally south village, Ernakulam – 682 025.
6. George Thomas, 76 years, S/o Varghese Thomas. residing at



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Chettiamparambil, 43/607, Nettayikodath Road, Palarivattom, Edappally South village, Kanayannur taluk, Ernakulam – 682 025..

7. Devassia Scaria, 68 years, S/o Ouseph Scaria, Kizhakkeyattam House, P.J.Antony road, Edappally south village, Kanayannoor taluk, Palarivattom P.O, Ernakulam – 682 025.
8. Sabu Cherian, 68 years, S/o late P.S.Cherian, residing at 32/1363 A, Vettikattu Punnackudy, Vattathipadam Road, Palarivattom, Edappally South village, Kanayannur Taluk, Ernakulma – 682 025.

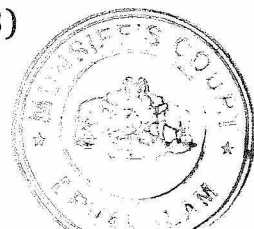
By Advs. P.G.Jayasankar, P.K.Reshma, S.Rajeev, Sanjana V.H, Shaiju Geroage, Aadersh R.S.Panicker.

Respondents/Defendants:-

1. St.Martins de Pores Church, Edappally South village, Kanayannur Taluk, Palarivattom P.O, Ernakulam- 682 025 represented by its Vicar.
2. Syro – Malabar Church, St. Thomas Mount, PB No. 3110, Thrikkakkara village, Kanayannur Taluk, Kakkanadu P.O, Kochi – 682 030, reprsented by its Major Achbishop.
3. Apostolic Administrator, Archbishop house, PO Box 2580, Ernakulam village, Kanayannur Taluk, Ernakulam – 682 031.
4. Vicar, St.Martins de Pores Church, Edappally South village, Kanayannur Taluk, Palaraivattom P.O, Ernakulam – 682 025.
5. Fr.John Panumkal, 54 years, S/o Varghese, residing at St.Martins de Pores Church, Edappally south village, Kanayannur taluk, Palarivattom P.O, Ernakulam – 682 025.

By Advs. B.Sajeev kumar, Thomas John Ambooken

(R1,R4 & R5) P.B.Krishnan, Manu Vvasan Peter(R2), Litto Palathinkal (R3)



IA 2/2024 in O.S No. 122/2024

Petitioners/Plaintiffs:-

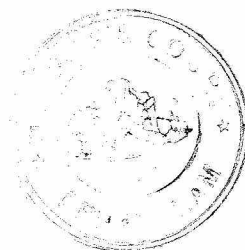
1. P.A.Joshi, 50 years, A/o Antony, residing at Perumpilly house, Kanayannur Taluk, Elamkulam village, Ernakulam – 682 017.
2. Alexander D, 74 years, S/o David residing at Kunnel house, Salim Rajan road, Kanayannur taluk, Elamkulam village, Ernakulam – 682 017.
3. P.A.John, 65 years, S/o P.V.Anotny residing at Pallathuparambil, Matha Nagar raod, Gandhi Nagar, Kanayannur taluk, Elamkulam village, Ernakulam – 682 017.

By Advs. P.G.Jayasankar, P.K.Reshma, S.Rajeev, Sanjana
V.H, Shaiju Geroqe, Aadersh R.S.Panicker.

Respondents/Defendants:-

1. Our Lady of Velankanni Church, mathanagar, Gandhi Nagar, Kanayannur Taluk, Elamkulam village, Ernakulam – 682 017, represented by its Vicar.
2. Syro-Malabar Church, St.Thomas Mount, P.B.No. 3110, Thrikkakkara village, Kanayannur Taluk, Kakkanadu P.O, Kochi – 682 030, represented by its Major Archbishop.
3. Apostolic Administrator, Archbishop house, PO Box 2580, Ernakulam village, Kanayannur Taluk, Ernakulam – 682 031.
4. Vicar, Our Lady of Velankanni Church, Mathanagar, Gandhi Nagar, Kanayannur Taluk, Elamkulam village, Ernakulam – 682 017.

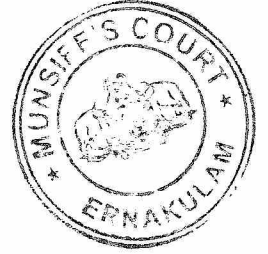
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5. Fr.Palathy Stephen, residing at Our Lady of Velankanni Church, Mathanagar, Gandhi Nagar, Kanayannur Taluk, Elamkulam village, Ernakulam – 682 017.

By Advs. A.Balagopalan, A.Rajagopalan,
M.N.Manamadan, Syamsankar Panicker, Sojo J
Kallidukkil (R1,R4 & R5) P.B.Krishnan, Manu
Vyasam Peter(R2), Litto Palathinkal (R3)

IA 2/2024 in O.S No. 136/2024



Petitioners/Plaintiffs:-

1. A.P.Joseph, 62 years, S/o Poulouse, residing at Ambalathingal house, Near Tharamekkavu, CN 29, Thekkumbhagom village, Kanayannoor Taluk, Tripunithura, Ernakulam – 682 301.
2. Shaji P Antony, 54 years, S/o Antony residing at Kuzhikkattuserry, Tripunithura, Ernakulam – 682 301.
3. K.U.Binoy, 50 years, S/o Ulahannan K.P, residing at Kelakathu house, Vaikom road, Thekkumbhagom village, Kanayannur taluk, Tripupnithura , Ernakulam – 682 301.
4. Ranjith Jose, 42 years, S/o Jose James, residing at Moolecherry House Palace Avenue, Hill Palace P.O, Thiruvankulam village, Kanayannoor taluk, Tripunithura, Ernakulam – 682 301.
5. Saju Varghese, 56 years, S/o P.T.Varghese, Payyalayil house, SRA-4A, Sree Nagar, Hill Palace North, Irumbanam P.O, Thriuvankulam village, Kanayannor taluk, Tripunithura, Ernakulam – 682 309.

By Advs. P.G.Jayasankar, P.K.Reshma, S.Rajeev, Sanjana
V.H, Shaiju Geroqe, Aadersh R.S.Panicker.

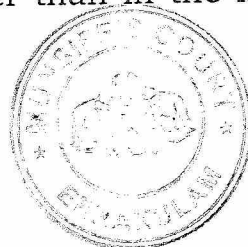
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Respondents/Defendants:-

1. St.Mary's Forane Church, East Fort Gate Junction, Nadama Village, Kanayannoor Taluk, Tripunithura Ernakulam – 682 301, represented by its Vicar.
2. Syro-Malabar Church, St.Thomas Mount, P.B.No. 3110, Thrikkakkara village, Kanayannur Taluk, Kakkanadu P.O, Kochi – 682 030, represented by its Major Archbishop.
3. Apostolic Administrator, Archbishop house, PO Box 2580, Ernakulam village, Kanayannur Taluk, Ernakulam – 682 031.
4. Vicar, St.Mary's Forane Church, East Fort Gate Junction, Nadama Village, Kanayannoor Taluk, Tripunithura Ernakulam – 682 301.
5. Fr.Thomas Perumayan, residing at East Fort Gate Junction, Nadama Village, Kanayannoor Taluk, Tripunithura Ernakulam – 682 301.

By Advs. A.Balagopalan, A.Rajagopalan,
M.N.Manamadan, Syamsankar Panicker, Sojo J
Kallidukkil (R1,R4 & R5) P.B.Krishnan, Manu
Vyasana Peter(R2), Litto Palathinkal (R3)

This petition filed Under Order 39 Rule 2 of Civil Procedure praying this court to grant an ad interim injunction restraining the 5th respondent or any persons officiating the post of the 4th respondent from celebrating the holy Quarbana other than in the manner prescribed by suit document number 1.

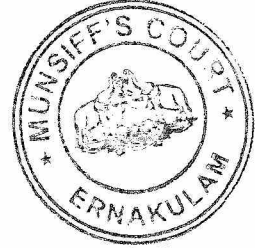


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These I.A's having come up for hearing before me on 13.03.2024 and the court on the same day passed the following:-

COMMON ORDER

These are the applications filed under Order XXXIX Rule 2 of the Code of Civil Procedure, 1908 seeking ad interim injunction restraining the 4th and 5th respondents in the respective IAs from celebrating the Holy Qurbana other than in the manner prescribed in Suit Document No.1 marked as Ext.A1.

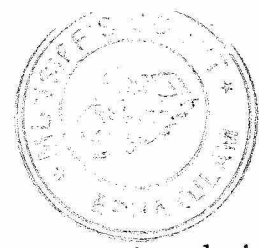


2. **IA 2/2024 in OS 121/2024**

The sum and substance of the petition in brief is as follows :-

Pursuant to the promulgation of Suit Document No. 1, His Holiness the Pope as well as the Major Archbishop of the 2nd defendant along with the Synod, has called for a prompt implementation of the uniform mode of celebrating Holy Qurbana. Despite the same, the 5th respondent is not following the papal directions, or the decree passed by the Major Archbishop of the 2nd defendant. He is not following the directions in the approved Thaksa, Suit Document No.1, as well as directions contained in Suit Document Nos. 2, 3 and 4, and is celebrating the Holy Qurbana in an illicit manner, thereby infringing the rights of the petitioners herein. The 5th respondent has been conducting the Holy Qurbana with unacceptable

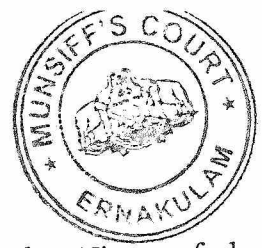
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aberrations and deviations which are violative of the constitutional right to freedom of religion guaranteed to the petitioners, as well as the canonical prescriptions. The 5th respondent or any persons officiating the post of 4th respondent have no right, whatsoever to refuse to conduct the Holy Qurbana as per the liturgical prescriptions. The petitioners being the lay faithful are entitled under the Constitution of India as well as under the Canon Laws to practice the religion of their choice. By conducting illicit Qurbana, the 4th respondent is forcing the petitioners to participate in an illegal and prohibited manner of celebration of Qurbana, causing injury to the petitioners. By celebrating the Holy Qurbana in an illicit manner every day, the 5th respondent is continuously causing injury and hardship to the petitioners. In such circumstances, it is highly necessary to injunct the 5th respondent or any other persons officiating the post of 4th respondent from conducting the Holy Qurbana in variance to the approved Thaksa, violating the fundamental rights of the petitioners. Unless the respondents are restrained from doing the same, the petitioners will be put to irreparable loss and injury. The petitioners prays for an order of ad- interim injunction restraining the 4th and 5th respondents, from celebrating the Holy Qurbana other than in the manner prescribed by Suit Document No. 1.

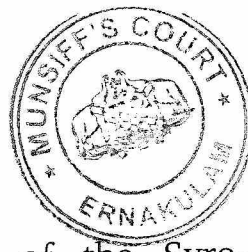
3. Respondents 1, 4 and 5 entered appearance and filed counter

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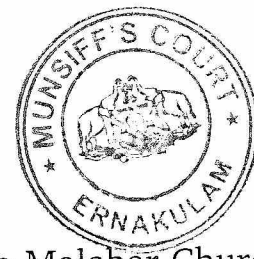


affidavit in the above I.A as follows:- The 5th respondent is the Vicar of the 1st respondent church. The I.A. as well as the suit is not maintainable either on law or on facts and is devoid of any merits. The suit as well as the above I.A. is filed with vested interest and selfish motives and is totally misconceived in all respects. The ex parte order of injunction has been obtained by misrepresenting and concealing the actual facts and circumstances.

4. The above suit is filed seeking for a declaration that the plaintiffs are entitled to participate in the Holy Qurbana which is to be conducted in strict compliance with suit document No. 1 and also for a decree of permanent prohibitory injunction restraining this respondent, his men or agents or any other persons officiating the post of 4th defendant from the celebration of the Holy Qurbana in the 1st defendant church. It is submitted that this respondent is a priest belonging to the Archdiocese of Ernakulam-Angamaly ("Archdiocese") which occupies a prominent position in the Syro-Malabar Church. The Syro-Malabar Church is one among the 23 Oriental Churches under the Pope of the Roman Catholic Church with its headquarters in Rome. The Archdiocese is a union of 331 parishes having a total number of 6 lakh members. As per the law in force, its administration is being carried out as per the provisions of Code of Canon Law for the Eastern



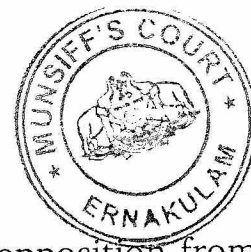
Churches ("CCEO"); the Particular Laws of the Syro-Malabar Church ("Particular Law") and the local law of the Archdiocese known as Ernakulam-Angamaly Archdiocese Bye- laws ("Niyamasamhitha"). The Syro Malabar Church was raised to a sui juris status on December 16, 1992 by the apostolic constitution Quae Maiori (Acta Apostolic Sedis, 85 (1993) pp. 398-399) with the title of the Holy See as Ernakulam- Angamaly. It was decided to be the Major Archbishop of the Syro-Malabar Church, to preside over the Synod of Bishops of the Syro-Malabar Church. In all churches of the Syro-Malabar Church the approved text known as "Thaksa" is used for the Holy Qurbana. The Holy Qurbana is the highest form of worship in the Catholic Church. The same Thaksa is used in all churches of the Syro-Malabar Church, including the Archdiocese of Ernakulam-Angamaly. The only difference is the position (orientation) of the priest at the time of anaphora during the Holy Qurbana. More than 450 priests out of 465 stand for Mass facing the people like the Pope of Rome does. Out of 331 parishes only 4 parishes follow the synodal-form of mass, which is under dispute. The rubrics (especially the general physical posture of the celebrant and the believers) is a customary practice and it differs in different countries and provinces according to their practices, traditions and culture. In certain tribal areas the celebrant and priest dance during the Holy Mass. In certain other



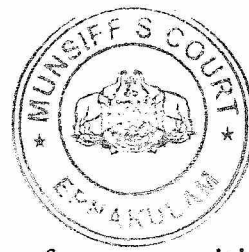
areas, the priest and the people sit on the floor. In Syro Malabar Church it is different in different dioceses. But they all use the same text to celebrate the Holy Qurbana. Even in the Syro Malabar Church, there are two types of mass permitted in one of the dioceses. His Holiness the Pope through his office known as the Holy See has removed the former Major Archbishop Cardinal Alencherry and the former Apostolic Administrator Mar Andrews Thazhath from their office in the most unceremonious manner for misinforming Rome about the matter under dispute. The newly elected Major Archbishop Mar Raphael Thattil and the new Apostolic Administrator Mar Bosco Puthur have started a process of dialogue and are confident of finding a solution to the present liturgical dispute. The new mode of celebration of holy mass is introduced in order to create havoc and divert the attention of believers from the issue of land scam in which the head of the Archdiocese is involved. The petitioners herein had been trying to create an adverse law and order situation in many churches including the St. Mary's Basilica, St. Mary's Forane Church Thripunithura, Our Lady of Velankanni Church, Ernakulam, St. Thomas Church, Kokkamangalam etc. aiming at getting the churches closed and devoiding the Holy Qurbana to the faithful.

