

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2368 of 2015

Member of the Congregation,
Christ Lutheran Centenary Church
rep. by Secretary M.E.Stanley : Petitioner
versus

1. Rev.S.Alexander

2. Christ Lutheran Centenary Church
Congregation members,
rep. By its President Mr.Dhanraj : Respondents

PRAYER: Revision filed against the order dated 13.3.2015, in I.A.No.1001 of 2014 in O.S.No.150 of 2014 on the file of the District Munsif, Krishnagiri.

For petitioner : Mr.S.R.Sumathy

For respondent : Mr.V.Vijaya Kumar

ORDER

The petitioner filed a suit in O.S.No.150 of 2014 against the first respondent for injunction. In the said suit, the second respondent filed an application in I.A.No.1001 of 2014 for impleading as a party invoking order 1 Rule 10 CPC. The application was allowed by the learned trial Judge notwithstanding the objection raised by the petitioner. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that the second respondent failed to plead and prove before the Trial Court with regard to the composition of the Congregation, Christ Lutheran Centenary Church and as such, the Trial Court was not correct in impleading the proposed party as second defendant.

3. The learned counsel for the second defendant justified the impugned order. According to the learned counsel, the suit was filed in a representative capacity and as such, the party was right in filing application for impleading the members of the congregation as parties to the suit.

4. The suit in question was instituted by the petitioner against Rev.S.Alexander, Pastor, CLLC. It was a simple suit for injunction. The second respondent, pursuant to the steps taken by the petitioner to file the suit in a representative capacity, filed the application in question for impleading the congregation members as party. The learned trial Judge allowed the application notwithstanding the objection raised by the petitioner that the proposed party failed to incorporate the names of the congregation members, who would be bound by the decree in O.S.No.150 of 2014. I do see considerable force in the submission made by the learned counsel for the petitioner to the effect that without disclosing the identity of the members of the Congregation, Christ Lutheran Centenary Church and other details, the Trial Court was not correct in impleading the second

respondent as party to the proceeding.

5. The learned counsel for the second respondent submitted that the second respondent is in possession of the list of congregation members representing the Congregation, Christ Lutheran Centenary Church and its office bearers and is therefore prepared to produce the same.

6. The question as to whether the second respondent should be impleaded as a party to the suit representing the congregation members requires to be decided by the learned trial Judge afresh. The parties should be given liberty to produce materials to substantiate their respective case. In short, the matter requires fresh consideration by the learned trial Judge.

7. In the result, the order dated 13 March 2015 in I.A.No.1001 of 2014 is set aside. The application in I.A.No.1001 of 2014 is restored to file.

8. The second respondent, who is the petitioner in I.A.No.1001 of 2014, should be given liberty to produce the list of congregation members of Congregation, Christ Lutheran Centenary Church and its present office bearers, to demonstrate that being the president of the congregation, he is entitled to be impleaded as a party to the proceeding.

K.K.SASIDHARAN, J.

(tar)

9. It is needless to point out that the Trial Court has to consider the matter purely on merits, uninfluenced by the observation made in this order as it was made only for the purpose of deciding the issue before this Court.

10. The learned Trial Judge is directed to consider the materials and pass a fresh order on merits and in accordance with law.

11. The civil revision petition is allowed to the extent indicated above. No costs. Consequently, M.P.No.1/2015 is closed.

17.10.2016

Index:Yes/no
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To
The District Munsif, Krishnagiri

C.R.P. (PD) No.2368 of 2015