



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:20.06.2017

CORAM

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

C.R.P (PD) (MD) No.1161 of 2017

and

C.M.P. (MD) No.5374 of 2017

WEB COPY

K.Selvin Sundara Nayakamani

.. Petitioner

Vs.

1.Y.Jeyapaul

2.S.Johnson

3.G.Rajan

4.The Pastor/President

C.S.I Pastorate Church,
Vadasery & Post,
Vadasery Village,
Agatheeswaram Taluk,
Kanyakumari District.

5.The C.S.I Kanyakumari Diocese,

Nagercoil,
Rep. By its Bishop,
71, Denis Road,
Nagercoil,
Vadasery & Post,
Vadasery Village,
Agatheeswaram Taluk,
Kanyakumari District.

6.Rajam Isacc

7.Mary Annakumari

.. Respondents

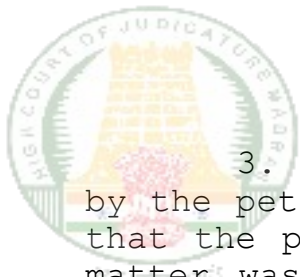
Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree dated 16.03.2017 in I.A.No.713 of 2016 in O.S.No.274 of 2014 on the file of the Principal District Munsif, Nagercoil.

For Petitioner : Mr.C.T.Perumal

ORDER

This revision petition is directed against the order of dismissal passed by the Trial Court in an application filed under Order 11 Rule 14 CPC to direct the respondents to produce the documents listed in the petition.

2.The respondents 1 to 3 have remained ex parte. Whereas, the 4th respondent has filed a counter stating that in respect of the first and second reliefs the suit has become infructuous and the documents sought by the petitioner are prior to the suit and the present application is filed belatedly at the time of trial.



3. The Trial Court has considered the rival contention made by the petitioner as well as the fourth respondent and has observed that the petitioner to produce certain documents is filed when the matter was posted for arguments. While the consolidated report by the Investigation Auditor has already been marked as Ex.A5, therefore, the documents which are sought to be produced are not necessary to decide the suit.

5. It is now submitted by the learned counsel for the revision petitioner that subsequent to filing of the suit, the Bishop of the Church has appointed another Investigation Auditor and he has submitted a report which has been marked as Ex.A.5. It is the allegation of the petitioner that one Mr.Christopher Dhas submitted a report on 22.01.2014. In the said investigation, the documents listed in the petition were referred. According to the revision petitioner, only through the report of Investigation Auditor Mr.Christopher Dhas, misappropriation done by the respondents 1 to 3 came to light.

6.If the case of the petitioner is that these documents are in possession of respondents 1 to 3, he should have first resorted to the procedure contemplated under Rule 11 CPC to issue interrogatories to the concerned persons who are in possession of the documents and only on their refusal, he could resort to other remedy.

7. In this case, admittedly, respondents 1 to 3 have remained exparte. No notice to produce document has been served on them by the revision petitioner. The Court has exercised the discretion under Order 11 Rule 14 and has concluded that Ex.A.5, Investigation Auditor report is suffice to decide the case.

8. This Court finds no error in the order of the Trial Court. Hence, this Civil Revision Petition is dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Principal District Munsif Court,
Nagercoil.

+1cc to M/s.C.T.PERUMAL Advocate in SR. No.61127

MRN/RMI

JS/SKN.SAR.1/3.7.2017/2P-3C

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