5. At this juncture it is also pointed out that the new form of Holy Mass was originally introduced in the year 1999. But it could not be

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implemented in most of the dioceses due to the opposition from the priests and faithful. The XXIX Synod held online on 16th to 27th of August, 2021 discussed the issue of introduction of new form of holy mass. The Synodal News (the official bulletin of the Syro Malabar Major Archiepiscopal Church) has published the details of discussion held in the XXIX Synod. It is the admitted fact that, the decision of the 1999 Synod could not be implemented due to the reservations raised by majority of the priests and laity. The VIII th synod (2000) held on 10th to 20th of July 2000, discussed the issue and the same was not implemented due to stiff opposition from the majority. The issue was again discussed in the IX th synod held in 2001 and formulated a procedure to be followed while finalizing the liturgical text and held that the members are to discuss the procedure to be followed in finalising the liturgical texts and in introducing them for use. The following procedure was agreed upon: i.e the commission for liturgy presents to the synod the text prepared by the Central Liturgical Committee(CLC) and the synod makes a preliminary discussion of the text and the commission sends the text with modifications if any to the eparchies for suggestions and the commission studies the suggestions with the help of CLC and presents the texts to the synod and thereafter the synod discusses and gives final approval to the texts. The commission translates the text into English and entrusts them to

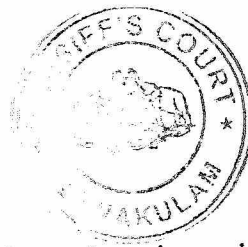


the Major Arch Bishop who sends them to Rome for recognitio. The synod decided not to introduce any liturgical texts before getting the recognition of the Holy See. From the above, it was unequivocally decided to implement the new mode of holy mass by adhering to the procedures formulated in the IXth synod. It is most humbly submitted that even though a procedure has been formulated so as to finalize the decision to implement the new form of holy mass, no such exercise was ever done by the synod till this date. Hence the attempt to implement the decision is hit by procedural lapse. The Synodal News specifically mentions that the unanimous decision taken in synod of Bishops in the year 1999 is recently reconfirmed in January, 2020. It is pertinent to note that in January 2020, the synod of Bishops did not make a reconfirmation at all. It was purposefully misrepresented by the interested persons like the petitioners so as to get a recognition in somehow manner. Hence the contention raised in the plaint as well as in the above I.A. as regards the recognition for the new form of holy mass obtained from the Oriental congregation of Eastern Churches as early on 09.06.2021 is not true. The decision with regard to the uniform mode of celebration of Holy Qurbana is taken only in August, 2021. The new form of celebration of Holy Qurbana is taken as the decision No.1, wherein the mode of celebration is described in detail. Even though a decision with regard to the celebration of

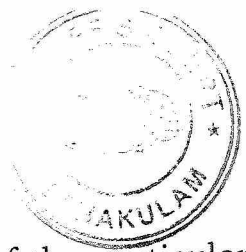


Holy Qurbana is taken only in August, 2021, the recognition for the same is obtained from the Oriental Congregation of Eastern Churches as early on 09.06.2021 and received the exhortation of His Holiness the Pope as early on 03.07.2021. From the above, it is crystal clear that the interested parties managed to obtain the recognition from Rome even before the synod of Bishops taking a decision with regard to the same. The very basis of argument of the petitioner and other interested persons are that they have nothing to do with the implementation of celebration of uniform mode of Holy Qurbana as it is recognized by Oriental Congregation and exhorted by the Holy See. But from the above discussion it can be seen that the alleged recognition and exhortation were obtained by misrepresenting the facts, even before discussing and taking decision in synod of Bishops held in August 2021.

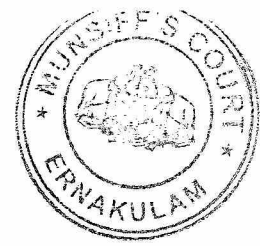
6. The modification and revision of the text of Holy Qurbana was unanimously approved by the Synod of Bishops of the Syro Malabar Church in accordance with Canon 657. Canon 657(3) read as "in making changes in liturgical text, attention is to be paid to Canon 40(1). When examining Canon 40(1), it read as "hierarchs who preside over churches sui iuris and all other hierarchs are to see most carefully to the faithful protection and accurate observance of their own rite, and not admit changes



in it except by reason of its organic progress, keeping in mind, however, mutual good will and the unity of Christians". So the changes can be introduced only for the overall organic development of the church. It is to be noted in mind that these changes cannot be introduced if it affects the mutual good will and the unity of Christians. From the discussion held in XXIX th Synod the impact of forceful implementation is available. The implementation of uniform mode of Holy Qurbana cannot be done at the opposition of the priests of an Eparchy. The opposition of the priests will in turn create into division and conflicts in the parishes. The unity of an eparchy cannot be disturbed by implementing the uniform mode. As per the constitution on liturgy (Sacrosanctum Concilium No.37) "the church does not want to impose any rigid uniformity in matters of liturgy" and prime concern has been given to the substantial unity of the people, not the rubrics. Hence if a change in the mode or rubrics affects the very unity of the people, the church does not want such changes. The petitioners are trying to implement uniform mode of Holy Mass in a forceful manner that too with ulterior motives. As per the synodal guidelines of 2001 the Major Archbishop does not have the power to make alterations in the approved text of the Holy Qurbana. But he intentionally added certain alterations of rubrics into the text after the approval (recognitio) from the Vatican. Hence the faithful and

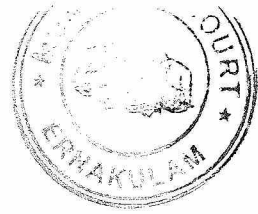


clergy are not bound to obey this tampered text. Article 7.5 of the particular law of the Syro Malabar Church says about the canonicity of the sittings of the synod. Its very clear that the august 2021 synod was not having the canonicity to make a law binding to its believers. The contention that His Holiness the Pope issued subsequent decrees as well seeking the implementation of uniform mode of celebration of Holy Qurbana is also incorrect. This is a misleading statement as no decree or orders of any binding nature had been issued by the Pope on this subject to Syro Malabar Church, except some requests and exhortations. As per Code of Canon Law for the Eastern Churches ("CCEO") 110(4) the synod of bishops of the patriarchal church is not competent for administrative acts. Code of Canon Law for the Eastern Churches ("CCEO") 1510 defines what are the administrative acts. As per this law the synod does not have the power to ask a person or group to do or omit something especially in order to urge the observance of the law. Many have raised these issues to the respective forums within the church. Numerous petitions are filed with respective hierarchies. The synod had deputed a commission of bishops to have the discussions to find out a solution. The commission had several sittings with the priests and laity movements. They formulated a proposal for solution and submitted to the synod. The synod discussed the proposal and decided to recommend the

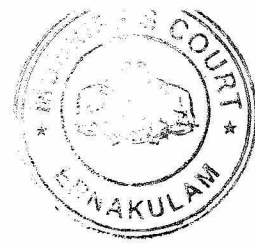


proposal to Vatican. The papal delegate was sent again to have reconciliation talks and formulated a via media after discussions and mediations. The same is taken to Vatican for further actions. After receiving the reports of the papal delegate, the Holy See was convinced about the abuse of power by the Major Archbishop and the Apostolic Administrator. Both were removed from their respective offices by Vatican in the most unceremonious manner. It is evident from the facts and documents that the basic foundation stone of the decision itself is illegal and the contentions raised to the contrary is stoutly denied by this respondents.

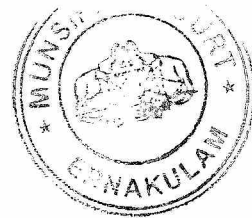
7. The disputed matter of liturgy, such as facing the people or facing the altar is a matter of religious and cultic nature and has nothing to do with civil law. While accepting the new Thaksa of the Holy Qurbana, the priests and believers of the Archdiocese of Ernakulam-Angamaly resisted the forceful implementation of mass facing the altar for the following reasons. They demand the continuance of the celebration of holy mass in the manner in which it was being performed for the past 60 years. It is submitted that the concern of the said believers was duly placed before the Synod by their representative priests, which is pending consideration. At this juncture it is pointed out that the 1st defendant church is the parish to more than 750 families and having about 3200 members. There is a duly elected parish



council having 35 members. On getting notice of the above proceedings, meeting of the parish council was held on 10/02/2024 on which day 30 parish council members were present. It was resolved by majority i.e 26 council members that they only desire to have the holy mass being carried out facing the people. It is submitted that more than 90% of the members wish to have this type of Holy Mass which is being followed since the inception of the church in the year 1968. There has been no instance of holy mass being preformed as desired by the plaintiff except on one occasion ie, on 25/12/2023 the Christmas eve-at the specific instruction from the His Holiness the Pope. It is clear that even His Holiness the Pope is aware that the Holy Mass is being conducted in the Archdiocese facing the people. The present injunction will cause irreparable loss, injury and hardship to the members of the church leading to untold miseries and infringing their precious religious belief and rights. The plaintiff could have submitted their grievance before the Parish Council and if the same was not properly responded they have the option to take up the matter before the 2nd respondent and also project their grievances in the tribunal attached to the Archbishop's house. The petitioners have not resorted to any of the available remedies knowing fully well that they will not succeed in stalling the customary manner in which the Holy Mass is being performed.

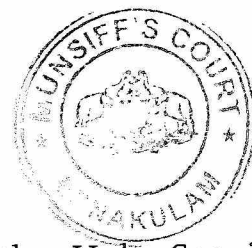


8. This Hon'ble Court has no Jurisdiction to entertain the above suit as the petitioners are trying to enforce a religious right through this Court which is not a civil right. As already pointed out, there are authorities under the canon law to agitate the issue now raised. There is no violation of any of the civil rights of the petitioners warranting interference by this Hon'ble Court. It has been held by the Hon'ble Supreme Court as well as the Hon'ble High Court of Kerala in a catena of decisions that disputes which are in respect of rituals and ceremonies cannot be adjudicated by civil courts if they are not essentially connected with civil rights of an individual. In this case also none of the civil rights of the petitioners/plaintiff are infringed. The balance of convenience is favour of this respondents. The ex parte order of injunction passed by this Hon'ble Court has caused much injustice and irreparable injury to more than 90% of the believers as the same has resulted in putting a stop to the customary manner of conducting Holy Mass facing the people, which has been in vogue for the past 56 years, i.e. right from the inception of the church. On the other hand, if the injunction is vacated, the petitioners will not be put to any loss or injury as the holy mass as desired by them has been conducted only on one day as aforesaid during the entire history of the 1st respondent church. The petitioner has no legal and enforceable cause of action. The averments and



allegations raised in support of the same is totally false and untenable in the eye of law. These respondents prays for the dismissal of the petition.

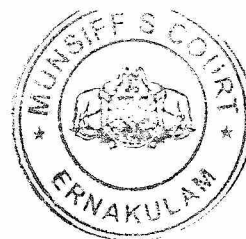
9. Respondent No.2 filed counter affidavit in the above I.A as follows:- The 2nd respondent is the Major Arch Bishop of Syro Malabar Church. The Catholic Church is a communion of Churches. The Catholic Church is governed by Canon Law and guided by the Pope. There are twenty- three Eastern (Oriental) Churches and one Latin Church. The Ecclesiastical authority in the Catholic Church is vested with the Holy Father, the Pope. The Central Governing body is called the "Roman Curia". The Congregation for the Oriental Church (now known as Dicastery) is a Department of the Roman Curia responsible for contact with the Oriental Churches. The Syro Malabar church is a sui iuris (Independent) Church. The Canon Law for Oriental Churches states "A rite is a liturgical, theological, spiritual and disciplinary heritage, differentiated by the culture and the circumstances of the history of peoples, which is expressed by each Church sui iuris in its own manner of living faith" The Syro-Malabar Church has over 5 million members and is the 2nd largest Eastern Church. It has 35 Dioceses (13 in Kerala, 18 outside Kerala and 4 outside India) with 2790 parishes, 65 Bishops and 10,286 priests. The Ernakulam-Angamaly Archdiocese is a constituent Diocese of the Syro-Malabar Church. The Syro Malabar



ecclesiastical hierarchy was officially declared by the Holy See in 1923. Thereby, the Ernakulam Vicariate was elevated as Arch Diocese and Vicariates of Changanacherry, Trichur and Kottayam were elevated as Dioceses and Suffragan to the Archdiocese of Ernakulam. Later in 1992, the hierarchical status of Syro Malabar Church was elevated to the status of Major Archiepiscopal Church. The Ecclesiastical authority in the Syro-Malabar Catholic Church is vested in the Synod of Bishops and the Major-Archbishop.

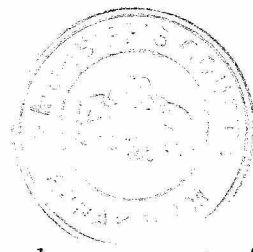
10. The Holy Mass is the greatest and sacred prayer of the Christian faithful. The 'liturgy' or public religious worship is of utmost importance for the Church and the faithful. The Holy Mass (Qurbana) is the most important form of public worship, as it commemorates the Last Supper. Each sui juris Church has its own liturgy and the liturgical text. There are clear laws in the Church regarding worship. The Code of Eastern Canon Law in its preliminary Canons states that the Code, although it often refers to the prescripts of liturgical books, does not for the most part determine liturgical matters; therefore, these prescripts are to be diligently observed, unless they are contrary to the canons of the Code" (CCEO c. 3). Thus, the laws of worship, especially the mode of worship should be strictly according to the liturgical books. The Code further stipulates on the authentic approval of the

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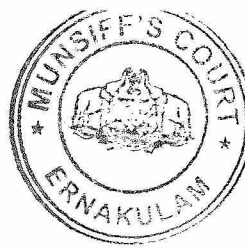
liturgical laws and books in Canon 110 §1 where we read "The synod of bishops of the patriarchal Church is exclusively competent to make laws for the entire patriarchal Church that obtain force according to the norm of Can. 150 §§1,2 and 3." Canon 150 §2 is on the universal applicability of the liturgical laws enacted by the Synod of Bishops while the disciplinary laws are totally enforceable only within the territorial boundaries of the patriarchal Church. Canon 657 §1 states regarding the approval of the liturgical texts that after prior review of the Apostolic See, it is reserved in the Major Archiepiscopal Church to the Major Archbishop with the consent of the synod of Bishops of the Major Archiepiscopal Church. Only the same authority is competent to approve the translations of the liturgical texts after sending a report to the Apostolic See (c. 657 §2). By reason of Canon 152 whatever is stated in common law concerning the Patriarchal Churches or Patriarchs is applicable for the Major Archiepiscopal Churches and the Major Archbishops.

11. Approval and implementation of liturgy is a religious matter and is related to faith and worship of the members in the Church. Liturgy of a particular church or sui iuris Church is a matter within the purview of the Synod of Bishops and the head of the particular Church or sui iuris church. As per Canon 657 §1 of CCEO the Major Archbishop is the



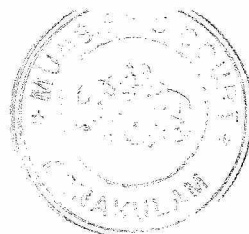
authority for the approval of liturgical text with the consent of the Synod of Bishops. The prayer facing towards east and altar is the tradition of the Eastern Churches. The Syro Malabar Church is an Eastern Church. After the arrival of Portuguese missionaries they tried to Latinize the liturgy of the St. Thomas Christians (Syro Malabar Christian). But, after the establishment of the Syro Malabar hierarchy, the reversal of Latinization in liturgy started.

