

In the High Court of Judicature at Madras

Dated : 08.1.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Civil Revision Petition (PD) No.50 of 2015 and M.P.Nos.1 & 2 of 2015

Rev.J.Mohan, Pastor, St.Thomas  
Lutheran Church, Chennai-18.

...Petitioner

Vs

1.India Evangelical Lutheran Church  
(IELC), Ambur Synod, rep.by its  
Secretary, Ambur, Vellore District.

2.St.Thomas Luthern Church (IELC)  
rep.by its Secretary, Chennai-18.

3.J.Rajesh Kumar, Treasurer, St.Thomas  
Lutheran Church, Chennai-18.

...Respondents

PETITION under Article 227 of The Constitution of India to call for the records of the Sixth Assistant City Civil Court, Chennai pertaining to the order dated 22.12.2014 rejecting the memo in O.S.No.1801 of 2014 dated 12.11.2014.

For Petitioner : Mr.V.Anand

### ORDER

The petitioner has come up with the above revision petition challenging the rejection of a memo filed by him for dismissing a suit filed by the third respondent herein as having become infructuous.

2. Heard Mr.V.Anand, learned counsel for the petitioner.

(2)

3. The third respondent in this revision petition filed a suit in O.S.No. 1801 of 2014 on the file of the Sixth Assistant Judge, City Civil Court, Chennai. The prayer in the suit was for a declaration that the plaintiff was entitled to continue as treasurer till 30.9.2016 or for his full tenure and for consequential reliefs.

4. The petitioner herein, who was the third defendant in the suit, filed a memo contending that the suit has become infructuous in view of the conduct of fresh elections on 13.7.2014. But, the said memo was rejected by the Trial Court on the ground that the elections were conducted during the pendency of the suit. Aggrieved by the said order, the petitioner is before this Court.

5. What happens subsequent to the institution of a suit may have different consequences. One of the consequences could be to make the prayer in the suit become infructuous. But, once the Court felt that the prayer had not become infructuous, the mere fact that the defendants are entitled to other consequences that flow out of the subsequent events, is no ground to seek the dismissal of the suit as infructuous. Therefore, the Trial Court was right in its observations.

6. Hence, the civil revision petition is dismissed. It is open to the petitioner to raise before the Court below, the consequences that flow out of the subsequent events and the conduct of the plaintiff. Consequently, the above MPs are also dismissed.

08.1.2015

V.RAMASUBRAMANIAN,J  
RS

Internet : Yes

To  
The Registrar, City Civil Court, Chennai.

CRP.(PD)No.50 of 2015  
&M.P.Nos.1 & 2 of 2015

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