

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.S.A.Nos.305 to 308 of 2017

1. M.M.Rajendran,
Senior Trustee,
St. George's Cathedral Trust.
2. Prof.D.S.Luther,
Secretary-Trustee,
St. George's Cathedral Trust.
3. M.E.Felix,
Trustee, St. George's Cathedral Trust.
All at No.224, Cathedral Road,
Gopalapuram,
Chennai-600 086. ... Appellants in all appeals

Vs.

1. Rev.S.Immanuel Devakadatcham,
Presbyter-in-charge,
St. George's Cathedral Church.
2. J.J.R.Edwin,
Honorary Secretary,
St. George's Cathedral Church
3. Sam Samuel,
Honorary Treasure,
St. George's Cathedral Church
All at No.224, Cathedral Road,
Gopalapuram, Chennai-600 086. ... Respondents in all appeals

Prayer in O.S.A.No.305 of 2017 : Original Side Appeal filed under Order XXXVI, Rule 1 of the Original Side Rules and Clause 15 of Letters Patent, against the order and decree dated 08.08.2017, made in O.A.No.802 of 2015 in C.S.No.634 of 2015.

Prayer in O.S.A.No.306 of 2017 : Original Side Appeal filed under Order XXXVI, Rule 1 of the Original Side Rules and Clause 15 of Letters Patent, against the order and decree dated 08.08.2017, made in O.A.No.803 of 2015 in C.S.No.634 of 2015.

Prayer in O.S.A.No.307 of 2017 : Original Side Appeal filed under Order XXXVI, Rule 1 of the Original Side Rules and Clause 15 of Letters Patent, against the order and decree dated 08.08.2017, made in O.A.No.804 of 2015 in C.S.No.634 of 2015.

Prayer in O.S.A.No.308 of 2017 : Original Side Appeal filed under Order XXXVI, Rule 1 of the Original Side Rules and Clause 15 of Letters Patent, against the order and decree dated 08.08.2017, made in A.No.5796 of 2015 in C.S.No.634 of 2015.

For Appellants in :Mr.R.Gandhi, Senior Advocate
all the appeals Mr.S.D.S.Philip

For Respondents :Mr.V.Ragavachari, Senior Advocate
in all the appeals for Mr.Kempuraj

C O M M O N J U D G E M E N T

(Judgement of the Court was delivered by RAJIV SHAKDHER, J.)

1. These are appeals preferred against the common order dated 08.08.2017, passed by the learned Single Judge.

2. The impugned common order was passed in A.Nos.5796 and 5797 of 2015 and O.A.Nos.802 to 804 of 2015 in C.S.No.634 of 2015. The relief claimed in these applications are as follows :

A.No.5796 of 2015 :

"... to punish the first respondent for wilful disobedience of its order dated 04/08/2015 passed in OA No.804 of 2015 in CS No.634 of 2015 and restrain him from acting as the Chairman of the Pastorate Committee of St. George's Cathedral Church, Chennai-600 086, until he obeys the said order."

A.No.5797 of 2015 :

".... to vacate the interim injunction granted in OA No.804 of 2015 in CS No.634 of 2015 dated 04/08/2015."

O.A.No.802 of 2015 :

"..... to pass an order of interim mandatory injunction directing the first applicant/defendant to include the names of the applicants and their spouses in the Cathedral Church pew sheets as and when the applicants and their spouses' birthdays/wedding anniversaries fall due and pray for them on such occasions as is done for all other members pending disposal of the above suit."

O.A.No.803 of 2015 :

".... to pass an order of interim mandatory injunction directing the respondents/defendants to issue the Cathedral Chimes being the monthly bulletin

of St. George's Cathedral Church along with the membership offertory covers and receive the offertory covers including membership subscription with effect from the period of 28.06.2014 from the applicants 1 and 2 and issue receipts for the same as and when the applicants 1 and 2 pay the same pending disposal of the above suit."

O.A.No.804 of 2015 :

"..... to pass an order of interim injunction restraining the respondents or their men or agents or anyone claiming any right under them from interfering with the applicants/plaintiffs right of membership in St.George's Cathedral Church pending disposal of the above suit."

3. Learned Senior counsel and the counsel for the appellants, in so far as the impugned order is concerned, are, presently, confining their arguments to two aspects. First, that they are not being issued chimes by the St. George's Cathedral Church, (hereinafter referred to as "the Church"). Second, that the names of the appellants and their family members are not included in pew sheets on auspicious days, such as birthdays and weddings.

4. Mr.V.Raghavachari, who appears for respondent No.1, says that no relief ought to have been granted to the appellants for the reason that they are not members of the Church. It is submitted that their membership was suspended on 28.06.2013, via the order, which is not recalled as yet.