12. The Synod of Bishops of the Syro Malabar Church introduced the practice of the celebrant facing the people during the pre-anaphora and post communion prayers and celebrant facing to the altar during the anaphora after various level discussions and in the Synod of Bishops considering the tradition and spirituality of St. Thomas Christians. The Holy Mass is celebrated not on the basis of customs but on the basis of the directives and texts of the sui iuris church. All Bishops and priests are bound to accept and follow the texts approved by Synod of Bishops and decreed by the Major Archbishop. The Synod of Bishops has approved the new text on liturgy and issued directions for celebrating the liturgy. Copy of the statement of the Commission for Liturgy approved by the Synod of Bishops dated 19/11/1999 is being produced before this Hon'ble Court. Thereafter, the Bishops of the Syro-Malabar Church jointly issued a pastoral letter to all priests, nuns and faithful of Syro-Malabar church on 15/12/1999



with regard to the celebration of Holy Mass. The said pastoral letter dated 15/12/1999 is being produced before this Hon'ble Court. The moment in time for the celebration of liturgy facing to the people and the celebration facing to the altar and the prayers for its celebration are clearly mentioned. This decision of the Synod was implemented in some dioceses while in some dioceses including Ernakulam- Angamaly, it was not implemented, after getting dispensation from the implementation of this liturgical decision of the Synod. Thereafter in 2021 the Oriental Congregation reconfirmed the practice of celebration of Holy Mass, where the celebrant shall face the faithful at the Bema during the Liturgy of the Word, turn towards the Altar- in the same direction that the faithful are facing- for the Liturgy of the Eucharist, and once again face the faithful during concluding rights after Holy Communion. The Holy Father Pope Francis had given an exhortation on 3/7/2021 for the implementation of the decision taken by the Synod in 1999. Copy of the letter of the Holy Father dated 3/7/2021 is being produced before this Hon'ble Court. Thereafter, Synod of Bishops took a unanimous decision and the head of the Syro- Malabar Church issued a decree for the implementation of the revised text and the uniform mode of celebration of Holy Qurbana on 27/8/2021 by virtue of the power given in CCEO. Copy of the Decision of the Synod issued as a decree by of the Major

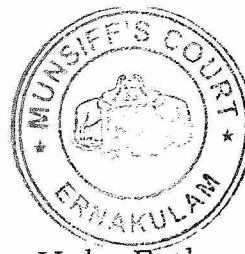
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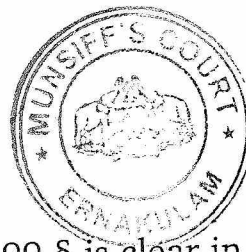
Archbishop of Syro Malabar Church dated 27/8/2021 is being produced before this Hon'ble Court.

13. Consequent to the said decree, a pastoral letter had been issued by the Major Archbishop addressed to archbishops, bishops, priests, nuns and faithful. Copy of the said pastoral letter is being produced. Hence, the implementation of the revised Qurbana Taksa and the uniform mode of celebration of the Holy Qurbana as decided by the Synod of Bishops first in 1999 and then in 2021 is legal and valid. The text used is approved by the Synod of Bishops after prior review by the Apostolic See. The same authority is competent to make any changes to the text or prescribe any rubrics (rules). The text contains the rubrics (rules), which are to be strictly followed. The Syro- Malabar Synod of Bishops has declared any celebration different the mode prescribed in the text as illicit. As per the text, the Qurbana begins from the Bema (Vachcanavedi) facing the people. The Anaphora is celebrated at the Altar facing *ad orientem* (the celebrant and the people facing the same direction). The concluding part is celebrated again facing the people.

14. The opposition to the implementation of the uniform mode of celebration of Holy Mass at the instance of a small minority will not invalidate the decision of the Synod of Bishops, the Congregation of Oriental

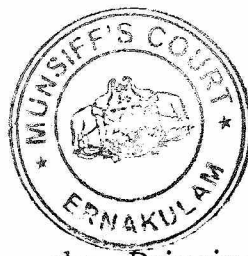


Churches (now called Dicastery) and the Holy Father Pope Francis. The liturgy cannot be celebrated according to the whims and fancies of certain individuals. The claim of the said persons is against the provisions of canon law. There shall be a unanimous celebration in the entire church. The Holy Qurbana cannot be celebrated in some other manner in one region. All celebrations contrary to the directions in decree dated 27/8/2021 are illegal and against Canon law and hence against the discipline of the Church. Being deeply disappointed by the disobedience from certain quarters pertaining to the implementation of the Synodal decision, the Holy Father Pope Francis issued a letter dated 25/03/2022 addressed to the Major Archbishop, the Vicar of the Major Archbishop, the priests, religious and lay faithful of the Archeparchy of Ernakulam-Angamaly. He had through the said letter called upon every member of the Archeparchy of Ernakulam-Angamaly to adhere to the decision of the Synod concerning the form of celebration of the Holy Qurbana prior to Easter 2022. It is also specifically stated by the Holy Father that the Synod is the superior authority of the Church for defining the liturgy. As such, every member of the church be it the clergy or the laity, are bound by the decision of the synod. A Catholic Diocese (church) can only be considered as a voluntary association. No individual/ Priest has any right to deviate from the Qurbana Taksa and mode of its celebration on basis of a



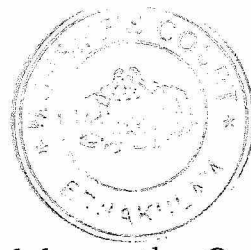
false claim alleging custom. CCEO canon 199 § is clear in stating that" as the moderator, promoter and guardian of the entire liturgical life in the eparchy entrusted to him, the eparchial bishop must be vigilant that it be fostered to the great extent possible and be ordered according to the prescriptions and legitimate customs of his own Church sui iuris." Hence, the unanimous decision taken by all the Bishops of the Syro Malabar Synod prevail over any single voice from any quarter. It is to be specially noted that not even a single Bishop of this Church has stated any disagreement on the decision taken by the Synod unanimously. If there is anything harmful to the Church or to the Diocese or to any faithful it is the duty of every individual Bishop to present it before the Synod, which is the legitimate forum to discuss the matter.

15. A society by name A.M.T (Archdiocesan Movement for Transparency) Society filed a suit as O.S No. 825 of 2021 before the Munsiff's Court, Ernakulam along with a temporary injunction application seeking to restrain the imposition of the uniform mode of celebration of Holy Mass. The said application was dismissed after hearing both sides. True copy of the Order dated 26.11.2021 in LA No. 1 of 2021 in O.S No. 825 of 2021 on the file of the Additional Munsiff's Court, Ernakulam is being produced. Though the Petitioners in the said application preferred Civil Miscellaneous



Appeal as C.M.A No. 69 of 2021 before the Principal District Court, Ernakulam against the same, no interim order has been passed in the same yet. Two other separate suits were filed by the close aides of the laity who oppose the uniform mode of celebration of mass as O.S No. 384 of 2022 and O.S No. 399 of 2022 before this Hon'ble Court and the same are pending consideration.

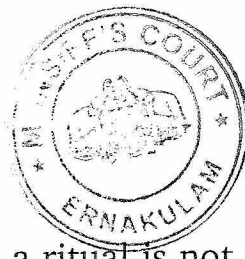
16. As per the Palliyogam Procedure Rules of the Syro-Malabar Church, which regulate the functioning of the parish assemblies, Pothuyogam or any other body does not have any competence to decide on liturgical matters, nor can they decide any matter opposing the decisions of the Synod of Bishops in a Church sui iuris, or the bishop in a diocese (Palliyogam Procedure Rules, n.30). Even if a parish would have submitted any such decision to the Synod, the Synod of Bishops should have discarded it. After the last Session of the Synod of Bishops in January 2024, all the bishops unanimously signed and sent a circular letter asking the priests of Ernakulam-Angamaly to follow the Synodal mode of celebration. It was forwarded by the Apostolic Administrator with his endorsement for implementation of the uniform mode of celebration in the Archeparchy. On 7/12/2023, the Holy Father, in an extraordinary way, issued a Video Message to the priests and faithful of the Archeparchy of Ernakulam-



Angamaly, asking them to obey and to celebrate the Qurbana in accordance with the directions of the Synod. A letter of the same day was issued by the Dicastery for the Eastern Churches to the Apostolic Administrator of Ernakulam-Angamaly. Archbishop Cyril Vasil, the Pontifical Delegate to the Ernakulam-Angamaly issued a letter to the faithful on 21/12/2023. Circulars were issued by the Apostolic Administrator on 23/12/2023 and 15/1/2024.

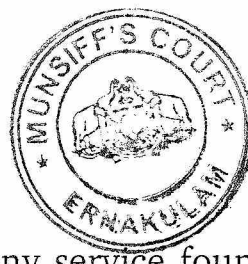
17. In the aforesaid circumstances, the Respondent Nos. 4 & 5 being the Vicar of the Respondent No.1 Church, which is a parish in the Archdiocese of Ernakulam-Angamaly, is bound to adhere to the mandate of the Synod and celebrate the uniform mode of Holy Qurbana. He does not have any authority for the purpose of celebrating the Holy Qurbana other than the mode specified by the Synod of Bishops of the Syro-Malabar Church. He prays for the dismissal of the petition.

18. Respondent No. 3 filed counter affidavit in the above I.A as follows:- The above I.A. seeking ad Interim Injunction is not maintainable either in law or on facts. In this suit the plaintiff does not seek to establish any civil right, but seeks to establish is that the Quarbana should be conducted in a particular form and method. In what manner Qurbana is to be conducted and how is it to be performed are all matters of rituals and custom. The right the petitioner seeks to establish is not a civil right but



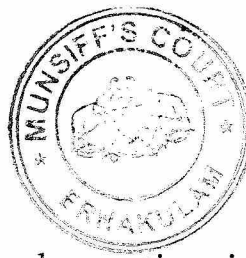
purely ritual and a suit to establish such a ritual is not warranted under S. 9 of the C.P.C. Respondent No. 3 is the head of the Archdiocese of Ernakulam-Angamaly, which is an Archeparchy/Archdiocese under Respondent No. 1, Syro-Malabar church and it was constituted under the Canon Law applicable to catholic churches. Religious subjects/ ecclesiastical matters of the Archdiocese of Ernakulam-Angamaly is governed and administered by the Canon Law, presently Code of Canon of the Eastern Churches (CCEO). The Syro- Malabar Church is a religious denomination as per the definition in the Indian Constitution. Article 25 and 26 of Indian constitution gives freedom to practice and propagate religion and to manage religious affairs, especially Article 26 (b) gives right to manage its own affairs in the matters of religion. Art. 25 of Constitution of India guarantees freedom to practise any religion. It protects freedom to practice rituals and ceremonies which are integral and essential part of religion. Rituals and ceremonies are the inevitable part of every respective religions and are to be performed by the authorized person. The religious rituals and ceremonies which are integral part of the religion is protected by the Indian constitution under Article 26 which guarantees the freedom to manage religious affairs. And enforcement of such rights through a court of law is barred as per Constitution of India.

19. The Holy Mass (Qurbana) is a religious sacrament based on



religious faith and it is a prayer ceremony service founded on customs and rituals as far as the Christian Community as a whole is concerned. Method, practice, contents of the prayer to perform Quarbana is purely a matter of religious practice of the particular denomination. On a reading of the plaint and the I A it is inferred that the whole averments are concerned with the methodology and text proposed in respect of rituals, ceremonies and prayers to perform Quarbana. Conduct of ritual or ceremony is not a civil right and as such the Civil Court is not having any jurisdiction to entertain the present suit and hence the I A is not maintainable.

20. There is no violation of any civil right even as per the averments in the plaint, only concern is with respect to the rituals and customs. Therefore the petitioners have no locus standi to institute the present suit and the I A and hence the suit and I A are to be dismissed. It has been held in the various decisions of Honourable Supreme Court and High Courts that the disputes which are in respect of rituals or ceremonies alone cannot be adjudicated by civil courts if they are not essentially connected with civil rights of an individual or a section on behalf of whom the suit is filed. Civil court is having jurisdiction only to try suits of civil nature wherein civil rights of individuals or society is to be enforced. In the present case civil rights are neither infringed nor violated. Civil right pertains to private rights

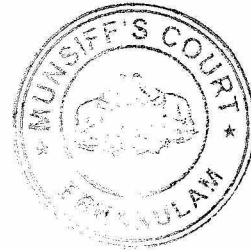


and remedies of citizens. If the principal question is with regard to the determination of civil rights, civil suits can be entertained. No civil rights of citizens is a question to be decided in this case. As per the plaint averments the question to be considered is with regard to the manner in which the Holy Qurbana is to be performed which is purely a ritual which cannot be questioned in a civil court of law. It is a pure question of religious sacrament which cannot be treated as a question of civil right. Civil courts is having jurisdiction only to try suits of civil nature and not the practises of a religion. Hence the present suit is outside the purview of Civil Court in the light of section 9 C.P.C.

21. From the averments in the suit and the I A, it appears that the rituals and the ceremonies are being brought to this Honourable Court which according to the Constitution of India and C.P.C. are barred. In such a situation the plaint deserves rejection under Order 7 Rule 11(d) of C.P.C., which clearly states that where the suit appears from the statement in the plaint to be barred by any law the plaint is to be rejected and also if the plaintiff doesn't disclose any right to sue, the court has to exercise its power under Order 7 Rule 11. "Protection of Article 25 and 26 Constitution of India is not limited to matters of doctrine or belief, they extend also to acts done pursuance of religion also, and therefore contain a guarantee of rituals and

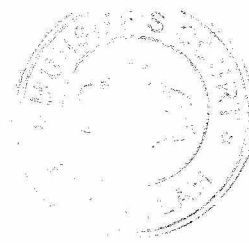
observances, ceremonies and modes of worship which are integral parts of religion": The ecclesiastical authorities have exclusive and conclusive rights and privileges of decision making in the subjects of customs, rituals and prayers. Being a Sui iuris church, the synod of the church has the supreme authority. For the said reason also questions raised in this suit cannot be the subject matter of judicial scrutiny. For the above said reasons, the question of maintainability in the light of Section 9 C.P.C. may be heard as a preliminary issue. If an adverse order is passed it may result in serious implication on the faith and practices followed by the members of the church and it can cause serious loss and irreparable injury. Hence, these applications may be dismissed with costs.

