

In the High Court of Judicature at Madras

Dated : 22-4-2015

Coram

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Civil Revision Petition (PD) No.4177 of 2014
& MP.Nos.1 to 3 of 2014

1.Tamil Evangelical Lutheran Church,
rep.by its Secretary, Trichy-1.

2.Mr.E.D.Charles

3.Rev.S.Edn Jeyakumar

4.Rev.P.Immanuel

5.Rev.C.Sam Jebaraj Stephenson

6.Rev.S.A.Packinathan

7.Mr.I.E.P.Gnanaraj

8.Mr.D.Masilamani Prince

9.Mrs.S.Daisy Rani

...Petitioners

Vs

1.Mr.C.J.Gnanasekar

2.Mr.J.Paul Pradeepkumar

3.TELC Bethel Church, Mangalapuram,
Chennai-12.

4.Mr.M.Yogananth, having office at
Tamil Evangelical Luthern Church,
Tranquebar House, Melapudur,
Trichy-1.

...Respondent

PETITION under Article 227 of The Constitution of India to reject the
plaint in O.S. No.6140 of 2014 on the file of the IV Assistant Judge, City Civil
Court, Chennai.

For Petitioners : Mr.G.Masilamani, SC for
Mr.Mani Sundaragopal
For Respondents 1 & 2 : Mr.AR.L.Sundaresan for
Mrs.AL.Gandhimathi

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O R D E R

This is a Civil Revision Petition filed under Article 227 of the Constitution, praying for striking the plaint in O.S.No.6140 of 2014 on the file of the IV Assistant City Civil Court, Chennai, off the Suit Register.

2. I have heard Mr.G.Masilamani, learned senior counsel for the petitioners and Mr.AR.L.Sundaresan, learned senior counsel appearing for the respondents 1 and 2.

3. The respondents 1 and 2 herein filed a suit in O.S.No.6140 of 2014 on the file of the IV Assistant City Civil Court, Chennai against the Tamil Evangelical Lutheran Church and the elected members of its Church Council, praying for the following reliefs:-

"(a) for a declaration that the Defendants 2 to 10 are not entitled to continue as office bearers as claimed by them of the First Defendant in view of the order of the Hon'ble Supreme Court dated 4.9.2014 passed in SLP (Civil) No.9592 of 2012.

(b) for a declaration that the Synod General Body notification No.1/2014 dated 10.10.2014 issued by the Defendants 2 and 3 is null and void.

(c) for a permanent injunction restraining the Defendants 2 to 10 from acting as office bearers as claimed by them of the First Defendant in view of the order of the Hon'ble Supreme Court dated 4.9.2014 passed in SLP (Civil) No.9592 of 2012.

(d) for a mandatory injunction directing the First Defendant to call for delegates from the 11th Defendant

church for the Synod Continuation Committee for the Triennium 2013-2016 of the First Defendant and (e) for costs of this suit."

4. Upon receipt of the summons in the suit, the Tamil Evangelical Lutheran Church and its elected Church Council members who are arrayed as Defendants 1 to 9 in the suit have come up with the above revision under Article 227 of the Constitution contending that the suit is an abuse of the process of law.

5. The disputes relating to the election of office bearers to the Tamil Evangelical Lutheran Church, are never ending and they have a chequered history. There have been several litigations in several courts, one of which landed up before me in Civil Revision Petition C.R.P.(MD) Nos.2385 and 2386 of 2010, while sitting at Madurai. In paragraph 27 of the order passed by me, in C.R.P.(MD) No.2385 of 2010 reported in ***Rt.Rev.Dr.H.A.Martin VS. The Tamil Evangelical Lutheran Church reported in [2011(1) CTC 395]***, I had tabulated the number of cases filed by various persons in various courts throughout the State, depending upon where the parties could successfully hoodwink the courts to grant ex parte interim orders. It will be useful to extract paragraph 27 of the order passed by me in the said decision. Hence it is extracted as follows:-

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
<i>CASES FILED BEFORE ELECTION</i>					
1	O.S.No.33/10	P.John Pandian	(a) To restrain Lalgudi	I.A.No.122/10	Interim

