



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

CORAM:

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.224 of 2017 (PD)
and
C.M.P(MD)No.1009 of 2017

1.K.Manuel Selvanayagam
2.J.Albert Krubaharan
3.D.Leela Ponmani
4.S.Robert Jebakumar .. Petitioners/Defendants 13 to 16

Vs.

1.P.Binekas Selvakumar Gnanaraj
2.V.John
3.E.Gabriel Jesudason .. Respondents 1 to 3/Plaintiffs

4.Tirunelveli Diocesan Trust Association
Represented by its Secretariat and Treasurer,
Tirunelveli Diocesan,
Having its office at Punithacathiar Street,
Palaymkottai, Tirunelveli.

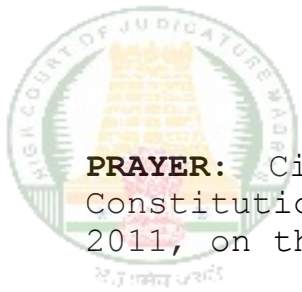
5.The Diocese of Tirunelveli,
Represented by its Bishop,
having its office at No.5, Punithacathiar Street,
Palaymkottai, Tirunelveli.

6.Rt.Rev.J.J.Christdoss
Bishop, Diocese of Tirunelveli,
Having its office at Bishop Stowe
16, North High Ground Road,
Palaymkottai.

7.P.P.Alwin Balan
8.Nathan R.Moses
9.C.Devadoss
10.D.Inbaraj
11.R.Pravin
12.C.Yesurajan
13.J.Dhanasingh
14.S.Rajakili

15.Y.Thangadurai
16.J.Glorinthai

..Respondents 4 to 15/Defendants 1 to 12
.. Respondent16/Defendant 17



PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to struck off the Plaint in O.S.No.128 of 2011, on the file of the Principal Subordinate Court, Tirunelveli.

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For Petitioners : Mr.G.Prabhu Rajadurai

ORDER

This petition has been filed by the petitioner to struck off the Plaint in O.S.No.128 of 2011, on the file of the Principal Subordinate Court, Tirunelveli.

2.The petitioners are the defendants 13 to 16. The respondents 1 to 3 are the plaintiffs, respondents 4 to 15 are the defendants 1 to 12 and respondent 16 is the 17th defendant. The petitioners have filed the present Civil Revision Petition to struck off the plaint in O.S.No.128 of 2011.

3.The learned counsel appearing for the petitioners submitted that the respondents 1 to 3 have challenged the election schedule declared for the election of the office bearers commencing from 24.07.2011 to 29.09.2011 and 30.09.2011 and alternatively for appointment of Three Members Committee to conduct election. In the suit, the learned Sub Judge appointed a retired District Judge as an Advocate Commissioner and election was conducted under the supervision of Advocate Commissioner. The term of office bearers will expire in March, 2017 and election for new term commencing from April 2017 also started with publication of election Notification. The election process has been stayed due to pendency of Civil suit. Cause of action for the suit filed by the respondents 1 to 3 does not survive and suit has become infructuous and therefore, prayed for struck off the suit in O.S.No.128 of 2011.

4. The learned counsel appearing for the petitioners further submitted that the petitioners filed I.A.No.48 of 2014 to reject the plaint on the ground that suit prayer was already granted and it has become infructuous.

5.According to the petitioners, suit filed by the respondents 1 to 3 has become infructious in view of the election conducted by the Commissioner appointed by the learned Sub Judge.

6.In view of the said submission, it is open to the petitioners to approach the trial Court praying for dismissal of the suit as infructious. This is not fit case to this Court to exercise his extraordinary power conferred under Article 227 of the Constitution of India which can be exercised sparingly.

7.Taking into contention of the learned counsel for the petitioners that they have already filed application to reject the



plaint, the learned Principal Sub Judge, Tirunelveli is directed to hear the application and pass orders on or before 31st March, 2017.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Tirunelveli.

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 6361

AM

TE/MR : 15/02/2017 : 3P/3C

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