22. IA 2/2024 in OS 122/2024

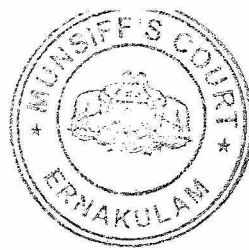


The sum and substance of the petition in brief is as follows:- Pursuant to the promulgation of Suit Document No. 1, His Holiness the Pope as well as the Major Archbishop of the 2nd defendant along with the Synod, has called for a prompt implementation of the uniform mode of celebrating Holy Qurbana. Despite the same, the 5th respondent is not following the papal directions, or the decree passed by the Major Archbishop of the 2nd defendant. He is not following the directions in the approved Thaksa, Suit Document No.1, as well as directions contained in Suit

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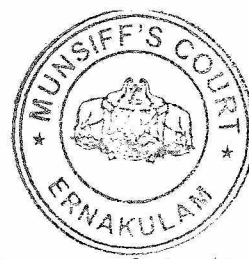


Document Nos. 2, 3 and 4, and is celebrating the Holy Qurbana in an illicit manner, thereby infringing the rights of the petitioners herein. The 5th respondent has been conducting the Holy Qurbana with unacceptable aberrations and deviations which are violative of the constitutional right to freedom of religion guaranteed to the petitioners, as well as the canonical prescriptions. The 5th respondent or any persons officiating the post of 4th respondent have no right, whatsoever to refuse to conduct the Holy Qurbana as per the liturgical prescriptions. The petitioners being the lay faithful are entitled under the Constitution of India as well as under the Canon Laws to practise the religion of their choice. By conducting illicit Qurbana, the 4th respondent is forcing the petitioners to participate in an illegal and prohibited manner of celebration of Qurbana, causing injury to the petitioners. By celebrating the Holy Qurbana in an illicit manner every day, the 5th respondent is continuously causing injury and hardship to the petitioners. In such circumstances, it is highly necessary to injunct the 5th respondent or any other persons officiating the post of 4th respondent from conducting the Holy Qurbana in variance to the approved Thaksa, violating the fundamental rights of the petitioners. Unless the respondents are restrained from doing the same, the petitioners will be put to irreparable loss and injury. The petitioners prays for an order of ad interim injunction



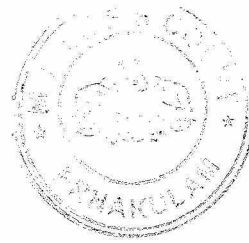
restraining the 4th and 5th respondents, from celebrating the Holy Qurbana other than in the manner prescribed by Suit Document No. 1.

23. Respondents 1, 4 and 5 entered appearance and filed counter affidavit in the above I.A as follows:- The 5th respondent is the Vicar of the 1st respondent church. The above suit and the above petition are not maintainable either in law or facts. Petitioners have filed the above suit with oblique motives by incorporating false allegations. It is submitted that petitioners have no right to file the above suit and issues raised by them are outside the purview of a civil suit. The reliefs sought for in the suit and the order of temporary injunction sought for in the above petition relates to the implementation of new form of holy mass and hence the same is essentially pertains to religious rights and ceremonies. It is trite law that even Constitutional Courts cannot interfere in the daily rituals of a religious institution. Therefore, this Honourable Court has no jurisdiction to try and dispose off the above suit. Since the suit itself is not maintainable before this Honourable Court, the passing of an order of temporary injunction is out of place. The subject matter of the above suit is not connected with any property of the 1st defendant church so as to seek a relief by filing a suit before this Honourable Court. The 1st respondent church is having more than 300 members as its parishioners. The mode of celebration of holy mass is



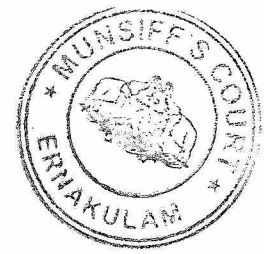
an issue affecting the rights of the entire parishioners of the 1st respondent church. Even if the petitioners wanted to file a suit seeking Implementation of a particular form of holy mass they should have filed the same under Order 1 Rule 8 of the Code of Civil Procedure so as to enable the parishioners to ventilate their grievances by getting themselves impleaded in the suit. The manner in which the petitioners have filed the above suit reveals their malafide intentions.

24. The 1st respondent church occupies a prominent position in the Syro-Malabar Church. The Syro-Malabar Church is one among the 23 Oriental Churches under the Pope of the Roman Catholic Church with its headquarters in Rome. The Archdiocese is a union of 331 parishes having a total number of 6 lakh members. As per the law in force, its administration is being carried out as per the provisions of Code of Canon Law for the Eastern Churches ("CCEO"), the Particular Laws of the Syro-Malabar Church ("Particular Law") and the local law of Archdiocese known as Ernakulam-Angamaly Archdiocesean Bye-laws ("Niyamasamhitha"). The Syro Malabar Church was raised to a sui iuris status on December 16, 1992 by the apostolic constitution Quae Maion (Acta Apostolic Sedis, 85 (1993) pp 398-399) with the title of the see as Ernakulam-Angamaly. It was decided to be the Major Archbishop of the Syro-Malabar Church, to preside over the Synod



of Bishops of the Syro-Malabar Church. In all churches under the Syro-Malabar Church, the approved text for holy qurbana is known as "Thaksa". The Holy Qurbana is the highest form of worship in the Catholic Church. The same Thaksa is used in all churches of the Syro-Malabar Church, including the Archdiocese of Ernakulam-Angamaly. The only difference is the position (orientation) of the priest during the time of anaphora during the Holy Qurbana. More than 450 priests out of 465 stand for Mass facing the people like His Holiness Pope of Rome does. Out of 331 parishes only 4 parishes follow the synodal-form of mass, which is under dispute.

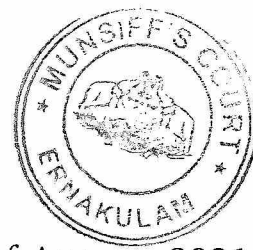
25. His Holiness the Pope through his office known as the Holy See has removed the Major Archbishop Cardinal Alencherry and Apostolic Administrator Mar Andrews Thazhath from their office for misinforming Rome about the matter under dispute. The newly elected Major Archbishop Mar Raphael Thattil and the new Apostolic Administrator Mar Bosco Puthur have started a process of dialogue and are confident of arriving at a solution to the present liturgical dispute. Therefore, it is evident that the malafide intention of the petitioners is to thwart the aforesaid initiative of the Major Archbishop and Apostolic Administrator. Petitioners are stooges of a group whose intention is to create problems among the parishioners and also to see that the dispute should never be settled. The disputed matter of liturgy, such



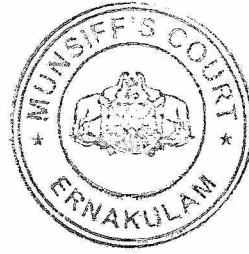
as facing the people or facing the altar is a matter of religious and cultic nature and has nothing to do with civil law.

26. The real intention behind the present petition is evident from the happenings in the churches in the archeparchy of Ernakulam-Angamaly. There exists difference of opinion between two groups of believers with regard to the performance of holy qurbana. It is submitted that majority of the parishioners of Our Lady of Velankanni Church are against the implementation of new mode of celebration of holy mass. They demand the continuance of the celebration of holy mass in the manner in which it was being performed for the past 50 years. The legal body of the parish, parish council (held on 28th January and 10th February, 2024) had discussed this matter very seriously and decided to proceed only with Mass Versus Populum. It is submitted that the concern of the said forums was duly placed before the Synod by their representative priests, which is pending consideration. The new mode of performance of holy mass is introduced in order to create havoc and divert the attention of believers from the issue of land scam in which the earlier head of the Archdiocese is involved. The petitioners herein had made all the efforts to create a law and order situation in the church to get the church closed without celebration of mass.

27. The new form of Holy Mass was originally introduced in

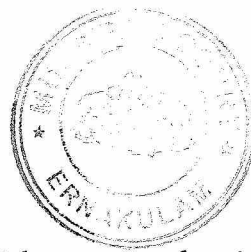


the year 1999. The XXIX Synod held on 16-27 of August, 2021 discussed in detail the issue of introduction of new form of holy mass. The Synodal News (the official bulletin of the Syro Malabar Major Archiepiscopal Church) published the details of discussion held in the XXIX Synod. It is the admitted fact that, the decision of the 1999 Synod could not be implemented due to the reservations raised by majority of the priests and laity. The VIII th synod (2000) held on 10-20 July 2000, discussed the issue and in the light of the aforesaid discussion the issue was again discussed in the next synod and the IXth synod held in 2001 formulated a procedure to be followed while finalizing the liturgical text and held that "the members discussed the procedure to be followed in finalizing the liturgical texts and in introducing them for use. The following procedure was agreed upon: the commission for liturgy presents to the synod the text prepared by the Central Liturgical Committee(CLC), the synod makes a preliminary discussion of the text, the commission sends the text with modifications if any, to the Eparchies for suggestions, the commission studies the suggestions with the help of CLC and presents the texts to the synod, the synod discusses and gives final approval to the texts, the commission translates the text into English and entrusts them to the Bishop who sends them to Rome for recognitio. The synod decided not to introduce any liturgical texts before getting the



recognitio of the Holy See".

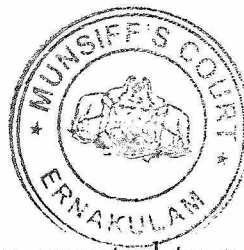
28. From the above extracts, it is evident that it was unequivocally decided to implement the new mode of holy mass by adhering to the procedures formulated in the IXth synod of 2001. Even though a procedure has been formulated to finalize the decision to implement the new form of holy mass, no such exercise was ever done by the synod till this date. Hence the attempt to implement the decision is hit by procedural lapse. The averment that pursuant to the promulgation of suit document No. 1, his Holiness the Pope as well as the Major Archbishop of the 2nd defendant along with the synod has called for a prompt implementation of uniform mode of celebrating holy qurbana is without any basis. On going through the allegations in the plaint that the congregation of the oriental churches granted recognition to suit document No. 1 vide their letter dated 09.06.2021. But it was specifically mentioned that the unanimous decision taken in synod of Bishops in the year 1999 was recently reconfirmed in January, 2020. It is pertinent to note that the synod of Bishops did not make a reconfirmation at all in January 2020 synod. It was purposefully misrepresented by the interested persons so as to get recognition by somehow or other. The averment that this respondent not following the papal directions passed by the Major Archbishop on the 2nd defendant and



he is not following in the approved Thaksa is without any basis. The reform and promotion of liturgy has been well defined in the constitution for liturgy namely 'Sacrosanctum Concilium'. The performance of the holy mass in the present form is having great historical importance and background as it was recognized and approved in the Universal Catholic Council held during 1962-65 wherein 2468 bishops participated. After a continuous deliberation, the constitution with regard to sacred liturgy was solemnly promulgated by his Holiness Pope Paul VI on 04.12.1963. From that day onwards, the liturgy is being carried out based on the said sacred constitution. Article 37 of the 'Sacrosanctum Concilium' states that 'the church has no wish to impose a rigid uniformity in matters which do not implicate faith or the good of the community, rather she respects and fosters the genius and talents of the various races and people. Anything in these people's way of life, it is not indissolubly bound up with superstition and error, she studies with empathy and, if possible, preserves intact. Sometimes she admits such things into the liturgy itself so long as they harmonize with its true authentic spirit'.

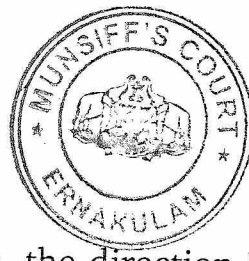
29. Attempts were made to implement uniform mode of Qurbana two decades before. Several Eparchies including the 3rd respondent church were not ready to change the approved form of holy mass. Since the eparchies were not ready to change the approved form of holy mass as

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decided by the synod of 1999, dispensation was granted to such eparchies as per Canon law. The VIIIth synod held in 2000 discussed the matter of implementation of uniform mode of celebration. But it came to the conclusion that unless identifying the deep rooted causes and widespread opposition from the priests, it was not at all possible to solve the liturgical dispute, otherwise it would erode the credibility and will destroy Syro-Malabar Church. The IXth Synod was held in 2001 and formulated some procedures so as to decide question of implementation of uniform mode of celebration of holy mass. It was published in the synodal news under the heading "Procedure to be followed in finalizing the liturgical text." The extension of the said formula is as follows "It was agreed to add the following to the decision about the procedure for the approval of the liturgical texts: if the Holy See grants the required recognitio without any comments the Major Archbishop will promulgate the text immediately. If there are comments they will be discussed in the synod, and the Holy See will be informed of the result and a request for a recognitio will be made again."

30. The Central Liturgical Committee has not considered direction No. 7 in suit document No.1 and hence the Taksa referred to by the petitioners did not come for discussion as per the procedure formulated as

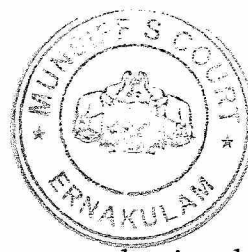


stated in the earlier paragraph. Therefore, the direction No. 7 has not come into force. Hence there is no merit in the averments contained in paragraph 4 of the affidavit that the 5th respondent have been conducting holy qurbana with unacceptable aberrations and deviations which are violative of the constitutional right to freedom of religion guaranteed to the petitioners as well as the canonical prescriptions.

31. The averments contained in paragraph 5 of the affidavit are denied as they are incorrect and they are incorporated with *malafide* motives. The reading of the averments in the said paragraph will reveal that the complaint of the petitioners is denial of constitutional rights and violation of canon laws therefore according to petitioners themselves it is not a civil dispute so as to bring the suit within the jurisdiction of this Hon'ble Court. The uniform mode of celebration of Holy Qurbana highlighted by the petitioner did not get recognition and the decision to implement the same is made in contravention of the provisions in the canon laws for the following reasons. Apart from the fact that the synod held in January 2020 did not recognize the new form of holy mass, a conjoint reading of the exhortation received from his Holiness Pope dated 03.07.2021 and the post synodal letters reveals that the synod of bishop has not decided unanimously to implement the uniform mode of celebrating the Holy Qurbana. The Synodal

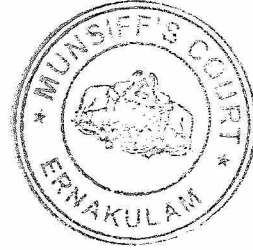


news published after the IXth describes the manner in which the Rubrical Instruction was included in the new liturgical book, with regard to the uniform mode of celebration. It is clearly mentioned that "one member pointed out to include the Rubrical Instruction in the new liturgical book and therefore it was decided to include clear Rubrical Instruction regarding the uniform mode of celebration of Holy Qurbana". The above discussion and decision was taken only in the XXIXth Synod Session II held on 16th-27th of August, 2021. It is submitted that the decision with regard to the uniform mode of celebration of Holy Qurbana is taken only in August, 2021. The decision of XXIX synod is mentioned in the synodal news. The new form of celebration of Holy Qurbana is taken as the decision No. 1, wherein the mode of celebration is described in detail. Even though a decision with regard to the celebration of Holy Qurbana is taken only in August, 2021, the recognition for the same is seen obtained from the Oriental Congregation of Eastern Churches as early on 09.06.2021 and received the exhortation as early on 03.07.2021. From the above, it is crystal clear that there are procedural irregularities and the same was not done in the proper manner. The averments in the affidavit are that the implementation of celebration of uniform mode of Holy Qurbana is recognized by Oriental Congregation and exhorted by the Holy See. But from what is state above, it can be seen that



the alleged recognition and exhortation were obtained by misrepresentation of facts and through wrong means.