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
	District Munsif Court, Lalgudi	v. TELC, rep. By Secretary and 8 Others	District Committee and other CC Members (R3 to R9) from announcing the Notification No.1/2010 dated 28.01.2010 being it is against the Constitution as against the Church Rule 152(a) and other relevant Rules; and (b) to insist the Secretary, TELC (1 st Defendant) for the consequential relief of the revised notification after the amendment of the Bye-laws as specified in the Church Rules/ domestic rules under 152(a) of Document "A".	seeking interim injunction to stop the announcement either in this Pastorate in each and every Pastorate of TELC as declared as null and void.	injunction not to announce elections in Lalgudi Pastorate
2	O.S.No.120/10 Subordinate Judge, Madurai	A.Daniel Shanmugam v. TELC, rep. By its Secretary and 7 Others	(a) To declare that the notification No.1/2010 dt.28.01.2010 issued by the 1 st defendant is null and void; and (b) for permanent injunction restraining defendants 1 and 2 from conducting any election in pursuance of the notification No.1/2010 dt.28.01.2010 by implementing the notification No.1/2010 in the Pastorate of TELC.	I.A.No.91/10 for interim injunction against conducting elections in any of the Pastorate	Injunction not to conduct elections in all Pastorate
3	O.S.No.98/10 Principal District Munsif, Kumbakonam	P.Inbaraj, SCC Member, TELC (2007-2010) v. TELC by its President/Bishop and 2 Others	(a) To direct the defendants to discharge their official duty according to the bye-laws and Church Rules; and (b) to restrain the	I.A.No... /10 seeking injunction against conducting elections in any of the	Nil

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
			defendants to conduct the election and announce the election as against the bye-law of the Society of TELC Church Rules.	Pastorate	
4	O.S.No.32/10 Principal Subordinate Judge, Kumbakonam	Lily Inbaraj v. TELC by its President/Bishop and 2 Others	(a) To declare that the notification No.1/2010 issued by the 2 nd defendant is null and void; (b) for permanent injunction restraining defendants 1 to 3, their men, agents, servants and the persons claiming through defendants 1 to 3 from implementing/ announcing notification No.1/2010 in any one of the Pastorate of the TELC; and (c) for permanent injunction restraining defendants 1 to 3 from conducting any election in pursuance of notification No.1/2010 dt.28.01.2010 by implementing notification No.1/2010 dt.28.01.2010 in the Pastorate of TELC	I.A.No.36/10 seeking interim injunction against conducting elections from any one of the Pastorate	Interim order against conducting elections on 08.3.2010 till 13.4.2010
5	O.S.No.11/10 Subordinate Judge, Pattukottai	S.Seeli v. TELC rep. By its Secretary and Others	For permanent injunction against the defendants restraining them in any manner conducting the proposed delegates election on 14.3.2010 and also on subsequent	I.A.No.44/10 seeking interim injunction against conducting elections in Pattukottai	Interim order not to conduct elections in Pattukottai Pastorate till 17.3.2010

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			date in the Pattukottai Pastorate on the basis of Notification No.1/2010 issued by the defendants to the Pastorate of TELC, Pattukottai by way of implementing the notification No.1/2010	Pastorate	
6	O.S.No.2428/10 City Civil Court, Chennai	John Abraham and another v. TELC rep. by its Secretary	To declare that the Synod notification of the 1 st defendant issued in No.1/2010 dt. 28.01.2010 for the election of the Members to the Church Council for the Triennium 2010-2013 as per amended Bye-law is null and void	I.A.No... /10 seeking injunction against conducting elections in any of the Pastorate	Nil
7	C.S.No.278/10 High Court, Madras	R.D.Jayaraj v. TELC rep. by its Secretary and 5 others	(a) To declare Synod notification No.1/2010 as invalid; (b) for permanent injunction restraining elected representatives from taking part or functioning; and (c) for mandatory injunction to conduct election to Synod Continuation Committee	For interim injunction restraining respondents 4 to 6 Synod delegates from Royapuram Pastorate from participating in the Synod	Nil
8	C.S.No.294/10 High Court, Madras	Hendry Jayaraj v. TELC rep. by its Secretary and 2 others	For mandatory injunction to conduct the day to day administration of the Church in accordance with the old Church Rules	(1) To conduct the 41 st Triennial Synod in accordance with the old Church Rules; and (2) To appoint	Interim order to conduct election in accordance with the new rules J.Kanakaraj, J, appointed