5. Having heard Mr.R.Gandhi, who appears for the appellants, and Mr.V.Raghavachari, who appears for respondent No.1, we are of the view that two directions sought in the appeal, which via the impugned order, the learned Single Judge has declined, can be granted for the following reasons :

(i) The membership of the appellants was suspended vide order dated 28.06.2013, the relevant extract of the said letter has been reproduced by the learned Single Judge in the impugned order. The extract reads as follows :

"You are also suspended from the primary membership of St. George's Cathedral initially for a period of one year. However, revocation of this suspension can be considered by the Bishop on your assurance to work for the unity and harmony of the Church."

(i)(a) A bare perusal of the aforementioned extract would show that the membership was suspended only for a period of one year, subject to it being revoked earlier, upon the appellants making entries.

(ii). Mr.V.Raghavachari, on being queried, does not dispute the fact that upon the period of one year having been passed, since the order of suspension was issued, there has been no order continuing the suspension.

(ii)(a) Mr.Raghavachari, also does not dispute the fact that the appellants have not been removed as members of the Church.

6. In these circumstances, we are of the view that the appellants can be granted copies of pew sheets in the manner, they are, presently, marked and their names and those of their family members can be included in the pew sheets pending trial in the suit, since, the suspension order stood dissolved after 28.06.2014, and therefore, these rights, pending the suit, cannot be denied to the appellants.

7. We may also point out that Mr.Raghavachari argued with some vehemence that the appellants were claiming to be the trustees of the diocese and assets of the Church, and were carrying out activities, which were detrimental to the interest of the Church.

8. In our opinion, in so far as the aspect concerning trusteeship is concerned, that is pending adjudication in C.S.No.731 of 2012. Furthermore, as to whether or not, the appellants have been acting against the interest of the Church and if so, what would be the ramification of the same are, in our view, would be the subject matter of trial in the suit.

8.1. Therefore, in our opinion, the two directions/reliefs, that the appellants have sought, could not have been denied by the learned Single Judge.

9. Accordingly, the appeal is disposed of with the following directions : First, that the appellants will be issued Cathedral Chime sheets in the form that they are, presently, given, without inclusion of the fact that the appellants as the Clergy trustees; pending adjudication of C.S.No.731 of 2012. Second, that the pew sheets will be issued to the appellants, which, would include their names and names of their family members on auspicious days, such as birthdays and wedding anniversaries.

9.1. It is ordered accordingly.

10. Resultantly, the impugned order passed by the learned Single Judge is varied to the extent set out hereinabove.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

gg

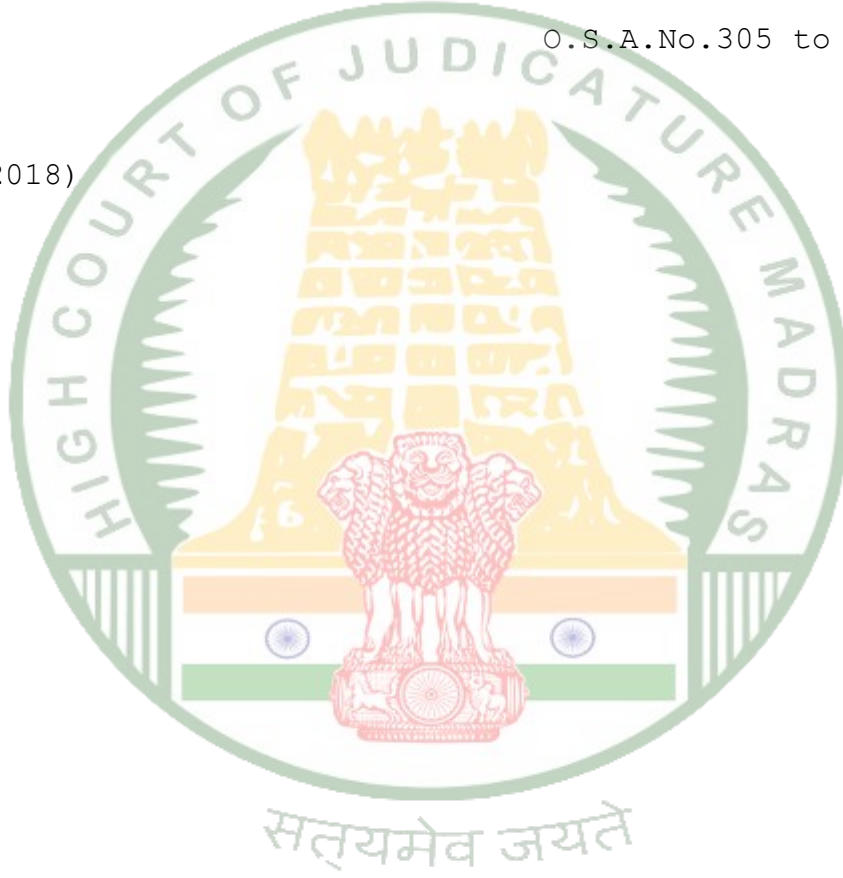
To

1. The Sub Assistant Registrar (OS),
Madras High Court.

+2 Ccs to Mr.S.D.S. Dhilip, Advocate sr 2721.

O.S.A.No.305 to 308 of 2017

CNR (CO)
SP(12/02/2018)



WEB COPY