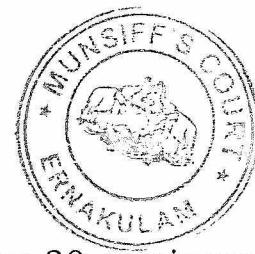
32. The Synod who decreed the suit document No. 1 as mandatory has failed miserably to comply the statutory procedures laid out by the synod in 2001. Seven bishops who participated in the said Synod had written an open letter saying that the Synod decision was illegal. Twelve bishops had written a dissent note against the decision. In fact a decision was not taken in the synod. Rather, the Major Archbishop just announced a decision as if it was taken. As per the Synodal guidelines of 2001, the Major Archbishop does not have the power to make alterations in the approved text of the Holy Qurbana. But he intentionally added these alterations of rubrics into the text after its approval from Vatican. Hence the faithful and clergy are not bound to obey this tampered text. Article 7.5 of the particular law of the Syro Malabar Church states about the canonicity of the sittings of the synod. It is very clear from the said article that the synod of August 2021 was not having canonicity to make a law binding on its believers. As per CCEO 110(4), the synod of bishops of the patriarchal church is not competent for administrative acts. CCEO 1510 defines the administrative acts. Therefore, it is clear that the synod does not have the power to ask a person or group of persons to do or omit something especially to urge the



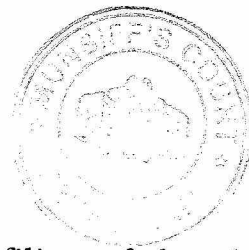
observance of the law.

33. The petitioners are not entitled to seek for an injunction against 4th /5th respondent who is a vicar of the 1st defendant church. Direction no. 7 relates to religious rights and ceremonies. The said direction is not an important part or an essential part in the celebration of the Holy Qurbana. The same does not involve faith. Therefore, it is only directory and having no binding force. The decision of the synod shall be based on the constitution of liturgy. Normally the order of the Holy Father will be in the form of decree, it will be in detail with definite directions and it will be in the form of 'motu proprio', Usually, the Holy Father will issue exhortations as well as letters relating to many issues that is prevailing in the world which is not having any binding force at all. The prompt implementation said to have been made by his Holiness the Pope is not a decree or *motu proprio* and it comes under the category of letters is binding on all the believers and hence there is no basis for the allegation that it is binding on all the believers.

34. It is submitted that a suit O.S. No. 825 of 2021 challenging the validity of the decree mentioned in the above suit is pending consideration before this Hon'ble Court. The believers of the Our Lady of Velankanni have been following the practice of Mass Versus Populum for the last 50 years. As per the Canon law (CCEO) 1507, a legitimately observed



custom has force of law when it is observed for 30 continuous and complete years. CCEO 1508 says Custom is the best interpreter of Laws. As per this law the believers of this parish have the right to continue their practice of Mass Versus Populum. As per CCEO 280 (3), a legitimately erected parish is by virtue of the law itself a juridic person. Vicar is the representative of that juridical person (CCEO 290 (1)). The executive powers are exercised with the help of the legal bodies of that parish. The duly elected parish council is the official legal body. This body had submitted memorandums to the apostolic administrator and other respective authorities of the Archdiocese of Ernakulam-Angamaly claiming that they require only Mass Versus Populum. These memorandums are still under consideration. The administrator has neither denied nor rejected these applications. Petitioners have no right to insist a particular priest to celebrate the holy mass in a particular manner. Article 25 of the constitution of liturgy enshrines guarantee to all in the observance of religion. Rituals and ceremonies are not part of religious rites. The present attempt of the petitioners in seeking an order of injunction is to disturb the mode of celebration of holy qurbana being continued for the last 50 years. Petitioners have no *prime facie* case. Balance of convenience is in favour of 1st respondent. If an order of injunction as sought for is granted it will affect all the believers who are in favour of performing the Holy Mass in



the existing form in a peaceful manner. The filing of the above suit reveals that the petitioners are against the parish as well as the parish council. The parish council is the legitimate body to promote the ecclesiastical, social, cultural and charitable activities in the parish. The parish council and the pothuyogam had decided that all attempts to deviate from existing mode of performance of holy mass is against the will and wish of all the parishioners. If the order of injunction is granted, it will cause irreparable injury and hardship to the parishioners. At the same time, the non-granting of injunction will not cause any hardship to the petitioners. The above petition is ill-motivated, besides being an abuse of the process of this Honourable Court. The above petition deserves to be dismissed with cost.

35. Respondents No.2 and 3 filed counter affidavits in the above I.A raising the same contentions as in IA No. 2/2024 in OS 121/2024.

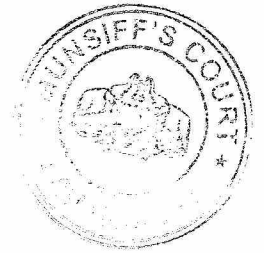
36. IA 2/2024 in OS 136/2024

The petitioners/plaintiffs filed petition in the above IA raising the similar contentions as that of IA No. 2/2024 in OS 121/2024.

37. Respondents No.1, 4 & 5, 2 and 3 filed counter affidavits in the above I.A raising the same contentions as in IA No. 2/2024 in OS 121/2024.

38. Following points are raised for determination :-

1. Are the suits and applications maintainable?
2. Is there any prima facie case in favour of the petitioners?
3. Is the balance of convenience in favour of the petitioners?
4. Will there be any irreparable injury or loss caused to the plaintiff/petitioner if injunction is not granted?
5. What is the order as to costs?



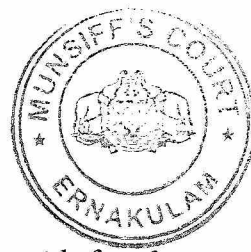
39. Heard both sides.

40. From the side of petitioners/plaintiff 6 documents are marked as Ext.A1 to A6. From the side of respondents No.1,4 7 5 in OS 121/2024, one document is marked as B1(a). From the side of respondent No.2, 13 documents are marked as Ext.B2(a) to B2(m) and from the side of respondents/defendants No.1,4 & 5 in OS 122/2024 & 136/2024, 9 documents are marked as Ext.B1 to B9. Commission report in OS 122/2024 & 136/2024 are marked as Ext.C1 & C2. All the documents except Ext.A1 are photocopies marked only for the purpose of adjudication of the IAs.

41. Point Nos.1 to 4 :-

For the sake of convenience and brevity Points No.1 to 4 in all the three suits are dealt with together. In all the three suits the petitioners/plaintiffs are different, but the defendants/respondents are the

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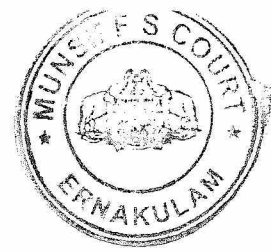
same. Hence, the status of the respondents/defendants are referred commonly in all the suits and the IAs. According to the counsel for the petitioners/plaintiffs the rights of the petitioners/plaintiffs guaranteed under Articles 25 & 26 of Indian Constitution have been deprived of by respondents No.1,4,& 5, by their non-performance of the uniform Holy Qurbana. They want their rights, as approved by the religious texts and authorities, to be enforced and respondent No.5 in all the IAs shall be restrained from the celebration of Qurbana in any other mode than the Synodal Qurbana as prescribed by the Synod of Bishops and as approved by his Holiness the Pope. In this case the Synod of Bishops of the Syro-Malabar Church decided as far back 1999 to implement its decision to celebrate the holy mass in its Parishes in the uniform mode. The synod of Bishop being a supreme authority formulated a uniform mode of celebration of the Qurbana in accordance with the revised Raza Qurbana Taksa'. The Supreme Pontiff, His Holiness the Pope approved it. The Holy See put his imprimatur for approval on the agreement unanimously reached by the Synod of Bishops of Syro-Malabar Church in the year 1999 for a uniform mode of celebrating the Holy Qurbana and reiterated the same exhorting all the stake holders including the Bishops, clergy, the religious and the laity of the Syro-Malabar Church, to proceed to a prompt implementation of the uniform mode of



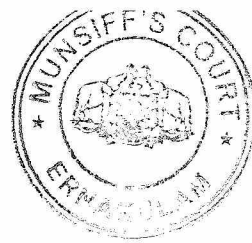
Qurbana in accordance with the new Raza Qurbana Thaksa for the greater good and unity among all the members of the Syro-Malabar Church in its letter No.ProtN 248/2004 dated 9.6.2021, wherein it has been intimated to the Synod of Syro-Malabar Church that the Congregation has been attentively renewed the modification and revision of the text of Holy Qurbana unanimously approved by Syro-Malabar Church in accordance with Canon 657(1) of Code of Canon Law for the Eastern Churches ("CCEO") and granted *recognito* to the new Raza Qurbana Thaksa wherein it has been stated that the celebrant shall face the faithful at the Bema during the liturgy of the word, turn towards the altar; in the same direction the faithful are facing, for the liturgy of the Eucharist and once again face the faithful during the concluding rite after the Holy Communion.

42. In pursuance of that, the then Archbishop Cardinal George Alencherry promulgated, as per the decree dated 8.9.2021, the definitive Taxa of Raza in Malayalam to be effective from 28.11.2021 as per the decision of the 2nd session of the 29th Synod (2021). It is very clearly decreed further that all texts in Malayalam hitherto in use for the celebration of the Holy Qurbana stand abrogated from the date of promulgation of the new Thaksa.

43. The customary and traditional custom of the mass was

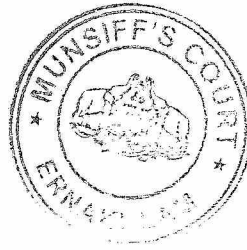


revised in 1599 by the Synod of Diamper (Udayam peroor Sunnahados). Thereafter, from time to time, the changes were effected to the Qurbana Texts. Again in 1962, the celebration of the Holy Mass was revised. Thereafter in 1968, the Qurbana celebration was again amended and recognition for the same was obtained from the Holy See. Subsequently, in the year 1980, another delict was obtained from the Holy See for making necessary amendments in the mode of celebration of the Qurbana. The Qurbana Thaksa so modified obtained the recognito on 19.12.1985_and the same was implemented and the then Pope John Paul II at the time of proclaiming the beatitude of Chavara Kuriakose and Sister Alphonsa by celebrating the mode of celebration in accordance with the same. In the year 1999, as per the Synod of Syro-Malabar Church revised the text of Qurbana for the purpose of uniform mode to be implemented. On 17.12.1999 the decision was approved by the Apostolic see. But it could not be implemented anywhere in the Syro-Malabar Church, though the Synod had recommended everyone to implement the decision in 2009. Even then there were impediments and the synod invited the opinion of all concerned and to submit their opinion to the liturgy commission and a draft was prepared,deliberated and discussed. The special committee of the Bishops approved the draft with the necessary modifications. Again it was sent for



further discussion and suggestions. Finally, in January 2020 the synod approved the final draft with necessary amendments and it was decided to sent for approval to the Holy See, the Supreme Pontiff, the Pope and it was sent on 10.2.2020. The revised new uniform mode of celebration 'New Qurbana Thaksa' was received on 9.6.2021 and the Pope wrote a letter to the Major Archbishop to implement the same without delay.

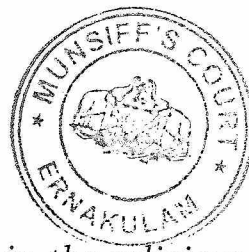
44. The counsel further contends that the petitioners being faithful and devout Roman Catholics have every right to worship under Article 25 of the Constitution of India. What they are asking for is not any change in the mode of celebration of Qurbana of their choice and will. Being devout and faithful to the core as Roman Catholics and owing allegiance to the Synod of Bishops, and the Supreme Pontiff, it is their right to receive the Qurbana that was approved by the Synod of Bishops and the Holy See. Their right to worship and practise their religion according to the prescriptions by the Synod of Bishops, as approved by the Holy See, has been deprived, by respondents No.1,4 & 5 by non compliance and non-performance of the new uniform mode of celebration of Holy Qurbana. That has pained them mentally as they felt being let down by the priests who were duty bound to obey and perform the Qurbana as decided by Synod and His Holiness, the Pope. They are personally injured and prejudicially



disposed.

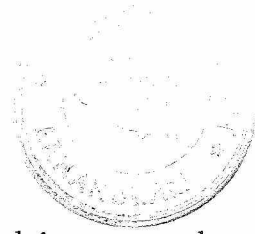
45. In 34 dioceses of Syro-Malabar Church out of 35, the uniform mode of celebration of the Qurbana was implemented from 25.12.2023. On that day, even in the Ernakulam-Angamaly ("Archdiocese") Archeparchy all the parishes conducted the uniform mode of celebration of Qurbana as per the Synodal decision. But, thereafter the Vicars of the respective parishes to which the petitioners/plaintiffs belong never followed the new Raza Thaksa and they have been conducting the Holy Qurbana in the same mode as they have been following ie. the celebrant facing the faithful, which is a gross violation of the rights of the petitioners/plaintiffs who wanted the uniform mode of celebration to be implemented as their civil rights as derived from Article 25 of Indian Constitution was infringed. The counsel placed reliance on the decision of Hon'ble Supreme Court in Most Reverent PMA Metropolitan and others etc., v. Moran Mar Marthoma and another etc., (AIR1995 SC 2001), wherein it has been held that the civil courts have jurisdiction to entertain suits for violation of fundamental rights guaranteed under Articles 25 & 26 of the Constitution of India and the expressions Civil Nature in Sec.9 of the CPC is wider than even civil proceedings and thus extends to such religious matters that have civil consequences. It was also held therein that a right to perform something or

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whether it has been performed as provided in the religious books are matters which can surely and certainly be decided by the courts and religious right is the right of a person believing in a particular faith to practise it, preach it, and profess it. It is civil in nature. Any infringement with a right as a member of a religious order is violative of civil wrong. He has also placed reliance on the decision of the Hon'ble High Court of Kerala in Muhammed and others v. Moideen Hajee(AIR 2000 Kerala 329), wherein it has been held that the matter affecting the right of worship is certainly affecting the personal rights and therefore, it is a dispute of civil nature. The right to worship according to one's belief is the right available to any individual and therefore, the manner in which such right is exercised is interfered with by any personal group, necessarily gives rise to a dispute of civil nature which can be adjudicated by a civil court by entertaining a suit.

46. The counsel for the defendant No.1,4 & 5 in OS 122/2024 & 136/2024 vehemently contended that what the petitioners/plaintiffs seek to establish is not a civil right. The Holy Qurbana is a religious sacrament based on faith and is a proper celebration founded on customs and rituals and the petitioners have no *locus standi*. The counsel has placed reliance on Sri Vari Dadaa v. Thirumala Thirupathi Devasthanam SLP(C)6554/2021 wherein the procedure for conducting the rituals was held to be in the



exclusive domain of the Devasthanam and it cannot be adjudicated by any court wherein it affects the rights of others. The counsel also placed reliance on Umangsingh and others v. Kesari Mall and others 1970(3) SCC 831, in which it is held that the dispute in respect of rituals and ceremonies alone cannot be adjudicated by civil courts. The counsel cited another decision of the Hon'ble high court of Kerala in Major Archbishop, Angamaly and others v. PA Lalan Tharakan and another 2014(2)KLT 791, wherein it has been held that a member of laity has no right to question a liturgical text or a format in which a sacrament is observed. The counsel also contends that it is only for the organic progress of the existing system that changes must be initiated. The counsel has invoked Canon 3, 1515, 1522, 667, & 40 to canvass the point that it is not mandatory to observe the liturgical prescripts and also invoked Canon 110, 150, 1062 and 149 to stress that the Synod is not capable of administrative powers.

