



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.2462 of 2016 (PD)
and

C.M.P (MD) Nos.12336,12413,11610 of 2016

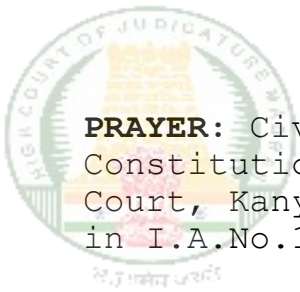
India Evangelical Lutheran Church-IELC
Rep. By its General Secretary,
K.Baul Sundar,
Lutheran Misson Compound,
No.321, K.P.Road,
Nagercoil-1.

.. Petitioner/Respondent/Respondent

Vs.

1. Rev.Rajagambeeram
2. Rev.R.Vijayakumar
S/o.Richard
Luthaeran Church-Pastor,
Melakarai & Post,
Kattakadai,
Trivandrum District.
3. Rev.M.Wilson
S/o.Muthiah
Pastor-Bethel Lutheran Church,
Ganesapuram, Nagercoil,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.
4. V.A.Raj,
S/o.Vethanayagam
Retired Teacher,
Lutheran Nagar, Vallioor,
Vallioor Village and Post,
Tirunelveli District.
5. J.Jeya Selvin,
S/o.Johnrose
Paravai,
Keezhakulam Village and Post,
Kalkulam Taluk,
Kanyakumari District.

.. Respondents/Petitioners/Petitioners



PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records of the District Court, Kanyakumari pertaining to its Order, dated 23.11.2016 passed in I.A.No.174 of 2016 in C.M.A.No.35 of 2016 and set aside the same.

For Petitioner: Mr.T.Pon Ramkumar
For R1 to R3 : Mr.K.P.Narayanakumar
For R4 : Mr.V.Panneerselvam

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ORDER

This petition has been filed by the petitioner to set aside the order, dated 23.11.2016 made in I.A.No.174 of 2016 in C.M.A.No.35 of 2016 passed by the District Judge, Kanyakumari.

2.The petitioner is the first plaintiff. The respondents are the defendants. The petitioner filed a suit in O.S.No.153 of 2016 for declaration that the IELC Office bearers under the IELC elected on 28.06.2014 is valid and legally enforceable for a period of three years and for permanent injunction restraining the respondents from interfering with peaceful administration of the IELC, Nagercoil Synod and other Synods or anybody thereunder, under the IELC in any manner for a period of three years. Along with suit, the petitioner filed I.A.No.260 of 2016 for interim injunction against the respondents till the disposal of the suit. Initially there was an interim injunction. The respondents filed counter. Before the trial Court, the petitioner marked 39 documents as Ex.P1 to Ex.P39 and respondents marked 12 documents as Ex.R1 to R12. No oral evidence was let in.

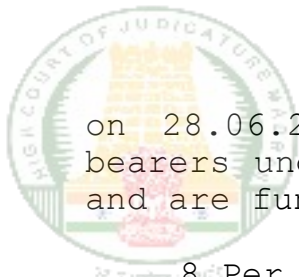
3.The learned Judge hearing the parties and considering all the materials on record and documents relied on by both parties by the order, dated 04.10.2016 dismissed the application for injunction.

4.Against the said order, the petitioner filed C.M.A.No.35 of 2016 before the District Court, Kanyakumari at Nagercoil and also filed I.A.No.174 of 2016 for ad-interim injunction restraining the respondents from interfering with the peaceful administration of IELC, Nagercoil Synod and other Synods functioning under the IELC in any manner till the disposal of the petition and temporary injunction till the disposal of the suit.

5.The learned Judge considering all the materials on record, arguments advanced by the parties, by the order, dated 23.11.2016 dismissed the application.

6.Against the said order of dismissal in I.A.No.174 of 2016 in C.M.A.No.35 of 2016, dated 23.11.2016, the petitioner has come out with the present Civil Revision Petition.

7.The learned counsel for the petitioner reiterated the averments made in the grounds and submitted that the election held



on 28.06.2014 and elected IELC office bearers and Synod Office bearers under IELC is valid and the said Office bearers took charge and are functioning from 28.06.2014.

8. Per contra, the learned counsel for the respondents 1 to 3 elaborately argued and denied the contentions of the learned counsel for the petitioner that they are elected as office bearers and are functioning as office bearers and submitted that suppressing the earlier proceedings, the petitioner filed the suit and contended that the petitioner has not approached the Court with clean hands. He further submitted that originally there is no post of General Secretary. The said post was created by amendment and respondents challenged the said amendment in the writ petition in W.P.No.7004 of 2016 and this court by the order, dated 25.02.2016 stayed the said amendment. Therefore, election conducted by the petitioner is invalid.

9. In reply to the contention, the learned counsel for the petitioner submitted that before order of stay granted by this Court, election process was completed and office bearers were elected and they took charge of the office and they are functioning.

10. The learned counsel for the petitioner submitted that the fifth respondent is in abroad and he prayed for dispense with notice to the fifth respondent.

11. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 to 4 and also perused all the materials available on record.

12. From the materials on record, it is seen that claim of the petitioner that the petitioner and others are elected as Office bearers by IELC under IELC on 28.06.2014 for a term of three years and from that date they are functioning as such. Considering the submission of the learned counsel for the petitioner that office bearers were elected on 28.06.2014 for a terms of three years, which will expire on 27.06.2017 and the contention that office bearers are functioning from 2014. Without deciding the rival contentions on merits, the Principal Sub Judge, Nagercoil is directed to dispose the suit in O.S.No.153 of 2016 as expeditiously as possible, in any event, not later than 30th June, 2017. Status quo granted by this Court on 23.12.2016 shall continue till the disposal of the suit.

13. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AE)

/True Copy/



To

1. The District Judge, Kanyakumari.
2. The Principal Subordinate Judge,
Nagercoil. (O.S.No.153/2006)

Copy To:-

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

- + 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 8519
- + 1 CC TO Mr.V.PANNEERSELVAM, ADVOCATE IN SR No. 9015
- + 1 CC TO Mr.T.PON RAMKUMAR, ADVOCATE IN SR No. 8502

AM

TE/CM-MSA : 28/02/2017 : 4P/7C

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