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
				the Commissioner to conduct the 41 st Triennial Synod	as observer
9	O.S.No.13/10 Sub Court, Periyakulam	S.Arputhamani v. TELC rep. by its President/Bishop and 8 others	(a) To declare that the 2 nd defendant is not entitled to hold the post of Secretary, TELC, Tranquebar House, Melapadur, Trichy; and 9b) for permanent injunction restraining the 2 nd defendant from carrying out or function as Secretary of the TELC, Tranquebar House, Melapudur, Trichy-1	I.A.No.57/10 seeking interim injunction against the Secretary, TELC from functioning	Interim injunction restraining Secretary, TELC from functioning
10	O.S.No.72/10 District Munsif Court, Kodaikanal	Mrs.Deepa Dheborah @ Shivasankari v. TELC rep. by its President/Bishop and another	For permanent injunction restraining the Secretary, TELC from functioning as Secretary of TELC	I.A.No.146/10 for ad-interim order restraining the 2 nd defendant from carrying out or functioning as secretary of the TELC, Tranqubar House, Trichy-1 till disposal of the suit	Interim order restraining Secretary, TELC from functioning as Secretary, TELC
11	O.S.No.4559/10 III Asst. City Civil Court, Chennai	G.Immanuel & T.Thomson Jesudoss v. TELC rep. by its Secretary and 2 others	(a) To declare the elected Synod delegates notified under Synod notification No.II/2010 dt.13.4.2010; and (b) for mandatory injunction to convene 41 st Synod with all eligible members including plaintiffs and excluding ex-officio	To permit the plaintiffs to participate in the Synod	Interim order granted

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			nominated members		
12	O.S.No.295/10 Principal District Munsif, Erode	B.Issac Raj v. TELC rep. by its President and 3 others	(a) To declare Synod notification No.1/2010 dt.28.01.2010 as null and void; (b) for permanent injunction restraining the defendants from implementing/ announcing the notification No.1/2010 dt.28.01.2010	Interim injunction restraining the defendants from implementing and conducting notification No.1/2010 dt.28.01.2010 and church Council election of TELC	Interim injunction granted on 30.4.2010
<i>CASES FILED AFTER ELECTION</i>					
1	O.S.No.357/10 District Munsif Court, Perambalur	Nicholson v. (1) TELC rep. by its President/Bishop (2) Church Council, TELC rep. by its Secretary (3) Chairman, Education Board (4) E.D.Charles	For permanent injunction restraining the defendants from interfering with the administration of TELC either by way of transfer or appointments of Church Workers, Pastors, Teachers and sale of properties belonging to TELC Society and from passing any administrative orders	I.A.No.949/10 for interim injunction restraining the defendants from interfering with the administration of TELC either by way of transfer or appointments of Church Workers, Teachers and and sale of properties belonging to TELC Society and from passing any administrative orders	Status quo
2	O.S.No.294/10 Sub Court, Palani	P.Dhanraj – for himself and all members of	(a) For mandatory injunction to direct defendants 1 and 2 to	(a) I.A.No.530/ 10 for temporary	(a) Interim order granted on

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
		TELC v. (1) TELC rep. by Secretary (2) Rev.H.A.Martin , President/Bishop, TELC (3) E.D.Charles (4) Rev.R.Albert Suckarno (5) R.Pushparaj (6) I.E.P.Gnanaraj (7) Rev.P.Immanuel (8) Rev.C.Sam Jebaraj Stephenson (9) P.J.Thilagar (10) R.Benjamin Jeyaraj (11) Rev.Paul Sathiyamoorthy, Chairman, Ednl. Board (12) The Paster/ Chairman, Pastorate Committee, TELC, Olinathar Church, Jothiupuram	remove Rule Nos.128(3), 128(12) and 194 from bye-laws of 1st defendant Society; and (b) for mandatory injunction directing defendants 1 and 2 to issue Church Council Circular/notification in respect of elections for the Pastorate Committee, D.C., D.E. And Synod for the Triennium 2010-2013	injunction restraining the 2nd respondent/ defendant from enforcing Rule 128(3), 128(12) and 194 of the bye-laws of 1st respondent/ 1st defendant Society; and (b) I.A.No.531/ 10 for mandatory injunction to direct R1 and R2 to issue C.C. Circular/ notification in respect of elections for P.C., D.E., D.C. and Synod (General Body) for Triennium 2010-2013.	14.9.2010 till 28.9.2010. Subsequently, extended till date; and (b) Interim order granted
3	O.S.No.799/10 Sub Court,	Raju v. (1) Rev.Dr.H.A.Martin,President/Bi	(a) To declare R.194 of the Bye-laws of TELC which enable the D1 to	(a) I.A.No.821/ 10 for mandatory	(a) Interim order granted on