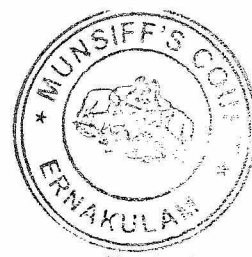
47. The counsel has drawn my attention to the fact that there are procedural violations in the Synod. The procedure as laid in 9th Synod held in the year 2001 was not followed in finalizing the liturgical text. It is submitted by the counsel that in Synod news (29th Synod of 2021), it was suggested by Archbishop that no decision need be taken on the uniform mode of celebration until the recognition of Qurbana text is obtained. It was



also submitted that seven Bishops wrote a letter saying that the decision of the synod was not unanimous and another 12 Bishops sent a written note to the Synod. He has also contended that Archeparchy is a particular church and parish is a juridical person and the Vicar is the representative of the church. The pothuyogam of the parish in OS 136/2024 decided to continue the performance of holy Qurbana in the manner in which it has been conducted for the last 60 years and the petitioners participated in it and didn't raise any objection to it. If the petitioners are aggrieved they should have approached the ecclesiastical Tribunal and they can file an appeal before the Eparchial Bishop if the order of the Tribunal is against them. By suppressing these aspects the petitioners have come before this court with unclean hands and hence they are not entitled to the reliefs as prayed for.

48. It is also submitted that the Holy Father has sent a Papal delegate Archbishop Cyril Vasil SJ to resolve all the disputes relating to the performance of the uniform Holy Qurbana. It was also pointed out that an Apostolic Administrator was appointed by the Holy See to take over the administration of the Major Archeparchy. Hence, he alone has the administrative power.

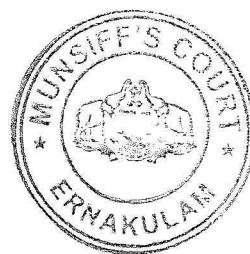
49. The counsel for the 2nd respondent submitted the same points as urged by the petitioner/plaintiff contending that the Catholic

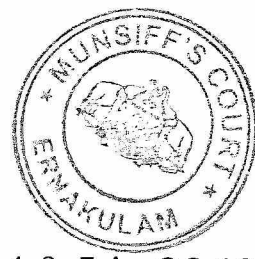


Church is governed by Canon law and controlled by the Pope. The ecclesiastical authority is vested with the Holy Father, the Pope. It is the Congregation of the Oriental Churches (the Dicastry), the department of the central governing body called the Roman Curia informed the Archbishops about the implementation of the new Raza Qurbana Thaksa. All the 34 dioceses except Ernakulam-Angamaly ("Archdiocese") in the Syro-Malabar Church follow the Raza Qurbana Thaksa as promulgated by the Major Archbishop after being approved by the Synod and recognized by the Holy See. The ecclesiastical authority in matters of liturgy is vested in the Synod of Bishops. The learned counsel has drawn my attention to Canon 3 & 10 to stress that prescripts of the liturgical book are to be diligently observed and the Synod of the patriarchal church is exclusively empowered to make laws for the patriarchal Church. No one including priests, members of the laity, or parish council can take any decision in ecstactical or liturgical matters, let alone opposing the decision of the Synod of Bishops in a *sui juris* Church. In view of the exhortation of the Holy Father, the Pope vide letter dated 3.7.2021, for implementation of the decision and the decree of Archbishop dated 27.8.2021 as per the Code of Canon Law for the Eastern Churches ("CCEO") for the implementation of the revised text and the uniform mode of celebration of the Holy Qurbana, the implementation is a *fait accompli*

and no one can go against it. The Synod of Bishops of the Syro-Malabar Church has decided that any celebration of Qurbana, different from the mode as prescribed by the decree dated 27.8.2021 of the Major Archbishop based on the Synodal decision in 1999 as reiterated in 2021 is illegal. Hence, every member of the Church including the clergy and laity are bound by the decree of the Arch Bishop based on the Synodal decision. Respondents No.4 & 5, being the Vicars of respondent No.1, which is a parish church, is bound to adhere to the uniform mode of celebration.

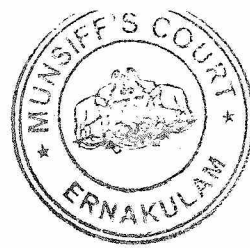
50. The counsel for respondent No.3, mainly harping on the legal issues contended that the petitioners/plaintiffs do not seek to establish any civil right but seek to establish that the Qurbana should be conducted in a particular form and method which according to him are all matters of rituals and ceremonies which are excluded from the purview of Sec.9 of CPC. The petitioners have no *locus standi* as no civil rights are involved since the question of religions sacrament cannot be touted as a civil right. This court does not have jurisdiction to entertain the suits having no civil nature. Hence, the suit is barred by law and it does not disclose any cause of action and thus the suit is liable to be rejected u/o.VII R.11 of CPC. He also urged to decide the question of maintainability first and prays to dismiss the above suit.





51. According to the respondents 1,4 & 5 in OS 121/2024, the recognition of the new Raza Thaksa was obtained by misrepresentation by interested persons. These persons have managed to obtain the recognition from Rome even before the Synod took a decision to implement it. The counsel vehemently contended that only after taking into consideration Canon 43 can change be made in the liturgical text, except by a reason of organic progress, keeping in mind the mutual goodwill and unity of Christians. As per the Constitution on liturgy, *Sacrosanctum concilium* No.37 it is stated that the Church does not want to impose any rigid uniformity in the matter of liturgy. Here, the changes have brought about confusion and disunity leading to chaos and confusion and disarray in the Christian community. The present Raza Qurabana is a tampered one and there is procedural lapse in its formalization and the petitioners/ plaintiffs have not approached the mechanism available to them under the ecclesiastic hierarchical system to redress their grievances. The petitioners have no legal and enforceable cause of action and hence the injunction granted may be vacated. There is no balance of convenience and *prima facie* case and no injury or loss will be caused to them if no injunction is granted. On the contrary, it is for the entire parishes and community of the faithfuls that injury will be caused. The *prima facie* case is in favour of the faithfuls and

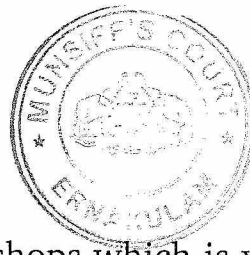
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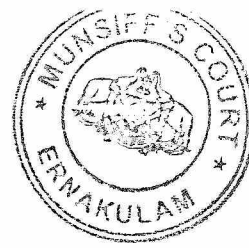
the vicars and the balance of convenience is also in favour of them and irreparable injury will be caused to them, which cannot be compensated in monetary terms. Hence, the injunction granted in OS 121/2024 & 122/2024 may be vacated and IA 2/2024 in OS 136/2024 may be dismissed.

52. While wading through the materials before the court and the voluminous and erudite arguments advanced to this court by the counsels on either side, I am called upon to adjudicate mixed questions of facts and law. At the very outset the issue of maintainability of the suit as well as the IA for injunction as raised by the counsels for respondents is to be adjudicated. According to the respondents, except defendant /respondent No.2, the suits as well as the IAs for injunction are not maintainable as the issues involved are relating to the rituals and ceremonies and the suits do not disclose any cause of action and this court is urged to hold that the suits are barred under Sec.9 of CPC and they do not disclose any cause of action.

53. With respect to those contentions, this court poses for a moment and finds that the petitioners/plaintiffs are Indian Citizens having right to freedom of religion under Article 25 of the Indian Constitution. Being members of the respective parishes, they have every right to practise their religion according to the prescripts, as laid down by the ecclesiastical authority and as approved by the Supreme Pontiff, the Holy Father, the

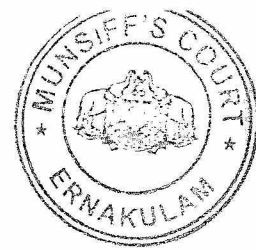


Pope. Here, that authority is the Synod of Bishops which is vested with vast, exclusive and unbridled power subject to the supreme authority of the Holy See. In these cases, the grievance is that the decision of the Synod has not been enforced and implemented, in the parish to which the petitioners belong, by the vicars. The petitioners/plaintiffs are not seeking any particular mode of celebration of the Holy Mass(Qurbana) according to their whims and fancies or at their choice and free will, but what they are seeking is enforcement of their right to receive Qurbana according to their religious belief and allegiance, as mandated by the hierarchical authorities, including the Synod of Bishops of the Syro-Malabar Church, a *Sui juris* church and the Supreme Pontiff, His Holiness, the Pope who is the representative of Saint Peter on whom was cast the duty to build the church by Jesus Christ in flesh and blood. The respondent No.5 has been conducting the Holy Qurbana in defiance of the decision of the Synod for a uniform mode of Qurbana. That cannot be allowed, as the conduct of such a Qurbana invades the right of the petitioners and hence the respondent No.5 in all the interlocutory applications shall be prohibited by an order of temporary injunction from conducting an illicit Qurbana. Any disobedience to the diktats of the authority, and non-performance of their directives by the Vicars causes undue mental agony to the plaintiffs and deprivation of their



rights. It is true that no member of laity has any right to seek any particular mode of celebration at his will and choice. When there is a system and the system has worked out a particular form of Qurbana which has been formulated by Synod of Bishops and approved by the Supreme spiritual and temporal Head of the Catholic Church, His Holiness the Pope, all concerned, especially the priests and members of the laity, are duty bound to see that the decree issued on behalf of the Synod of Bishop for implementation of the uniform mode of celebration of Holy Quabana is obeyed in letter and spirit by the Vicars who are tasked with ministering the services in the parishes and have taken the vow of obedience at the time of their Sacred ordination.

54. The liturgy, as prescribed and formulated above, is approved by the Congregation of Oriental Churches. The first session of the 28th synod in 2020 has formulated a definitive Taksa (Text of Holy Qurbana) which has obtained approval of the Congregation of Oriental Churches and His Holiness, the Pope as can be seen from Ext.A1 and His Holiness the Pope has called for a prompt implementation of the uniform mode of celebrating the Holy Qurbana as per his letter dated 3.7.2021 and a decree was promulgated to implement the same with effect from 1.11.2023 by the decree of the Major Archbishop, Cardinal George Alancherry. It is this mode of Qurbana, as formulated by the Synod of



Bishops and as approved by the Congregation of the Oriental Churches and His Holiness, the Pope which the petitioners seek to enjoy as a matter of right. By seeking to restrain the respondent No.5 in all suits or any persons officiating posts of 4th respondent from the celebrating Holy Qurbana different from Ext.A1, what the petitioners seek is restraining the 5th respondent/defendant, his men or any other persons officiating the post of 4th respondent or acting under them from celebration of Holy Qurbana in the 1st defendant church in all suits other than by strict compliance with Ext.A1. What they impliedly seek is a declaration that the liturgy or the mode of celebration of the Qurbana as formulated and approved by the Synod of Bishops and the Holy Pope, is binding on the Vicars and seeking their rights as conferred on them thereby, have to be enforced. They are personally injured and their interest as devout catholics, owing allegiance to the ecclesiastical authorities of the Synod as well as the Supreme Pontiff, His Holiness, the Pope. Any deviation from the prescripts and decrees of the authorities are bound to cause untold misery and hardship to them. Their conscience has been hurt and pained at the sight of seeing a Qurbana being conducted in violation of the directives and dictates of the ecclesiastical authorities, and participating therein which to them is an anathema. It is not for them to take up this matter to the Tribunal or Archbishops who all are

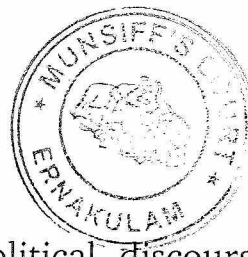


well aware that there are many recalcitrants and deviant priests hell-bent upon not complying with the decree and directives of the Synod and ecclesiastical authorities including the Pope. So it is futile for them to take up the matter to the Parish council, Tribunal or Archbishops as the Parish council or the priests have no right to sit in judgment over a matter decided by the Synod and approved by the Holy Pope. It is found that all the actions, directives, decrees and exhortations by the ecclesiastic authorities are in accordance with the Code of Canons of the Oriental Churches (CCEO). The decision of the Synod as far as the Syro-Malabar Church is concerned is a *fait accompli* and it shall be followed by all stake holders without disobedience or questions.

55. Unable to crack the Code to control the subordinates, the church authorities have miserably failed to rein in the deviant and recalcitrant clergy, who are the vicars in the parishes in the Ernakulam-Angamaly Archeparchy. The petitioners/plaintiffs have only the sole resort to redress their grievance and get their rights established that is through a civil court. 2Nd respondent seems to be groping in the dark and waiting for manna from heaven.

56. Ours is a democratic country where Rule of Law is supreme. It is just and fair that the court cannot be seen to be having its

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hands and tongues tied. It is said in political discourse that when the legislature and executive fail the court steps in and the issues that are in their exclusive preserve and domain are adjudicated and grievances of the people are resolved. The issues in the church cannot be seen as an isolated one, divorced from the prevailing social and political milieu and realities of the land. When there is turmoil, chaos, uncertainty and confusion in any section of the society and anyone is deprived of his legitimate rights and privileges the enforcement of which is a *sine qua non* for the orderly life of the society. It has been held by the Hon'ble Supreme Court in *Sri Vari Dadaa v. Thirumala Thirupathi Devasthanam SLP(C)6554/2021* wherein the procedure for conducting the rituals was held to be in the exclusive domain of the Devasthanam and it cannot be adjudicated by any court wherein it affects the rights of others. The counsel also placed reliance on *Umangsingh and others v. Kesari Mall and others 1970(3) SCC 831*, in which it is held that the dispute in respect of rituals and ceremonies alone cannot be adjudicated by civil courts. The counsel cited another decision of the Hon'ble high court of Kerala in *Major Archbishop, Angamaly and others v. PA Lalan Tharakan and another 2014(2)KLT 791*, wherein it has been held that a member of laity has no right to question a liturgical text or a format in which a sacrament is observed. From the dictum of the above

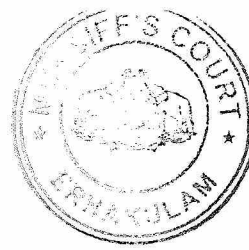
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decisions and many other decisions it is crystal clear that civil courts have jurisdiction to entertain suits of similar nature. Hence, I unhesitatingly hold that the petitioners/plaintiffs have been vested with a civil right which was derived from the fundamental right under Article 25 of Indian Constitution which boiled down to the status of a civil right or rights of a civil nature in the facts and circumstances of these cases. The rights of the petitioners/plaintiffs are in peril. It is for the court to protect and enforce their rights. Hence, they are entitled to seek reliefs from this court.

