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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.04.2017

CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P (MD) (PD) No. 685 of 2017

and

C.M.P (MD) Nos. 3093 and 3177 of 2017

1. The Diocese of Tirunelveli,
Represented by its Bishop,
No. 5, Punithavathiar Street,
Palayamkottai,
Tirunelveli.

(For himself and behalf of the members the Diocese under the
representative capacity)

2. Rt. Rev. J. J. Chirstdoss,
Bishop, Diocese of Tirunelveli,
Bishop Stowe,
16, North High Ground Road,
Palayamkottai.

.. Petitioners/Respondents 2&3,
Defendants 2&3

Vs.

1. P. Binckas Selvakumar Gnanaraj
2. V. John
3. E. Gabriel Jesudason

.. Respondents 1 to 3 / Petitioners/
Plaintiffs

4. Tirunelveli Diocesan Trust Association,
Represented by its Secretary and Treasurer,
Punithavathiar Street,
Palayamkottai,
Tirunelveli.

.. 4th Respondent / Ist Respondent / Ist
Defendent

PRAYER: Civil Revision Petition is filed under Article 227 of
Constitution of India to set aside the fair and decreetal order
dated 28.03.2017 made in I.A.No.205 of 2011 in O.S.No.128 of 2011
on the file of Additional Sub Court, Tirunelveli and thus render
justice.

For Petitioner

: Mr. Ajmal Khan
Senior Counsel

For Respondents 1 to 3

: Mr. K. Chellapandian
Senior Counsel for
Mr. N. Dhilip Kumar

For Respondent 4

: Mr. Prabhu Rajadurai



ORDER

The revision petition is directed to against the order passed by the learned Additional Subordinate Judge, Tirunelveli, in I.A.No.205 of 2011 in O.S.No.128 of 2011 on 28.03.2017. Consequent to the abovesaid order, a paper notification dated 29.03.2017 was issued for conducting the 4th phase election for Tirunelveli Diocese. Hence, the revision petitioners sought stay of the abovesaid order.

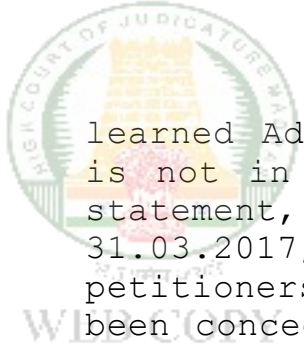
2.This Court, being satisfied with the *prima facie* case made out by the revision petitioners that the order passed in I.A.No.205 of 2011 is cryptic, by order dated 31.03.2017, granted stay of all further proceedings pursuant to the said order.

3.The respondents being aggrieved by the stay order, have filed vacate the stay petition, stating that the impugned order was passed pursuant to the order passed by this Court in CRP(MD) Nos.408 and 417 of 2017 dated 24.03.2017, wherein a specific direction has been issued to the Court below to appoint a Commissioner forthwith and to proceed with the election for the 3rd phase and thereafter conduct the election for the 4th phase, within a period of three months. Therefore, the respondents contended that only in pursuant to the said order of this Court, the Court below has passed an order on 28.03.2017 for conducting 4th phase of Election.

4.The learned Senior Counsel appearing for the revision petitioners would contend that without following the guidelines framed under the Constitution of the CSI Diocese and the Election Rules of the Diocese, the election notification has been published by the Advocate Commissioner on the same day of the impugned order, informing that the 4th phase election for the Tirunelveli Diocese would be conducted on 03.04.2017 and therefore, the same is liable to be set aside.

5.*Per contra*, the learned Senior Counsel appearing for the respondents submitted that the revision petitioners have suppressed vital facts and obtained stay of the impugned order, which has caused great inconvenience to the administration of the Church in conducting the 4th phase Election as per the direction of this Court dated 24.03.2017.

6.The learned Senior Counsel for the respondents has pointed out that in the affidavit filed in support of the revision petition, the revision petitioners have deliberately suppressed the order of the High Court passed in CRP(MD)Nos.408 and 417 of 2017 dated 24.03.2017, and in the grounds of present revision, the revision petitioners have stated as if the suit itself has become infructuous and therefore, the impugned order passed by the



learned Additional Sub Judge for conducting 4th phase of election is not in consonance with law and facts. But, contrary the said statement, even before the matter was taken up for hearing on 31.03.2017, a better affidavit was filed by the revision petitioners, wherein, the error in the grounds of revision has been conceded and all the facts regarding the order passed in CRP (MD)No.408 of 2017 are disclosed in the better affidavit.

7.Be that as it may, this Court is not inclined to go into the contentions regarding suppression of fact. Since this matter is relating to the administration of a religious institution and already three phases of election has been conducted and 4th phase of election has been stayed by this Court on 31.03.2017, this Court is of the view that it is appropriate to vacate the stay granted and direct the Commissioner to proceed further, following the rules framed under the Constitution of CSI Diocese of Tirunelveli, while conducting the 4th phase election for Tirunelveli Diocese.

8.At this juncture, it is submitted by the learned Senior Counsel for the respondents that since by virtue of the order of this Court on 31.03.2017 granting of all further proceedings in pursuant to the impugned order, the 4th phase election for the Tirunelveli Diocese was not conducted and therefore, a fresh paper notification may be directed to be issued by the Commissioner for conducting the 4th phase election.

9.Since this Court has intervened the election process by way of stay order on 31.03.2017, the Commissioner appointed by the Court below shall issue a fresh election notification for conducting the 4th phase of election in accordance with the guidelines framed under the Constitution of CSI Diocese and the Election Rules of the Diocese and thereafter, 4th phase election for the Tirunelveli Diocese shall be proceeded with. The interim stay granted is vacated.

With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To
The Judge,
Additional Sub Court,
Tirunelveli.

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+1cc to M/S.N.Dilipkumar, Advocate, SR.50294
+1cc to M/S.Ajmal Associates, Advocate, SR.50454

C.R.P (MD) (PD) No.685 of 2017
and
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mm/gk
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