



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:08.08.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

CMSA.(MD)No.48 of 2016
and C.M.P(MD)No.10558 of 2016

1.Muthulaxmi @ Muthaparanam
2.Lal Bahadur Kennedy : Appellants/Respondents/
Petitioners/Plaintiffs

Vs.

Kovilpatti Tamil Baptist School Association,
Rep. by its President,
(Reg.No.17/56),
27, Yettaiahpuram Road,
Kovilpatti. : Respondent/Appellant/
Respondent/Defendant

Appeal filed under Order 43 Rule 1 (7) of Civil Procedure Code, against the order, dated 21.09.2016 made in C.M.A.No.4 of 2016, on the file of the Subordinate Judge, Tuticorin, Reversing the order, dated 16.06.2015 made in I.A.No.487 of 2015 in O.S.No.86 of 2015, on the file of the District Munsif Court, Kovilpatti.

For Appellants : Mr.T.Lajapathiroy
For Respondent : Mr.S.Kadarkarai

J U D G M E N T

This appeal has been filed under Order 43 Rule 1 (7) of Civil Procedure Code, against the order, dated 21.09.2016 made in C.M.A.No.4 of 2016, on the file of the Subordinate Judge, Tuticorin, Reversing the order, dated 16.06.2015 made in I.A.No.487 of 2015 in O.S.No.86 of 2015, on the file of the District Munsif Court, Kovilpatti.

2. The appellants are the plaintiffs in O.S.No.86 of 2015 on the file of the District Munsif Court, Kovilpatti. They filed the suit for declaration to declare the resolution as null and void and for injunction. The appellants also filed I.A.No.487 of 2015 on the file of the District Munsif Court, Kovilpatti for injunction restraining the respondent therein from functioning as the member of the first defendant's Association and I.A.No.488 of 2015 for injunction restraining the respondent therein from functioning as a member. After contest, the trial Court has granted injunction, by the order, dated 16.06.2015.



3. The respondent filed C.M.A.No.4 of 2016 in O.S.No.86 of 2015 before the Sub Court, Tuticorin challenging the order of the injunction granted by the trial Court, dated 16.06.2015. Before the first appellate Court, the respondent filed certain documents to substantiate its case. The first appellate Court after hearing the arguments on behalf of the appellants and the respondent and considering the documents filed by the respondent held that the respondent has *prima facie* proved that the appellants have been removed from the partnership of the first defendant's Association with effect from 17.04.2013 and the same was communicated to the appellants. In view of the said finding, the first appellate Court, by the judgment and decree dated 16.06.2015 allowed the C.M.A.No.4 of 2016 and dismissed the application for injunction in I.A.No.487 of 2015. Against the order of dismissal made in I.A.No.487 of 2015, dated 16.06.2015, the appellants have filed the present Civil Miscellaneous Second Appeal.

5. Be that as it may, when the matter is taken up for hearing, both the counsel fairly submits that the appellants herein has filed two applications, namely, I.A.Nos.487 and 488 of 2015 for temporary injunction, wherein, in the case of I.A.No.488 of 2015, this Court, in C.M.S.A.No.53 of 2016, by an order dated 21.03.2016 directed the District Munsif, Kovilpatti to dispose of the suit, as early as possible not later than July 2017. At this juncture, they would submit that due to the pendency of the present Civil Miscellaneous Second Appeal, the above suit is not able to be proceeded by the court below as per the direction of this Court dated 21.03.2016 and therefore, they would pray that similar order can be passed by this Court in this civil miscellaneous second appeal also.

6. In the light of the above factual position of the matter and following the earlier order of this Court dated 21.03.2016 made in C.M.S.A.(MD).No.53 of 2016, without deciding the issue in question, this Civil Miscellaneous Second Appeal is disposed of by directing the District Munsif Court, Kovilpatti to dispose of the suit in question as expeditiously as possible, in any event not later than, 8th November, 2017.

7. With the above direction, this civil miscellaneous second appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AE)

/True copy/



To

- 1.The Sub Court, Tuticorin.
- 2.The District Munsif Court, Kovilpatti.

Copy to:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.T.Lajapathiroy, Advocate, SR.71628

+1cc to Mr.S.Kadarkarai, Advocate, SR. 71392

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