

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

and

THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.13 of 2010

The Laity Association of CSI -

Madras Diocese

1-A Balar Kalvi Nilayam Avenue

Vepey, Chennai 600 007.

.. Appellant

versus

1. Rt.Rev.Dr.V.Devasagayam

Bishop in Madras

Church of South India -

Madras Diocese

No.226, Cathedral Road,

Chennai 600 086.

2.The Church of South India Madras

Diocesan Council

rep. by its Secretary,

Rev.Sampath Baghavandas

No.226, Cathedral Road,

Chennai 600 086.

.. Respondents

Appeal filed under Order 36 Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent Act, against the Order and Decreetal Order dated 19.08.2009 passed in A.No.588 of 2009 in O.A.No.14 of 2009 in C.S.No.32 of 2009.

For Appellant .. Ms.Lita Srinivasan
For Respondents .. Mr.A.R.Nixon

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J U D G M E N T

(Judgement of the Court was delivered by The Hon'ble Chief Justice)

The appeal is directed against the impugned order of the learned Single Judge dated 19.08.2009, refusing to take proceedings under Order 39 Rule 3 of the Civil Procedure Code, 1908, for wilful disobedience of the order dated 12.01.2009.

2. Learned single Judge has found that the appellants failed to establish that the respondents were aware of the order passed by the Court as the Court did not deem it fit to proceed on the basis only of a newspaper advertisement. It has been opined that personal service reached the respondent only on 17.01.2009, by which time the process was complete and such delay has been found acceptable on account of the Pongal

Holidays, and thus, even the postal service department has not been found blameworthy. The officers of the respondents was stated to be closed during that time.

3. We find no reason to interfere with this reasoned order of the learned Single Judge, as on the basis of the records, he would be the best Judge in determining whether such a violation infact has taken place or not.

4. We may note the submission of the learned counsel for the respondents that the suit itself is possibly dismissed, though that does not in any manner affect the present appeal.

5. The Original Side Appeal is thus dismissed, leaving the parties to bear their own costs.

(S.K.K., CJ.) (R.M.D.,J.)
08.09.2016

Index : Yes/No
ksr

The Hon'ble The Chief Justice
and
R.Mahadevan, J.

(ksr)

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