



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P (MD) No.2779 of 2015 (PD)

and

M.P. (MD) .No.2 of 2015

Rev.J.J.Christudass

..Petitioner

Vs.

1.Ashok, S/o.Kunapual Singh,
(For himself and as representatives of the
other members of Tirunelveli Diocese
under Order1 Rule 8 CPC)

2.The Synod of Church of South India,
Represented by its General Secretary,
for himself and other members of the Synod
of Church of South India.

3.Pushparaj

..Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order passed in I.A.No.452 of 2015 in O.S.No.129 of 2013 dated 14.12.2015 on the file of the Principal Sub Court, Tirunelveli.

For Petitioner : Mr.S.Meenakshi Sundaram

ORDER

This revision is filed against the fair and decretal order dated 14.12.2015 and made in I.A.No.452 of 2015 in O.S.No.129 of 2013 on the file of the learned Principal Sub Judge, Tirunelveli.

2. As it is manifested from the records, the first respondent has filed the above suit in O.S.No.129 of 2013 as against the revision petitioner as well as the remaining respondents viz., 2 and 3 seeking the relief as follows;

"a. to declare the illegal and inoperative proceedings
of the Diocesan Council on 18.05.2009 as void,

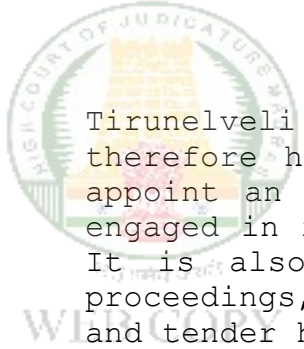
b. to declare void illegal the appointment and
consecration of the first defendant as Bishop of
Tirunelveli Diocese.

c. and for permanent injunction restraining the first
defendant from acting as Bishop of Tirunelveli Diocese.

d. for cost of the suit and

e. for such other relief's as the Court may deem fit."

3. That suit was contested by the revision petitioner along with the other respondents. After formation of necessary issues, the trial was commenced now. Admittedly the plaintiff's evidence was completed and the process of recording of evidences on the part of the defendants were commenced and DW1 was examined. The first defendant being the Bishop of



Tirunelveli Diocese wanted to examine himself as one of the witnesses and therefore he came forward with an application in I.A.No.452 of 2015 to appoint an advocate commissioner to record his evidence, as he has been engaged in religious activities on account of ensuing Christmas festival. It is also his contention that since he has to conduct the church proceedings, he might not be in a position to appear before the Court and tender his evidence.

4. Therefore, he has filed an application in I.A.No.452 of 2015 under Section 75 read with Order 26 Rule 4-A of Code of Civil Procedure to appoint a commissioner. This petition was dismissed by the learned trial Judge on the ground that there is no contention that the petitioner is not able to appear before the Court due to sickness or for some other health related reasons and that the only reason is that he is pre-occupied with some religious activities. Further, the learned trial Judge has observed that since a direction is issued by this Court to complete the trial proceedings by the end of this month, i.e., on or before 31.12.2015, he has proceeded to reject the request made by the petitioner and against this order this Civil Revision Petition is filed.

5. Heard Mr.S.Meenakshi Sundaram, learned counsel appearing for the revision petitioner.

6. The learned counsel has submitted that if the suit was directed to be adjourned either on fourth or sixth day of January, 2016, the petitioner being the first defendant would definitely appear before the trial Court and tender his evidence.

7. This Court has considered the submissions made by the learned counsel Mr.S.Meenakshi Sundaram. Having regard to the relevant facts and circumstances, this Court finds that the request made by the learned counsel may be considered and the learned trial Judge be directed to list the suit on 05.01.2016 so as to enable the petitioner to examine himself as a witness on defendant's side as the Christmas Celebration is fast approaching.

8. Accordingly the learned Principal Sub Judge, Tirunelveli, is directed to list the suit in O.S.No.129 of 2013 on 05.01.2016 and on that day the first defendant is directed to appear before the trial court and tender his evidence. The earlier time limit given to the learned trial judge to dispose the suit by the end of 31st December, 2015, is extended up to the end of January, 2016.

9. With the above direction this Civil Revision Petition is dismissed and the impugned order is confirmed. Connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar(CS)

To

The Principal Subordinate Judge, Tirunelveli.

+1cc to Mr.S.Meenakshisundaram, Advocate in SR.75841

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