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
	Madurai	shop, TELC (2) Madurai Pastorate through its Pastor	proclaim emergency and abrogate the elected CC as ultra vires & unconstitutional and against T.N.Societies Registration Act and Rules and against the democratic set and objects of the Society; (b) to declare that the President/Bishop's Emergency Circular dt.14.9.2010 issued by D1 abrogating the Church Council duly elected by the 41 st Triennial Synod and proclaiming emergency in TELC as null and void; and (c) for permanent injunction restraining D1 from interfering with the functioning and working of Church Council duly elected by 41 st Triennial Synod on 5 th to 7 th of May 2010 to TELC elected for the period 2010-2013 till its full period is over and new Church Council is elected in 42 nd Triennial Synod	injunction to direct Asst. Commissioner of Police, Kottai Sargam to remove the lock put up in Central Office, TELC, Tranquebar House, Trichy and afford adequate protection; and (b) I.A.No.822/ 10 for stay of the operation of the President's emergency Circular No.1/2010 dt.14.9.2010 issued by R1/D1 abrogating the Church Council duly elected by the 41 st Triennial Synod and proclaiming emergency in TELC	16.9.2010; and (b) Interim order granted on 16.9.2010 till 04.10.2010 – subsequently extended
4	O.S.No.800/10 Sub Court, Thirumangalam	Samuel Gunaseelaraj v. (1) Rev.Dr.H.A.Martin, Bishop/President, TELC (2) Thirumangalam Pastorate	(a) To declare R.194 of the Bye-laws of TELC which enable the D1 to proclaim emergency and abrogate the elected CC as ultra vires & unconstitutional and against T.N.Societies Registration Act and Rules and against the democratic set and	(a) I.A.No.823/ 10 for interim injunction restraining the respondents from in any manner interfering with the functioning or	(a) Interim order granted on 16.9.2010 till 04.10.2010. Subsequently, extended till date; and (b) Interim

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
		through its Pastors	objects of the Society; (b) to declare that the President/Bishop's Emergency Circular dt.14.9.2010 issued by D1 abrogating the Church Council duly elected by the 41st Triennial Synod and proclaiming emergency in TELC as null and void; and (c) for permanent injunction restraining D1 from interfering with the functioning and working of Church Council duly elected by 41st Triennial Synod on 5th to 7th of May 2010 to TELC elected for the period 2010-2013 till its full period is over and new Church Council is elected in 42nd Triennial Synod	working of Church Council duly elected by 41st Triennial Synod 2010-2013 till its full period is over and new Church Council is elected in 42nd Triennial Synod; and (b) I.A.No.824/10 for stay of the President's Emergency Circular No.1/2010 dt.14.9.2010 issued by R1/D1 abrogating the Church Council duly elected by the 41st Triennial Synod and proclaiming emergency in TELC	order granted on 16.9.2010 till 04.10.2010 – subsequently extended
5	O.S.No.130/ 10 Sub Court, Ariyalur	G.Selvaraj v. (1) E.D.Charles (2) R.Benjamin Jeyaraj (3) I.E.P.Gnanaraj (4) Pushparaj (5) P.J.Thilagar (6)	To restrain the defendants from in any way interfering with the administration and governance of the 9 th defendant Church by President/Bishop TELC either claiming to be Office bearers or Members of Church Council elected on 5 th to 7 th May 2010 in the 41 st	I.A.No.186/10 for interim injunction restraining the defendants from in any way interfering with the administration and governance of the 9 th	Interim order granted on 17.9.2010 till 30.9.2010

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
		Rev.R.Albert Suckarno (7) Rev.P.Immanuel (8) Rev. Sam Jebaraj (9) TELC rep. by President/Bishop	Triennial Synod that took place at Holy Trinity Church, Tranquebar House, Trichy or trying to conduct the election of Members of Triennial Synod or any other organisational election for P.C., D.C., D.E. of TELC in any other names or capacity whatsoever in derogation of Circular No.1 of 2010 dt.14.9.2010.	defendant Church by President/Bishop TELC either claiming to be Office bearers or Members of Church Council elected on 5 th to 7 th May 2010 in the 41 st Triennial Synod that took place at Holy Trinity Church, Tranquebar House, Trichy or trying to conduct the election of Members of Triennial Synod or any other organisational election for P.C., D.C., D.E. of TELC in any other names or capacity whatsoever in derogation of Circular No.1 of 2010 dt.14.9.2010.	
6	O.S.No.832/10 Sub Court, Thirumangalam	Samuel Gnanaseelaraj v. (1) Rev.H.A.Martin (2) TELC, rep. by its Secretary	(a) To declare that holding the post of Bishop/President by D1 in TELC is illegal, void abinitio and is unconstitutional and is against T.N.Societies	(a) I.A.No.296/10 – to restrain D1 from in any manner acting or functioning or working or	Interim Order granted till 18.10.10. R1/D1 filed CRP (MD) No.2026/10