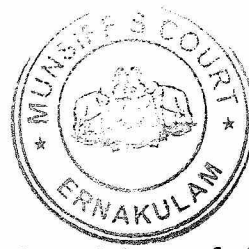
57. Having found that the petitioners have a civil right, now it is incumbent upon me to venture into the troubled and turbulent waters in the religious and social polity in the Catholic Church, where the rights of the petitioners have been allegedly infringed by the non-performance of Raza Qurbana Taksa and the uniform mode of celebration of Holy Qurbana as formulated by the Synod of Bishops and approved by the ecclesiastical authorities and His Holiness, the Pope. The requirement of the petitioners is that the liturgy as prescribed by the 2nd respondent/defendant shall be followed and the respondents are bound by the CCEO and the Synodal decision and the decree of the Major Archbishop. The plaintiffs have produced 6 documents to prove their case. Ext.A1 is the new Raza Qurbana Taksa, prescribing the liturgy and uniform mode of celebration of the Holy

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Mass. Ext.A2 is the circular dated 30.7.2022 issued by the Apostolic Administrator to the priest and the laity exhorting them to conform to the new system established by the Pope for the administration of the Archeparchy of Ernakulam -Angamaly and accept the same as the will of God. Ext.A3 is another circular dated 30.9.2022 highlighting the letter of the Holy Pope dated 3.7.2021 wherein it has been stated by the Holy Pope that “ I exhort the priests, religious, laity, to implement the uniform mode of celebration as stated in the Raza Qurbana Taksa” and *inter alia*, quoting the letter dated 20.9.2022 from the Congregation of the Oriental Churches. Ext.A4 is the letter dated 17.8.2023 from Archbishop, Cyril Vassil SJ, the Pontifical delegate for the Archeparchy of the Ernakulam-Angamaly. Ext.A5 is the text of the video message dated 7.12.2023 of his Holiness, the Pope. Ext.A6 is the letter dated 15.1.2024 of the Apostolic Administrator, Bosco Puthoor conveying the decision of the Synod dated 13.1.2024 to the priests and laity subsequent to the letter and video message of the Pope, to implement the uniform mode of Holy Quarbana in the Ernakulam-Angamaly Archeparchy.

58. From page No.5 of Ext.A1 it can be seen that the letter dated 9.6.2021 from the Congregation of Oriental Churches(the Dicastery) *recognito* has been granted to the Malayalam Raza Qurbana Taksa after



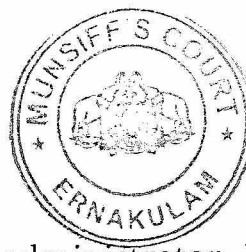
attentively reviewing the modification and revision of the text of the Holy Qurbana, unanimously approved by the Synod of Churches in accordance with the Canon 657(1) of CCEO. It is *inter alia* hoped that the implementation of the uniform mode of celebration of the Holy Qurbana unanimously decided by the Synod of Bishops in November 1999 and reaffirmed in January 2020 will bear great spiritual fruit. In the uniform mode of celebration, the celebrant shall face the faithful at the Bema during the liturgy of the word, turns towards the Altar, in the same direction that the faithful are facing – for the liturgy of the Eucharist, and once again face the faithful during the concluding rites of the Holy Communion. The letter concludes with the trust that the people of God will abide by the decision of the Synod and expecting a cohesive commitment for every Bishop and *sui juris* Syro Malabar Church both collectively and individually. Hence, it is established that the new liturgy as prescribed by the Synod of Bishops has become a *fait accompli*. Subsequently, by His Holiness, the Pope's Letter dated 3.7.2021, the Pope expressed his hope that a new mode of celebration of Holy Qurbana is an important step towards increasing stability and ecclesiastical communion in the whole body of the Syro -Malabar church and the Holy Father exhorted all the Clergy, religious and lay faithful to proceed to a prompt implementation of the uniform mode of celebration of the Holy

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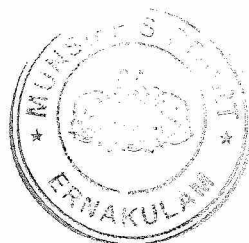


Qurbana for the greater good and well-being of the Syro Malabar Church. By the very words of the Holy See, it is imperative that all in the Syro-Malabar church including the clergy, religious and the lay faithful are duty bound to implement new mode of celebration of the Holy Qurbana. This is an imprimatur from His Holiness, the Pope whose words are only for obedience and compliance as he is supposed to be infallible, deriving his right from Saint Peter and Jesus Christ. Hence, the will of His Holiness shall prevail in the hierarchical structure of the Syro- Malabar Church. It is in this context that in pursuance of the letter of the Holy Pope that the Major Archbishop of Syro-Malabar Church promulgated the definitive Taksa of Raza, Solemn and simple forms of Holy Qurbana in Malayalam, which will be effective from 28.11.2021, as per the decision of the 2nd session of the 29th Synod and further decreed that all other texts in Malayalam stands abrogated. On the same day a statement was issued by the Chairman, Liturgy Commission to the effect that the Raza Taksa of Qurbana is published in Malayalam in accordance with decree and *recognito* and the letter of His Holiness, The pope. From this it is clear that all procedural formalities have been complied with and necessary approvals and mandate obtained.

59. As per Ext.A2 dated 30.7.2022, the priests and laity

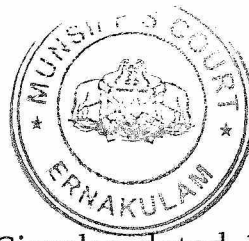


informed the appointment of the apostolic administrator. Ext.A3 is a crucial document dated 30.9.2022 issued by Apostolic Administrator to the priests and laity, conveying the information that in 34 of 35 dioceses of the Syro-Malabar Church the uniform mode of celebration of new Raza Taksa has been implemented and quoted the letter dated 20.9.2022 of His Holiness, the Pope to implement the uniform mode of celebration urgently in the church and there is a specific direction to implement the new uniform Qurbana in the Parishes. Ext.A4 is another crucial document dated 17.8.2023, from the Archbishop Cyril Vassil, the Pontifical delegate of the Holy see to all the priests in the Archeparchy of Ernakulam-Angamaly showing concern that the new revised Holy Qurbana has not yet been implemented in many churches. He has directed to implement the Synodal decisions on the uniform mode of celebration on the Holy Qurbana from 20.8.2023. It has been *inter alia* stated that any disobedience to that order will be considered voluntary, personal and culpable disobedience to the Holy Father. It is also directed not to conduct any public celebration of the Qurbana until a conducive situation for the uniform mode of Holy Qurbana is assured and directed to read out the letter of the Holy Father dated 25.3.2022 in the liturgical celebration in all parishes and by all means and ways to explain the contents therein to help the people to understand the



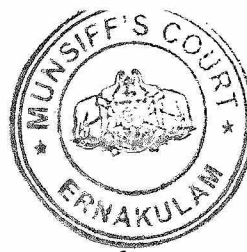
will of the Holy Father regarding the implementation of the Holy Qurbana according to Synodal decision in the Archeparchy.

60. Very importantly, as far as the role of His Holiness, the Pope in the implementation of New Raza Qurbana Taksa can be seen in Ext.A5 which is the transcript of the video message of His Holiness, the Pope. The lamentation of the Pope can be seen in the words therein. The passionate and emotional appeal underlining the importance of unity and disobedience of the Christian community can be seen there. He has stated that the church is a communion. If there is no communion, then there is no church. It would be a sect. He is sorry for those who have been pressing the clergy and laity to disobey and oppose the decision of the Synod. He continues to lament that it is only worldly reasons that prompt some people to deviate from the right path. He has made clear that nobody should have any doubt about what the Pope thinks. His Holiness exhorts the clergy not to separate themselves from the journey of the Church and to walk with the Synod and put it into practice. Hence, it can be seen that the Pope is fully aware and is in the know of whatever is happening in the Archeparchy of Ernakulam-Angamaly. The contention of some respondents that His Holiness, the Pope was misrepresented, misled and made to yield to the pressure of some vested interest falls flat in the face of this message of the

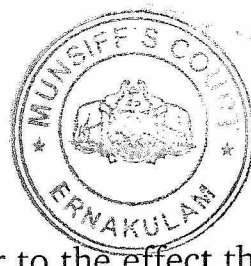


Pope as borne out from Ext.A5. Ext.A6 Circular dated 15.1.2024 issued by Bishop Bosco Puthoor who is respondent No.3, the Apostolic Administrator, to all the priests and the laity informing that the uniform mode of celebration of Holy Qurbana was decided to be implemented in all the parishes in the Ernakulam-Angamaly Archeparchy at the 32nd Synod dated 13.1.2024 and the meeting was attended by Major Archbishop, Mar Raphael Thattil and all other Bishops and the minutes of the meeting was signed by all of them. He also reminds people to forget about all differences in opinion and to promote unity of the Church by implementing the new uniform mode of Qurbana in the church.

61. Now we will consider the arguments in opposition to the Synodal decision. Is there any basis for that? Let us consider the documents submitted by respondent No.1,4 and 5. Ext.B1 is the list of Parishers who attended the Palli Pothuyogam(General body of the Parish Council), wherein the decision was taken *inter alia* that only the Qurbana facing the faithful alone will prevail in the Parish. Ext.B2 also is a decision reiterating to continue the Qurbana facing the faithful and it was also stated that an application for review was signed by the members of the council. Ext.B3 is the complaint lodged by the Thrinpunithura Forane Church with the SHO, Hill Palace Police Station that some people are planning to commit violence

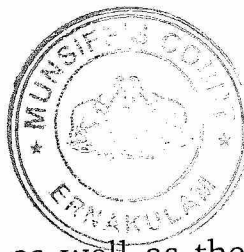


in the church against the Vicar and the people supporting him. Ext.B4 is Synodal news(of the month of September 2000), wherein Major-Archbishop has expressed his concern over the developments with respect to the implementation of the Synodal decision on a uniform mode of celebration of the divine liturgy showing concern that these developments are eroding the credibility of and trust in the Church. In Ext.B5(Synodal in the month of December 2000), among other things, there was a mention about Synodal decision of uniform mode of celebration of Qurbana. In this, some people suggested that the uniform mode be implemented on an experimental basis. But some suggested that it would be better to wait till the Holy See gave his *recognito* for the texts before including them for parish use. Ext.B6 is the synodal news of December 2021. Ext.B7 is the copy of the *Sacrosanctum Concilium*, where in Sec.37 it has been stated that even in the liturgy the church has no wish to impose a rigid uniformity in matters which do not implicate the faith or the good of the whole community. The counsel has quoted Sec.23,37 & 38 to drive home the point that the changes are not necessary and points out that there are procedural lapse in the plan as laid out in the 9th Synod in finalizing the liturgical text and if certain comments are made by the Holy See that will be decided in the Synod and the Holy See will be informed of the result and requested for recognition will be made

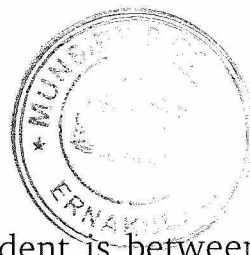


again. Since some Bishops wrote a letter to the effect that the decision of the Synod was not unanimous and 12 Bishops submitted a written dissent to the Synod. But on a perusal, it can be seen that the dissent was sent by some retired Bishops, ie, Bishops Emeriti, which according to me does not carry conviction and having no relevance at all. Ext.B9 is the letter sent by 12 Bishops to the Major Archbishop, wherein it has been urged that the implementation of the new Qurbana shall not be imposed, but to introduce it and if there are differences, which shall be referred to Rome. Here also, we see that of the 12 Bishops, 8 bishops are signatories to Ext.A5 decision taken on 13.1.2024. The rest of the 4 Bishops are retired who are not in the Synod. So, the dissent of these Bishops also vanishes and are irrelevant. It is pertinent to note that the documents produced by respondent No.2, marked as Ext.B2(a) to B2(m) and their submissions complement and supplement the contentions of the petitioners.

62. In this case, it can be seen that what triggered the dispute is the strict implementation of the Synodal Qurbana of Archeparchy of Ernakulam -Angamaly. The legitimacy of the decision of the Synod is openly challenged by respondent No.1, 4& 5 who have no right under the Canon Law or the Constitution of the Sacrosanctum Concilium. The authority of the Synod and the Pope is undisputed. There is no rationale behind the non-



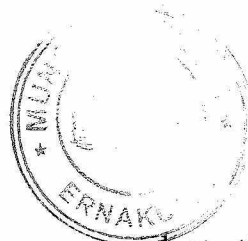
compliance of the decrees of the Synod as well as the exhortations of the Holy See. To the true devout and loyal members of the laity, what ever is prescribed and as approved by the Pope is the final word. Non-obedience to the directives of the ecclesiastical authorities and deprivation of the Holy Qurbana according to that is an anathema, hurting their religious sentiments and their mental equilibrium. They will have prick of conscience which they may not able to bear when they are made to participate in an illegal Qurbana conducted by respondent No.5. Under Article 25 of the Indian Constitution, every citizen has a right to worship, but that right to worship is the right according to the tenets and prescriptions of one's religion and its Supreme Authority which is a *sine quo non* of the legal and constitutional right which coalesce into and boil down to a civil right or a right having a civil nature. Those who have taken a vow at the time of their sacred ordination, having failed to obey the directives and decree of the hierarchical authorities in the Church have no right to continue with the mode of Qurbana at their choice and free will. They forfeit their right to minister services in the Parishes. When there is a system and a manner has been prescribed in the conduct of the Qurbana in a particular way by the Synod and approved by the Holy See that has to be followed in that manner in letter and spirit. Riddled with contradictions and inability to rein in the



recalcitrants and deviants, the 2nd respondent is between the devil and the deep sea. It is their failure which precipitated a crisis in the Church. They should have nipped the dissensions in the parishes in the bud and the deviants, recalcitrants and contrararians be stopped in their tracks and shown the door.

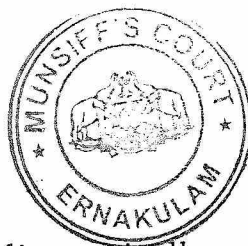
63. It is not understandable why the parishes in the Ernakulam-Angamaly Archeparchy alone are hell- bent upon following the old mode of celebration of the Holy Qurbana while 34 of the 35 dioceses have fallen in line without any murmur, to comply with the Synodal decision as approved by the Holy See to celebrate the uniform mode of Qurbana. If the parishes in the Archeparchy of Ernakulam-Angamaly could conduct the Synodal Qurbana on the Christmas Day of 2023, what prevented them from continuing with the same in obedience to the Synodal decision and the passionate plea of the ecclesiastical authorities including none other than the Holy Father, I wonder. It is symptomatic of a deeper malaise plaguing the parishes and priests of the region which should have been taken exception to at the early stage and should have been snuffed out. The inaction by the authorities in time have precipitated this crisis to the extent of shaking the very foundation of the Syro-Malabar Church, of which the parishes of the Archeaparchy of Ernakulam-Angamaly though not so significant are

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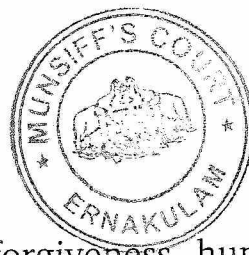
seemingly under the impression and arrogance that they can defy the ecclesiastical authorities with impunity and go away scot free. The inaction and failure on the part of the authorities have lent credence to the rumors and calumny being spread among the public as to the misrepresentation of facts before the Pope and non-compliance of the procedures. It is no secret that dissensions and disputes in the Archeparchy of Ernakulam-Angamaly have been raging for a long time. But, when it came to implementing the new Raza Qurbana Taksa that several unchristian deeds from the part of the priests have come to the fore. It is significant to mention that all arguments with the procedural lapses and dissent with the Synod are closed chapters as it can be seen that all the 48 Bishops are signatories to the Synodal decision taken on 13.1.2024 to address the priests, the religious and laity to implement the uniform mode of celebration in the Archeparchy. In the wake of the video message of His Holiness, the Pope to start implementing the Synodal Qurbana from 25.12.2023.

