

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.Nos.844 and 1036/2018 and
CMP.Nos.7411 and 8649 of 2018

W.A.No.844 of 2018

Church of South India Trust Association
represented by its Honorary Secretary
Rev.Dr.Daniel Ratnakar Sadananda
5, Whites Road, Royapettah,
Chennai-600 014. ... Appellant

Vs

1. The Registrar,
Office of the Registrar of Companies,
Tamil Nadu, Chennai,
Shastri Bhavan 2nd Floor,
26, Haddows Road,
Chennai-6.
2. The Regional Director,
Office of the Regional Director
Southern Region Chennai,
Ministry of Corporation Affairs,
Government of India,
5th Floor, A Wing, Shastri Bhavan,
26, Haddows Road,
Chennai-6.
3. E.Premkumar
4. David Chellaraj ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter
Patent against the order dated 22.02.2018 made in
W.P.No.32457/2017 by a learned Single Judge.

Prayer in W.P.No.32457 OF 2017:

The Writ Petition is filed Under Article 226 of the Constitution of India seeking for a Writ of Certiorari to call for the records of the 1st respondents proceedings in F.No.ROC-CHN/ IPC/ 00346/ 2016 dated 12.01.2016 and the consequential proceedings of the 2nd respondent in F.No.02/M-8831/2003 dated 02.06.2016 and quash the same.

For Appellant :: Mr.AR.L.Sundaresan,
Senior Counsel
for Mr.V.Jayaprakash

For Respondents :: Mr.Rajagopalan,
Additional Solicitor General
for M/s.DR.V.Venkatesan (SCGSC)
for R1 and R2
M/s.Nalini Chidambaram
for R.Sonia Gloy for R3
M/s.T.R.K.Kumara Singh for R4

W.A.No.1036 of 2018 :

S.David Mangaladoss ... Appellant

Vs.

1. Church of South India Trust Association
represented by its Honorary Secretary
Rev.Dr.Daniel Ratnakar Sadananda
5, Whites Road, Royapettah,
Chennai-600 014.
2. The Registrar,
Office of the Registrar of Companies,
Tamil Nadu, Chennai,
Shastri Bhavan 2nd Floor,
26, Haddows Road,
Chennai-6.
3. The Regional Director,
Office of the Regional Director
Southern Region Chennai,
Ministry of Corporation Affairs,
Government of India,
5th Floor, A Wing, Shastri Bhavan,
26, Haddows Road,
Chennai-6.

4. E.Premkumar
5. David Chellaraj

... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 22.02.2018 made in W.P.No.32457/2017 by a learned Single Judge.

For Appellant :: Mr.P.Wilson,
Senior Counsel

For Respondents :: Mr.AR.L.Sundaresan,
Senior Counsel
M/s.D.Prabhu Mukunth for R1
Mr.Rajagopalan,
Additional Solicitor General
for M/s.DR.V.Venkatesan (SCGSC)
for R2 and R3
M/s.Nalini Chidambaram
for R.Sonia Gloy for R4
M/s.T.R.K.Kumara Singh for R5

COMMON JUDGMENT

(Judgment of the Court was pronounced by M.DHANDAPANI, J.)

The Writ Appeals are directed against the order dated 22.02.2018 made in W.P.No.32457/2017 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner therein/appellant herein in W.A.No.844 of 2018 challenging the proceedings of the 1st respondent in F.No.ROC-CHN/IPC/00346/2016 dated 12.01.2016 and the consequential proceedings of the 2nd respondent in F.No.02/M-8831/2003 dated 02.06.2016 and to quash the same. The said Writ Petition was dismissed by the learned Single Judge of this Court by an order dated 22.02.2018 holding that the report of the Registrar under Section 206 of the Companies Act, 2013 is to be followed by an order to be passed by the Central Government. It is further observed in that order that the report as such may not give a cause of action to file a Writ Petition, since it is for the Central Government to form an opinion and consequently, order for an investigation and in this case, such a decision is yet to be made and as such, the present Writ Petition challenging the report under Section 206 can only be deemed to be prematured.

3. Aggrieved over the above said order, Mr.S.David Mangaladoss, who was not a party to the said proceedings has also filed the present Writ Appeal in W.A.No.1036/2018 after getting an order of leave from this Court as a communicant member of CSI Holy Trinity Church under the CSI Coimbatore Diocese which is one of the 22 Dioceses under the Church of South India.

4. Heard the learned Counsel appearing for their respective parties and we have also carefully gone through the records.

5. A perusal of the records reveals that Church of South India Trust Association is registered under Section 12A of the Income Tax Act, 1961 and they used to file Income Tax Returns after claiming exemption under the Income Tax Act, 1961. While so, there was an inspection to the said Trust under Section 209A of the Companies Act, 1956 during the year 2012 and sent a report stating that ''No serious Fraud'' has been brought out warranting investigation by SFIO. Thereafter, the then Regional Director Mr.B.K.Bansal sent two letters dated 14.10.2014 and 20.05.2015 to the Ministry of Corporate Affairs to conduct investigation by SFI. Based on the same, the 1st respondent sent a Proceedings dated 12.01.2016 recommending to the Ministry of Corporate Affairs to conduct an investigation by Serious Fraud Investigation under Section 212 of the Companies, Act, 2013. Following the same, the 1st respondent sent a Proceedings dated 02.6.2016 recommending investigation by SFIO into the affairs of the subject company at the earliest.

6. On the above background, when the appeals are called today, the learned Additional Solicitor General appearing for the Ministry of Corporate Affairs produced a copy of the Order of the Joint Director, Ministry of Corporate Affairs, Government of India, New Delhi-1 in File No.07/131/2011/CL-II (SR) issued in favour of the appellants in which it has been stated that the Registrar of Companies, Chennai vide its Report dated 13.12.2017 highlighted certain issues which necessitate the Ministry to consider ordering investigation in public interest against the appellants. The learned Additional Solicitor General further submitted that without challenging the Report dated 13.12.2017 of the Registrar of Companies, Chennai, approaching this Court by filing the writ petition and writ appeals are not at all maintainable.

7. At this stage, the learned Counsel for the appellants submitted that the appellants may be given liberty to challenge the Report of the Registrar of Companies, Chennai dated

13.12.2017 and the consequential order passed by the Joint Director, Ministry of Corporate Affairs, New Delhi dated 07.05.2018.

8. In view of the limited prayer now made by the learned Counsel for the appellants, the Writ Appeals are disposed of by directing the appellants to challenge the Report of the Registrar of Companies, Chennai dated 13.12.2017 and the consequential order passed by the Joint Director, Ministry of Corporate Affairs, New Delhi dated 07.05.2018, if they so advised. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
Office of the Registrar of Companies,
Tamil Nadu, Chennai,
Shastri Bhavan 2nd Floor,
26, Haddows Road,
Chennai-6.

2. The Regional Director,
Office of the Regional Director
Southern Region Chennai,
Ministry of Corporation Affairs,
Government of India,
5th Floor, A Wing, Shastri Bhavan,
26, Haddows Road,
Chennai-6.

+1cc to Dr.Venkatesan, Advocate Sr.38209
+1cc to M/S.V.Jayaprakash, Advocate Sr.38034
+2cc to M/S.T.R.K.Kumarasingh, Advocate Sr.38077 & 38078
+1cc to M/S.G.Sankaran, Advocate Sr.38069
+1cc to M/S.D.Prabu Mugunth Arunkumar, Advocate Sr. 38070

W.A.Nos.844& 1036/2018

vsn II[co]
srg 26/07/2018