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
		(3) Thirumangalam Pastorate through its Pastor	Registration Act and Rule made thereunder and the Bye-laws of the Society; and (b) R1.D1 filed Tr.OP.No.58/10, 59/10 and 60/10 to transfer O.S.No.799/10, Sub Court, Madurai, O.S.No.800/10, Sub Court, Thirumangalam & O.S.No.832/10, Sub Court, Thirumangalam to the file of District Court, Madurai	otherwise as President/Bishop, TELC; and (b) I.A.No.356/10 – to suspend the injunction or to suspend the same till the disposal of I.A.No.356/10 i.e. the same application on 18.10.10. Both I.As. posted on 27.10.2010	before Madurai Bench. By order dated 07.0.2010 disposed of the CRP with certain directions.
7	O.S.No.182/10 District Munsif Court, Tirupattur	G.Johnny v. (1) R.Pushparaj (2) R.Benjamin Jayaraj (3) I.E.P.Gnanaraj (4) E.D.Charles (5) P.J.Thilagar (6) Rev.R.Albert Suckarno (7) Rev.P.Immanuel (8) Rev.Sam Jebaraj Stephenson (9) TELC rep. by President/Bishop	(a) To declare D1 to D8 have no authority to interfere in the administration of D9 Church by President/Bishop either by blocking the re-opening of Central Office at Tranquebar House, Trichy or by conducting day to-day affairs of the Church in view of assuming of the Office of Church Council vide his Circular No.1/2010 dt.14.9.2010 declared at 1.00 pm or by claiming to function as Vice-President, TELC Secretary, Church Council, TELC, Treasurer TELC, Property Officer TELC, Bursar of TBML College, Poraiyar or in any other capacity; and (b) for permanent	I.A.No.622/10 for interim injunction restraining D1 to D8 from interfering in the administration of D9 Church by President/Bishop either by blocking the re-opening of Central Office at Tranquebar House, Trichy or by conducting day to-day affairs of the Church in view of assuming of the Office of Church Council vide his Circular No.1/2010	Interim order against R1 to R3, R5, R7 and R8 granted. No injunction against R4 and R6 granted on 24.9.2010 till 01.10.2010. Subsequently extended till date

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
			injunction restraining D1 to D8 from interfering the administration of D9 Church by President/ Bishop either by blocking the re-opening of Central Office at Tranquebar House, Trichy or by conducting day to-day affairs of the Church in view of assuming of the Office of Church Council vide his Circular No.1/2010 dt.14.9.2010 declared at 1.00 pm or by claiming to function as Vice President, TELC, Secretary, Church Council, TELC, Treasurer TELC, Property Officer TELC, Bursar of TBML College, Poraiyar or in any other capacity	dt.14.9.2010 declared at 1.00 pm or by claiming to function as Vice-President, TELC Secretary, Church Council, TELC, Treasurer TELC, Property Officer TELC, Bursar of TBML College, Poraiyar or in any other capacity	
8	O.S.No.433/10 District Munsif Court, Kancheepuram	K.P.Manohar v. (1) E.D.Charles (2) R.Benjamin Jeyaraj (3) I.E.P.Gnanaraj (4) R.Pushparaj (5) P.J.Thilagar (6) R.Albert Sockarno (7) Rev.P.Immanual (8) Rev.C.Sam Jebaraj Stephenson (9) TELC, rep.	To restrain D1 to D8 from interfering with administration and governance of D9 Church by the President/ Bishop, TELC, Tranquebar house, Trichy and D10 Church, Konerikuppam, Kancheepuram and they are not to function as a Secretary, Vice President, Treasurer, Property Officer and Members of the Dissolved Church Council, E.B. Chairman and Correspondent if any in Central Office, Schools, Colleges and administration	I.A.No.878/10 for interim injunction restraining D1 to D8 from interfering with administration and governance of D9 Church by the President/Bishop, TELC, Tranquebar House, Trichy and D10 Church, Konerikuppam, Kancheepuram	Interim order granted till 18.10.2010. Subsequently extended.