64. What is baffling and reprehensible is the conduct of the respondent No.3, the Apostolic Administrator who on the one hand by the circular dated 15.1.2024 has conveyed the decision of the Synod taken on 13.12.2024 to remind the priests as to the necessity of implementing uniform mode of celebration of the Qurbana in the Archeparchy of Ernakulam-



Angamaly and on the other hand take a diametrically opposite stand before the court. He cannot approbate and reprobate at the same time. He is also a signatory to the decision taken on 13.1.2024 of the Synod. It is he who now turns around before this court with the plea that the petitioners/plaintiffs have no *locus standi* and this suit is not maintainable. Needless to say, his action amounts to running with the hare and hunting with the hound, smacking of double speak and subterfuge.

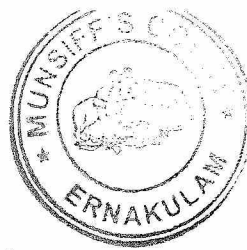
65. The transcripts of the video message as marked as Ext.A5 of his Holiness, the Pope is a commentary on the recalcitrants among the Priests of the non-performance of the Synodal decision as approved by Him. His Holiness, the Pope is completely displeased and dissatisfied and his words speak volumes about his being in the know of the developments in the Ernakulam-Angamaly Archeparchy. So, all arguments that the Pope was misrepresented and misled into approving the Synodal decisions for a new Raza Taksa for a uniform mode of Qurbana falls flat. Ext.A1 to A6 clearly show that the decision to implement the new uniform mode of celebration was taken with due deliberations, consultations and proper investigation at different levels of the ecclesiastical hierarchy right from the priest and parish council to the Holy See. Now, all concerned shall bear in mind the core Christian values of kindness, respect for all, compassion, love, honesty,



morality, generosity, mercy, selfcontrol, forgiveness, humility, promotion of good will and peace among the people. In His parable of the good Samaritan the Jesus challenged the people to go and do likewise and said *"We do not have to agree with other people's beliefs and opinions or condone their actions, but over come our prejudices and show our kindness to all people of our world and consider them our neighbours"*.

66. It is to be noted that as per SC22(Sacro Sanctum Concilium), the constitution of the sacred liturgy Sacro Sanctum Concilium promulgated by His Holiness, the Pope Paul VI, it has been clearly stated that regulation of the sacred liturgy depends on the authority of the Church, ie., on the Apostolic See and as laws that may determine on the Bishop. SC22(3) would say that no other person, even he be a priest, may add remove or change anything in the liturgy on his own authority. It is also pertinent to refer to SC(41), wherein it has been stated that the Bishop has to be considered as the high priest of the flock from whom the life in Christ of his faithful is in some way derived and dependent and all should hold in great esteem liturgical life of the dioceses centered around the Bishop especially in his Cathedral Church and they must be convinced that the preeminent manifestation of the Church consists in the full active participation of all God's Holy people in these liturgical celebrations

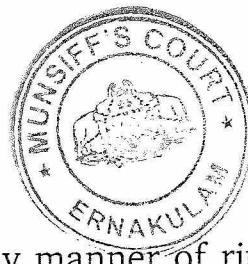
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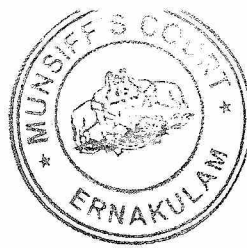
especially in the same Eucharist, in a single prayer, at one altar at which there presides the Bishop surrounded by College of Priests and by his ministers. The petitioners have been denied the opportunity of full participation in the celebration of Holy mass according to new Raza Taksa as formulated by Synod and as approved by the Holy See. The rights vested in the petitioners/plaintiffs have been derived from the Synodal decisions as approved by the Holy See. It is that right they want to get enforced and be offered by the Vicars of the Churches. The Vicars who refuse to obey and comply with the Synodal decision as approved by the Holy See are committing un-pardonable acts of defiance, indiscipline and disobedience, which according to the tenets and prescriptions of the church cannot be brooked at any rate. The rights of the petitioners/plaintiffs are not negotiable. The black sheep in the flock who deviate have to be guided into the right path by the shepherds.

67. From the discussions as above, it has been found that the right to worship is a fundamental right under Article 25 of the Constitution of India and is thereby a civil right and civil courts have jurisdiction to entertain suit for violation of Article 25 of the Constitution of India. The petitioners/plaintiffs in the above suit are not challenging any decision of any religious authority, what they seek is enforcement of the decision of the

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ecclesiastical authority. It is not about any manner of rituals or ceremonies that the petitioners seek at their choice. It is their right to receive the legitimate Qurbana which they are entitled to participate according to the Synodal decision. From the materials on record and submissions across the Bar by the learned counsels on either side and from the Advocate Commission reports, it has been unambiguously found that the petitioners have made out a *prima facie* case, the balance of convenience is also in their favour. There will be irreparable injury /loss to the petitioners/plaintiffs as their fundamental right to practice religion and their right to worship has been infringed by the actions of all the respondents and by participating in the illicit form of Qurbana the petitioners are burdened with the sense of guilt causing irreparable injury /loss to them, where as, no injury will be caused to the respondents/defendants if the illicit form of Qurbana is not conducted in the parishes. The respondents have no right or authority to defy and disobey the decision of the Synod of Bishops as approved by the Supreme Pontiff, His Holiness, the Pope. Since, the Pope has been vested with the boon of infallibility, his words are unquestionably for obedience. He is representing Saint Peter who has been assigned with the building up of the Church by Jesus Christ. Neither the Vicars nor the Parish councils, or for that matter, any one in the church have any overriding power over the

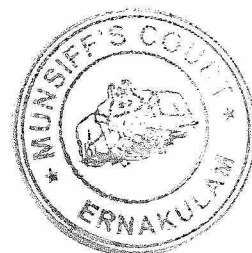


Synod and the Supreme Pontiff. With the introduction and directive to implement new Qurbana Taksa by the Synod and the Holy Pope no custom and traditions, have no relevance at all. There must be a finality on the ongoing unruliness in the Church. It would be better to understand the genesis of the Qurbana which can be traced to the *Last Supper* on the day before the Pass Over, which has thereby become the most Holy Sacrament of the Church. The deviant priests, herein the Vicars, have no other go, but to obey. The Parishes and the Vicars have no existence independent of and separate from the Syro-Malabar Church and from the Holy See. They have to be restrained from conducting illicit Qurbana in the Parishes under the Ernakulam-Angamaly Archeparchy. After complying with the Synodal decisions and the exhortation of the Holy See, they can initiate a dialogue and negotiate and come to an amicable settlement establishing concord. They shall show the wisdom and sagacity on the basis of their sacred ordination to toe the line, which is the only legal and legitimate practice in the Church. It is also worthwhile to understand that changes in the Qurbana text is not a new development. Since 1599, there have been changes from time to time in the liturgy of the Church, the latest being in the year 1986, and thereafter, the 1999 revision and decision of the Synod, which is what now is sought to be implemented in the Parishes. Those who are misled

may open their eyes and see the light of truth and follow the same strengthening the unity of the community which will lead to unity of all religions so that the secular ethos of our country will be promoted for public good. Unnecessary obstinacy and egoism on the part of the Vicars shall go and saner and wiser elements in the community may step in with good counsels to put things in perspective and restore peace, coherence and unity and discipline in the community and society. *“Glory to God in the Highest heaven and peace is on earth to those with whom He is pleased.”(St.Luke2:8-19)*

68. In the light of the discussion held as above, it is found that the petitioners/plaintiffs have proved their case and the respondents have failed to convince this court of the genuineness of their claims. Hence, point No. 1 to 4 are found in favour of the petitioners/plaintiffs.

In the result,



1. *The exparte injunction granted vide order dated 6.2.2024 in IA 2/2024 in OS 121/2024, & IA 2/2024 in OS 122/2024 has been made absolute.*

2. *IA 2/2024 in OS 136/2024 is allowed and respondent /defendant No.5, his men or agents or any other persons officiating the*

post of 4th defendant are restrained from celebration of the Holy Qurbana of the 1st respondent/defendant church other than in strict compliance with Ext.A1 document. (Raza Qurbana Taksa for the uniform mode of Qurbana as formulated by the Synod of Bishops and now known as the Synod Qurbana.)

3. All the IAs are allowed with costs.

Pronounced by me in open court on this the 13th day of March, 2024.

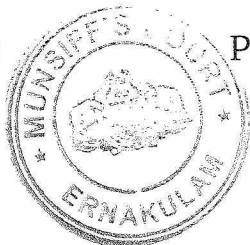
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Padmakumar.G
I Additional Munsiff.

Appendix:

Petitioner/Plaintiff Exhibits :

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| A1 | Photocopy of Thaksa(Text of the most solemn form of Holy Qurbana of the Syro-Malabar Church), approved by the 2 nd defendant and published by the Secretariat, Commission for Liturgy of the Major Archiepiscopal Curia of the 2 nd defendant. |
| A2 30.07.22 | Photocopy of circular no 7/22 issued by the 3 rd defendant, as available from its official website (http://www.ernakulamarc.hdiocese.org)and certified under S. 65 B of the Indian Evidence Act, 1872. |
| A3 30.09.22 | Photocopy of circular no 9/22 issued by the |



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3rd defendant, as available from its official website (<http://www.ernakulamarchdiocese.org>) and certified under S. 65 B of the Indian Evidence Act, 1872.

A4 17.08.23

Photocopy of the directions issued by the Pontifical Delegate to the Archeparchy of Ernakulam -Angamaly as available from the official website of the 3rd respondent (issued by the 3rd defendant, as available from its official website(<http://www.ernakulamarchdiocese.org>) and certified under S.65B of the Indian Evidence Act,1872.

A5 07.12.23

Photocopy of the message addressed by his Holiness the Pope to the Archeparchy of Ernakulam -Angamaly of the Syro-Malabar Church as available from its official website <https://www.vatican.va/content/francesco/en/messages/point-messages/2023/documents/20231207-videomessaggio-siromalabaresi.pdf> and certified under S. 65 B of the Indian Evidence Act, 1872.

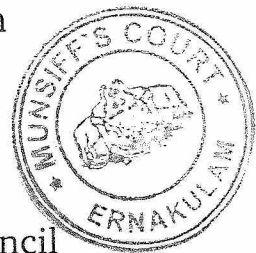
A6 15.01.24

Photocopy of the circular bearing no. 2/2024 issued by the 3rd respondent as available from the official website of the 3rd respondent, along with the appeal by the Synod of Bishops as available from its official website (<http://www.ernakulamarchdiocese.org>) and certified under S. 65 B of the Indian Evidence Act, 1872.

Respondent/Defendant Exhibits:-

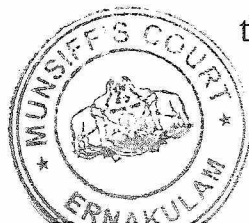
B1 28.01.24

Photocopy of minutes of Parish council meeting of the first defendant Church.



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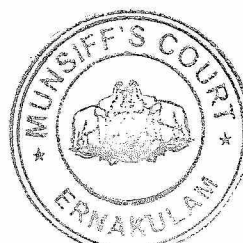
B1(a)	10.02.24	Photocopy of the Resolution passed by the Parish counsel.
B2	10.02.24	Photocopy of minutes of the Parish Council meeting of the 1 st defendant church.
B2(a)	20.11.99	Photocopy of the statement commission for Liturgy approved by the Synod.
B2(b)	15.12.99	Photocopy of the Pastoral letter issued by the Bishop of Syro-Malabar Church.
B2(c)		Exhortation issued by the Holiness Pope Francis.
B2(d)	03.07.21	Photocopy of the decision synod on the implementation of the Revised Text and uniform mode of celebration of Holy Quarbana.
B2(e)	26.11.21	Photocopy of the order in IA 1/21 in OS 825/21.
B2(f)		English Text of video message of his holiness Pope Francis to the Archeparchy of Ernakulam-Angamaly of the Syro_Malabar Church.
B2(g)	07.12.23	Photocopy of the letter issued by the Dicastery for the Eastern churches the Apostolic Administrator of Ernakulam – Angamaly.
B2(h)	21.12.23	Photocopy of letter issued by the Archbishop Cyril vasil the Pontifical. Delegate to the Ernakulam – Angamaly.
B2(i)	23.12.23	Photocopy of the Circular no. 6/23 issued by the Apostolic Administrator Ernakulam



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Angamaly Archdiocese.

- B2(j) 15.01.24 Photocopy of the circular no. 2/24 issued by the Apostolic Administrator, Ernakulam – Angamaly Archdiocese.
- B2(k) Photocopy of the plaint in OS 825/21.
- B2(l) Photocopy of the plaint OS 384/22 filed before the District Court (Vacation court).
- B2(m) Photocopy of the plaint in OS 399/22.
- B3 Photocopy of representation submitted by the parishoners of the 1st defendant church before the Apostolic Administrator, Ernakulam-Angamaly Dioceses.
- B4 Photocopy of the relevant pages of synodal news publishing the details of discussion held in VIIIth Synod (2000) held on 10th & 20th July 2000.
- B5 Photocopy of relevant pages of synodal news publishing the details of discussion held on IXth Synod held in 2001.
- B6 Photocopy of the relevant pages of synodal news publishing the details of discussions held in XXIXth synod held on 16-27 of August 2021.
- B7 Photocopy of the relevant pages of constitution on the sacred liturgy sacrosanctum concilium.
- B8 24.08.21 Photocopy of the letter sent to the Major Archbishops during the online synod signed by 12th Bishops.

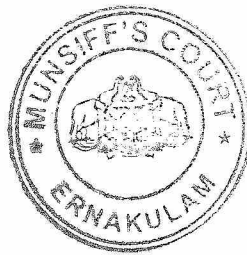
B9 20.12.21 Photocopy of a representation sent to the major Archbishop and the member of the Synod.

Court Exhibits :- Nil

Plaintiff Witness :- Nil

Defendant Witness :- Nil

Idl-
I Additional Munsiff.



True Copy

*carbon copy issued as per
order in IA 6/24, dated 14.3.24.*

[Signature]
Fair Copy Superintendent

Typed by: *AH*
Comp.by:

[Signature]