

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

ORIGINAL SIDE APPEAL NOS.201 TO 210 OF 2015
AND M.P.NOS.1 AND 2 OF 2015
AND C.M.P.NO.5318 OF 2017
AND M.P.NO.1 OF 2014

OSA No.201 of 2015

St.George's Cathedral Trust,
Rep. by its Secretary,
St.George's Cathedral Compound,
No.224, Cathedral Road,
Chennai - 600 086. ... Appellant

Vs.

1. The Rt.Rev.Dr.V.Devasahayam,
Bishop in Madras,
Church of South India,
No.226, Cathedral Road,
Chennai - 600 086.
2. The Diocese of Madras,
Rep. by its Secretary,
Church of South India,
No.226, Cathedral Road,
Chennai - 600 086.
3. Rev.S.Immanuel Devakadatcham,
Presbyter in Charge,
St.George's Cathedral,
No.224, Cathedral Road,
Chennai - 600 086. ... Respondents

Prayer in O.S.A.No.201 of 2015 : Appeal filed under Order XXXVI Rule 2 of Original Side Rules read with Clause 15 of the Letters Patent, against the Order and Decree dated 11.09.2015 made in O.A.No.943, 944/2012, 272, 273, 1003/2013 and A.Nos.1764, 2870, 2981, 2982, 3473 and 5363/2013 in C.S.No.731 of 2012 on the file of this Court.

Prayer:-

O.A.No.943 of 2012:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the third Respondent or anyone claiming any right under him from acting as Clergy Trustee of the Plaintiff Trust pending disposal of the above suit.

O.A.No.944 of 2012:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondents or their men or agents or anyone claiming any right under them from interfering with the Plaintiff Trust's management and administration of the suit schedule property pending disposal of the above suit.

O.A.No.272 of 2013:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the first respondent or anyone claiming any right under him from appointing anyone as a Trustee of the Plaintiffs Trust without consulting the existing Trustees and following the provisions as laid down in the "Rules For The Administration Of The St.George's Cathedral Trust" filed Plaint document No.3 pending disposal of the above suit.

O.A.No.273 of 2013:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the First Respondent or anyone claiming any right under him from removing any of the existing Trustees of the Plaintiff Trust as it would be contrary to the provisions as laid down in the "Rules For The Administration of The St.George's Cathedral Trust" filed as plaint document No.3 pending disposal of the above suit.

O.A.No.1003 of 2013:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the first and third respondents or anyone acting under them from denying the serving of Holy Communion to the existing Trustees viz. (1)

Mr.M.M.Rajendran, Senior Trustee, (2) Mr.D.S.Luther, Secretary, (3) Mrs.M.E.Felix, Trustee and (4) Mrs.Lalitha Sukumar, Trustee and their respective spouses in the Holy Communion services held at St.Geroge's Cathedral Church, No.224, Cathedral Road, Chennai-600 086, or in any other Chruch under the control of the First Respondent, pending disposal of the above suit.

A.No.1764 of 2013:-

Application praying that this Hon'ble Court be pleased to permit the Applicants/Plaintiffs to amend the plaint by adding the following prayer in paragraph 16 as 16 d) and amend the existing paragraph 16 d) and e) and f);

d) For a permanent injunction restraining the First Defendant from appointing anyone as a Trustee of the Plaintiff Trust without consulting the existing Trustees and following the provisions as laid down in the "Rules For The Administration Of The St. George's Cathedral Trust" filed as Plaint document No.3.

O.A.No.2870 of 2013:-

Application praying that this Hon'ble Court be pleased to grant leave to the Applicant Trust to file the above suit against the Second Respondent.

A.No.2981 of 2013:-

Application praying that this Hon'ble Court be pleased to punish the Third Respondent for willful disobedience of the order dated 2.7.2013 made in O.A.No.944 of 20123 in C.S.No.731 of 2012 by detaining him in civil prison.

A.No.2982 of 2013:-

Application praying that this Hon'ble Court be pleased to appoint an Advocate Commissioner to inspect the St.George's Cathedral Trust office at No.224, Cathedral Road, Chennai-600086 and to remove the locks put up thereon with police aid if necessary to enable the Applicant to have access to the Trust office and further direct the said Advocate Commissioner to take note of the physical features and inventory of the files / registers and list the other movables kept in the Trust office

and submit his report to this Hon'ble Court within the time stipulated by this Hon'ble Court.

A.No.3473 of 2013:-

Application praying that this Hon'ble Court be pleased to grant interim stay of the operation of the letters dated 28.06.2013 sent by the First Respondent to the existing Trustees viz. (1) Mr.M.M.Rajendran, Senior Trustee, (2) Mr.D.S.Luther, Secretary, (3) Mrs.M.E.Felix, Trustee and (4) Mrs.Lalitha Sukumar, Trustee pending disposal of the above suit.