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
		by its President/Bishop (10) TELC Immanuel Church, Kancheepuram		and they are not to function as a Secretary, Vice President, Treasurer, Property Officer and Members of the Dissolved Church Council, E.B. Chairman and Correspondent if any in Central Office, Schools, Colleges and administration	
9	O.S.No.705/10 Sub Court, Dharapuram	G.Ravichandran v. (1) TELC, rep. by Secretary (2) Rev.H.A.Martin, President/bishop, TELC (3) Pastor/Chairman Pastorate Committee, Zegan Balg Church, Tharapuram	(a) To grant mandatory injunction to remove Rule 128(3), 128(12) 194 of the Bye-laws of D1 Society; (b) to declare emergency Circular No.1/2010 dt.14.9.2010 by invoking R.194(1) of TELC Rules is illegal, ultra vires and non est; and (c) for permanent injunction restraining D2 from carrying out administration independently in the absence of Church Council either by way of issuing proceedings or implementing proceedings/orders of the President/Bishop of TELC under R.194(1) already issued by D2	I.A.No.218/10 for temporary injunction restraining D2 from carrying out administration independently in the absence of Church Council either by way of issuing proceedings or implementing proceedings/orders of the President/Bishop of TELC under R.194(1) already issued by D2	Interim order granted till 22.11.2010
10	O.S.No.154/10	P.Inbaraj for	To restrain the	For interim	Interim

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
	Sub Court, Ariyalur	himself and on behalf of all like minded Members of TELC, Tranquebar House, Trichy v. (1) E.D.Charles (2) R.Benjamin Jeyaraj (3) I.E.P.Gnanaraj (4) Pushparaj (5) P.J.Thilagar (6) Rev.R.Albert Suckarno (7) Rev.P.Immanuel (8) Rev. Sam Jebaraj (9) TELC rep. by President/Bishop	defendants from in any way interfering with the administration and governance of the 9th defendant Church by President/Bishop TELC either claiming to be Office bearers or Members of Church Council elected on 5th to 7th May 2010 in the 41st Triennial Synod that took place at Holy Trinity Church, Tranquebar House, Trichy or trying to conduct the election of Members of Triennial Synod or any other organisational election for P.C., D.C., D.E. of TELC in any other names or capacity whatsoever in derogation of Circular No.1 of 2010 dt.14.9.2010.	injunction restraining the defendants from in any way interfering with the administration and governance of the 9th defendant Church by President/Bishop TELC either claiming to be Office bearers or Members of Church Council elected on 5th to 7th May 2010 in the 41st Triennial Synod that took place at Holy Trinity Church, Tranquebar House, Trichy or trying to conduct the election of Members of Triennial Synod or any other organisational election for P.C., D.C., D.E. of TELC in any other names or capacity whatsoever in derogation of	order granted on 9.11.2010 till 22.11.2010

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
				Circular No.1 of 2010 dt.14.9.2010.	
11	O.S.No.1001/10 Sub Court, Trichy	(1) TELC, rep. by its Secretary E.D.Charles (2) Rev.R.Albert Sockarno (3) I.E.P.Gnanaraj (4) R.Pushparaj (5) Rev.R.Immanuel (6) Rev.Sam Jebaraj Stephenson (7) P.J.Thilagar (8) R.Benjamin Jayaraj v. Rev.Dr.H.A.Martin, President/Bishop, TELC	(a) To declare President Bishop's Emergency Circular No.1/2010 dt.14.9.2010 issued by defendant abrogating CC duly elected by the 41 st Triennial Synod for 2010-2013 and proclaiming emergency in TELC, 1 st Plaintiff Society as illegal, ultra vires, non est in the eye of law; (b) for permanent injunction restraining D1 from implementing emergency Circular No.1/2010 & carrying out function in respect of said circular; (c) for permanent injunction restraining the defendant from interfering in the administration and functioning of plaintiffs 2 to 9, the elected Church Council Member of TELC for 41 st Triennium 2010-2013; and (d) to declare Rule 128(3), 128(12) and 194(1), (2), (3) of amended Bye-law of the plaintiff Society as illegal and null and void and to restrain defendant from functioning under the Rules	(a) I.A.No.1119/10 for interim injunction restraining the respondent/defendant from interfering in the administration of TELC Society by plaintiffs 2 to 9, the elected Church Council Members of TELC for 41 st Triennium 2010 to 2013 either by way of functioning as a President of TELC (or) passing orders or circulars or proceedings under Rule 194(1) of TELC (b) I.A.No.1120/10 to direct Commissioner of Police, Trichy to break open the lock of Central Office of Trichy at Tranquebar House and	Interim Order granted on 12.11.2010

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
				provide protection to petitioners/plaintiffs for functioning as elected Church Council Members of TELC	
12	O.S.No.5401/ 10 City Civil Court, Chennai	C.Rajasekaran v. The Church Council rep. by its Secretary	For permanent injunction restraining the defendants from assuming the office of the Church Council and from passing any administrative orders in respect of the management and affairs of the Society	I.A.No.10482/ 10 for stay of all administrative and executive functions of the Church	A civil revision petition in CRP No.2063/10 was filed by the Church Council on the file of this Court to strike off the plaint in O.S.No.5401/ 10. It is admitted and stay of all further proceedings in the suit granted
13	O.S.No.218/10 Sub Court, Dharapuram	G.Ravichandran v. TELC rep. by Secretary and 2 others	(a) To grant mandatory injunction to remove Rule 128(3), 128(12), 194 of the Bye-laws of D1 Society; (b) to declare emergency circular No.1/2010 dt. 14.9.2010 by invoking Rule 194(1) of TELC Rules is illegal, ultra vires and non est; and (c) for permanent injunction restraining D2 (President) from	I.A.No.705/10 for temporary injunction restraining D2 (President) from carrying out administration independently in the absence of Church Council either by way of issuing proceedings or implementing	Interim order granted till 22.11.2010

<i>Sl. No.</i>	<i>Case No./ Court</i>	<i>Parties to the litigation / Cause Title</i>	<i>Prayer in the suit</i>	<i>Interim reliefs sought</i>	<i>Interim orders now in force</i>
			carrying out administration independently in the absence of Church Council either by way of issuing proceedings or implementing proceedings/ orders of the President/Bishop of TELC under R.194(1) already issued by D2 (President)	proceedings/ Orders of the President/Bishop of TELC under R.194(1) already issued by D2	
14	O.S.No.909/10 Sub Court, Thirumangalam	Samuel Gunaseelaraj v. (1) Rev.Dr.H.A.Martin, Bishop/President (2) TELC rep. by its Secretary (3) Thirumangalam Pastorate rep. by its Pastor	To declare all actions or decisions taken by the Bishop on or after 14.9.2010 as null and void	(a) I.A.No.943/10 for mandatory injunction to direct the President/ Bishop not to pass any orders without sanction of Church Council; and (b) I.A.No.944/10 for mandatory injunction to direct the respondents not to give effect to orders/decisions passed after 14.9.2010 by President/ Bishop	Details not available

6. Therefore, while disposing of the Civil Revision Petitions, I issued a general direction to all the Subordinate Courts in the State except the Principal District Court, Tiruchirapalli not to entertain any litigation relating to election to the church council of TELC. Paragraphs 53(f) and (g) of my order reads as follows:-

"(f) All the suits, listed in the annexure to this order, (other than those pre-election suits which have already been ordered to be transferred to the Principal City Civil Court, Chennai, by an earlier order) shall stand transferred to the file of the Principal District Court, Tiruchirappalli, who shall allot all of them to any one of the additional District Courts (or Fast Track Courts). The Court to which all the suits are transferred, shall segregate the cases category wise and first take up for hearing, only those suits (i) where the elections to the Triennium 2010-2013 are substantially under challenge; and (ii) where the emergency circular dated 14.9.2010 issued by the Bishop/President is under challenge. Since some of the pre election suits have been transferred to the Principal City Civil Court, Chennai by judicial order dated 18.10.2010 by R.S.Ramanathan,J, and also since some of the parties to those suits are not before me, I am unable to order re-transfer of all those suits from the Principal City Civil Court, Chennai to the Principal District Court, Tiruchirappalli. However, the parties are directed to take out

appropriate application within two weeks on the appellate side of this Court for transfer of even those suits which have already been transferred to the Principal City Civil Court, Chennai, so that they shall also be transferred to the Principal District Court, Tiruchirappalli.