A.No.5363 of 2013:-

Application praying that this Hon'ble Court be pleased to permit the Applicants/Plaintiffs to amend the plaint by adding the name of "Prof.D.S.Luther", after the word Secretary in the short and long cause title and in the verification wherever found in the plaint in the above suit.

For Appellant : Mr.R.Gandhi, Senior Counsel
in O.S.A.No.201 to 210/15 for Mr.S.D.S.Philip

For Respondent 1 : Rt.Rev.Dr.V.Devasahayam
in O.S.A.No.201 to 210/15 party in person

For Respondents 2&3 : Mr.V.Raghavachari
in O.S.A.No.201 to 210/15 for Mr.M.Kempuraj

सत्यमेव जयते
COMMON JUDGEMENT

(Judgement of the Court was made by RAJIV SHAKDHER, J.)

1. In O.S.A.No.201 of 2015 the appellant is represented by Mr.R.Gandhi, learned senior counsel instructed by Mr.S.D.S.Philip, while respondent No.1 is present in person.

1.1. In so far as respondent No.2 and 3 are concerned, they are represented by Mr.V.Raghavachari, advocate.

2. O.S.A.No.15 of 2014, has been preferred by persons who are arrayed as respondent No.1 and 2 in O.S.A.No.201 of 2015.

This appeal has been preferred against the dismissal of an application filed under Order VII Rule 11 of the Code of Civil Procedure (in short "CPC"). The impugned order is dated 12.12.2013.

3. Likewise, O.S.A.No.201 to 210 of 2015 are preferred against the common order dated 11.09.2015.

4. To be noted, Mr.S.Parthasarthy, learned senior counsel instructed by Mr.S.P.S.Philip appears for respondent No.1 in O.S.A.No.15 of 2014. While Mr.E.Senthil Kumar appears for respondent No.2 in O.S.A.No.15 of 2014.

5. With consent of the aforementioned counsels, the captioned appeals are disposed of with the following directions:

(i) The amendments to the plaint sought for by the appellant in O.S.A.No.201 of 2015 i.e. original plaintiff in C.S.No.731 of 2012 are permitted subject to the defendants being permitted to take all valid and legal defence, qua amendments sought for and allowed.

(ii) Since vide order dated 20.11.2017, passed in O.S.A.No.15 of 2015, we had directed the defendants to file their written statement within four (4) weeks and replications, thereto, if any, within two (2) weeks thereafter in line with same, the written statement in the suit will be filed by the defendants on or before 20.12.2017. Likewise, the appellant in O.S.A.No.201 of 2015, i.e. the original plaintiff in the suit will be at liberty to file replication to the written statement, if any, within two (2) week thereafter.

(iii) The matter will be listed before the learned Single Judge on 19.01.2018, for framing of issues.

(iv) After issues are framed in the matter, the plaintiff will file proof affidavit along with documents within two (2) weeks thereafter.

(v) The plaintiff will produce its witnesses for cross examination on the date fixed by the learned Master. The date fixed will be in close proximity to the filing of the proof affidavit.

(vi) Immediately, after the cross examination of the plaintiff's witnesses, the learned Master will call upon the defendants to file their proof affidavit along with documents and also fix a date for the cross examination of the defence witnesses.

(vii) The entire exercise of recording evidence will be completed by the learned Master on or before 28.02.2018.

(viii) The learned Master will place the matter before the learned Single Judge not later than 15.03.2018.

5.1. Furthermore it is also agreed by the counsel for the parties that a typographical error has crept in paragraph 43 of the order dated 11.09.2015. To be precise, while in the first part of the very same paragraph, the learned Single Judge has observed that A.No.2870 of 2013 filed under Order 1 Rule 8 of the CPC can be decided at the time of trial by framing necessary issues, in the latter part of the very same paragraph, the said application is included amongst those applications which were dismissed. It is, obviously, a typographical error and therefore, the first part of paragraph 43 will operate as agreed by counsels.

6. The captioned appeals are disposed of with the aforementioned directions. The connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Sub Assistant Registrar (Original Side),
High Court, Madras.
2. The Master, (Original Side)
High Court, Chennai

+10ccs to Mr.M.Kempraj, Advocate, S.R.No.86085 to 86094
+2ccs to Mr.S.D.S.Philip, Advocate, S.R.No.85359

O.S.A.Nos.201 to 210 of 2015
and M.P.Nos.1 and 2 of 2015
and C.M.P.No.5318 of 2017
and M.P.No.1 of 2014

CNR(CO)
CS/22/12/17