(g) If in the suits so taken up for hearing first, the election of the present body of Church Council (elected in May 2010) is upheld and in addition, if the circular issued under Rule 194 by the Bishop/President is also set aside, then, the Administrator shall demit office and hand over charge to the Church Council represented by the Secretary. On the other hand, if the elections held in May 2010 are held to be invalid or if the elections as well as the emergency circular are upheld, then, the Administrator shall proceed to conduct fresh elections as per the bye-laws".

7. Despite the above direction, the respondents 1 and 2 have taken a misadventure by filing a suit on the file of the City Civil Court, Chennai, taking a specious plea that the general directions issued by me are all of no significance any more in the light of an order passed by the Supreme Court holding that the provisions of the Tamil Nadu Societies Registration Act would not apply to the Tamil Evangelical Lutheran Church.

8. But a careful look at the judgment rendered by the Supreme Court in Civil Appeal No.8458 of 2014, dated 4.9.2014, would show that the said decision arose out of an order passed by a Division Bench of this Court,

confirming an order of the single Judge (to which I was not a party) holding that as per the Tamil Nadu Societies Registration Act, no salary can be paid to the elected office bearers and that therefore all the salaries paid in the past should be recovered from them. In other words, the Supreme Court was not concerned with any election dispute to the Tamil Evangelical Lutheran Church. Irrespective of whether Tamil Nadu Societies Registration Act is applicable to the society or not, the Civil Court's jurisdiction to entertain a dispute does not stand ousted. The order passed by me in ***Rt.Rev. Dr.H.A. Martin VS. The Tamil Evangelical Lutheran Church reported in [2011(1) CTC 395]*** was for the purpose of preventing the members of the society from indulging in forum shopping by filing suits in various courts all over the State. The pattern of litigation in the society is that if one member filed a suit in Kanyakumari and failed to obtain an interim order to put on hold the election, another member will file a suit in Chengalpattu and test the waters there. Such a practice actually showed the system of administration of justice in poor light. Therefore, I was constrained to pass an order in C.R.P.(MD) No.2535 of 2010 that it is only the Principal District Judge, Tiruchirapalli where the head office of the society is situate, which will have jurisdiction to entertain any suit. This direction had nothing to do with the applicability of the provisions of the Tamil Nadu Societies Registration Act.

9. Therefore, the IV Assistant City Civil Judge who entertained the suit, has completely failed to appreciate the nature of the direction issued by

this Court and the law laid down by the Supreme Court. The filing of the suit by the respondents 1 and 2 on the file of the IV City Civil Court, Chennai was nothing but an abuse of the process of Court. Therefore, the plaint is liable to be struck off the Suit Register.

10. As held by the Supreme Court in ***Shalini Shyam Shetty v. Rajendra Shankar Patel [(2010) 8 SCC 329]***, the power under Article 227 of the Constitution is to ensure that the wheel of justice does not come to an halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence.

11. In ***Surya Dev Rai v. Ram Chander Rai [(2003) 6 SCC 675]***, the Supreme Court pointed out that supervisory jurisdiction under Article 227 is exercised for keeping the Subordinate Courts within the bounds of their jurisdiction. When a Subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise supervisory jurisdiction.

12. In any case, today it appears that the respondents 1 and 2 want to withdraw the suit. It appears that they have already filed a memo for withdrawal.

13. But as rightly contended by Mr.G.Masilamani, learned senior

counsel for the petitioners, it would be a travesty of justice if I allow the respondents 1 and 2 to withdraw the suit, without recording a finding that they ought not to have filed the suit in the City Civil Court, Chennai and that the respondents 1 and 2 were guilty of abuse of the process of court. The fact that the IV Assistant City Civil Judge was guilty of gross negligence, cannot be lost sight off. Therefore, the Civil Revision Petition is allowed and the suit in O.S.No.6140 of 2014 on the file of the IV Assistant City Civil Court, Chennai, is struck off the Suit Register. The respondents 1 and 2 should pay costs of Rs.10,000/- to the Tamil Evangelical Lutheran Church, Trichy.

22.04.2015

Index:Yes/No
Internet:Yes/No

gr.

To

IV Assistant Judge, City Civil Court, Chennai

V.RAMASUBRAMANIAN,J

gr.

Order in
CRP.(PD)No.4177/2014 &
Cont.P.No.2715/2013

22.4.2015