

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

C.S. No. 607 of 2018
and
O.A. No. 809 of 2018

Reverend
S. Ananda Selvakumar,
Pastor,
TELC Church,
Chengalpattu,
No. 12, GST Road,
Chengalpattu - 1.

... Plaintiff

The Tamil Evangelical Lutheran Church,
Represented by its Administrator
Justice. K. Venkataraman,
L-Block,
125, 17th Street,
East Anna Nagar,
Chennai - 102.

... Defendant

Prayer : Complaint filed under Order IV Rule 1 of Madras High Court Original Side Rules, 1956, read with Order VII Rule 1 of Civil Procedure Code, 1908 to pass a judgment and decree:-

- (1) To declare the proceedings letter dated 10.08.2018, issued by the Defendant against the Plaintiff herein as illegal, null and void.
- (2) For a permanent injunction restraining the Defendant, his men, servants, agents or anybody else acting under or through the Defendant

herein from enforcing and implementing the proceedings dated 10.08.2018 from transferring the Plaintiff, the post of Pastorate Chengalpattu to Nallalam and for the cost of the suit.

For Plaintiff : Mr. V. Anuradha

For Defendant : Mr. Karthikaibalan

JUDGMENT

When the matter came up for hearing on 08.10.2018, this Court passed the following order:-

"The Plaintiff has sought for a declaration that the proceedings in letter dated 10.08.2018 communicated by the Defendant transferring the Plaintiff who is a Pastor for the Pastorate of TELC, Chengalpattu, to the Pastorate at Nalallam, Vizhupuram District is null and void and for consequential relief.

2. It is brought to the notice of this Court by the Learned Counsel for the Defendant that in *Rt. Rev. Dr. H.A. Martin -vs.- The Tamil Evangelical Lutheran Church* (2011) 1 CTC 395], in para 53 (m) it has been held that "no suit or original proceedings, touching upon the management and administration of TELC (Defendant), shall henceforth be entertained by any Court other than the Principal District Court, Tiruchirappalli, within whose jurisdiction the registered office of TELC (Defendant) is situated."

3. Though it was contended by the Learned Counsel for the Plaintiff that the aforesaid restriction would not apply to the Plaintiff in view of the exception made therein that it shall not apply to the employees of the various institutions run by TELC (Defendant) to ventilate their individual grievances before Appropriate Authorities/Courts, the Learned Counsel for the Defendant submits that the Plaintiff cannot be considered as an employee in any of the institutions run by TELC (Defendant) and in that regard, the order dated 07.12.2016 in L.P.A. No. 3 of 2015 passed by the Hon'ble Division Bench of this Court is cited to show that the institutions run by TELC (Defendant) are the 9 Higher Secondary Schools, 128 Primary Schools, 2 Old Age Homes, 28 Orphanages, 1 Hospital, 1 College and 2 Teacher Training Institutions and it would not apply to the Pastors like the Plaintiff who form part of the administration of TELC (Defendant).

4. In view of the same, Learned Counsel for the Plaintiff seeks time to file an application for return of the plaint and re-present the same before the appropriate Court.”

2. Subsequently, when the matter came up on 11.10.2018, at the request of the Counsel for the Plaintiff, time was extended for filing the application for return of the plaint till 26.10.2018. On 26.10.2018, there was no representation for the Plaintiff.

3. Today, when the matter is called, Learned Counsel for the Plaintiff submits that the Plaintiff is not co-operating for filing the application for return the plaint. Relying on clause 7(vii) in order dated 29.04.2016 in L.P.A. Nos. 3 and 5 of 2015 passed by the Hon'ble Division Bench of this Court, it is claimed that the Plaintiff can institute the suit in this Court. On the contrary, Learned Counsel for the Defendant points out that the said order has been superseded by the order dated 07.12.2016 in L.P.A. No. 3 of 2015 passed by the same Hon'ble Division Bench at para 3 in the conclusion in which it has been reiterated that the direction issued in para 53(m) in ***Rt. Rev. Dr. H.A. Martin -vs- Tamil Evangelical Lutheran Church*** [(2011) 1 CTC 395], shall be scrupulously followed.

4. In these circumstances, the suit cannot be entertained in this Court and it is accordingly, dismissed. Consequently, the connected application is closed. No costs.

vjt

Note: Issue order copy on 21.12.2018.

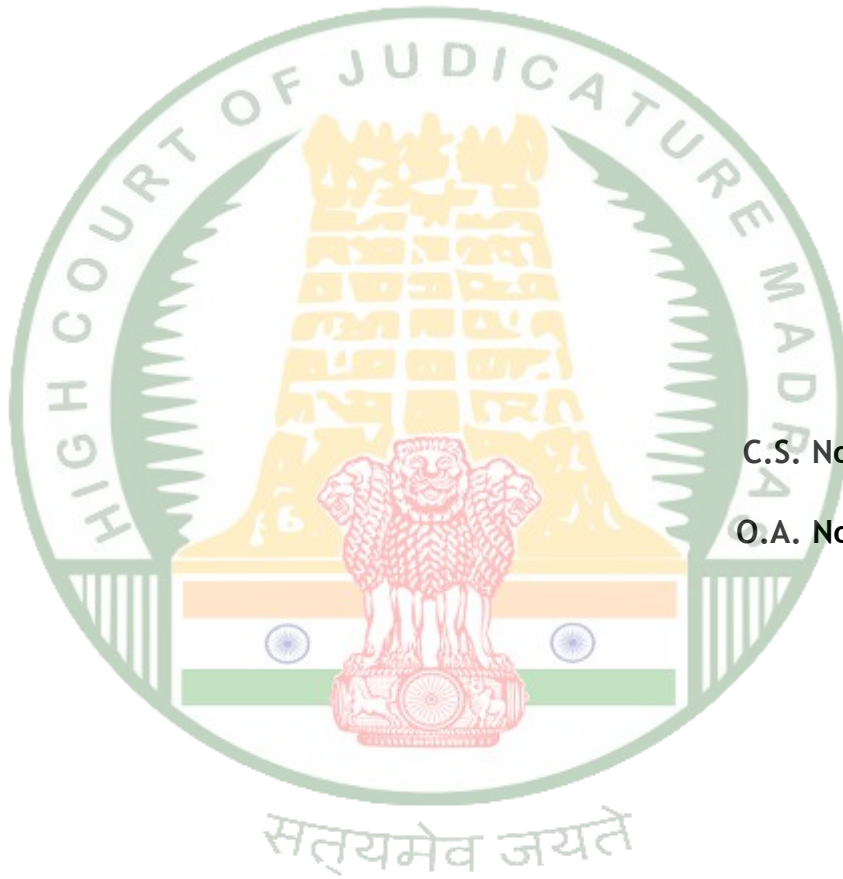
30.10.2018

Index : Yes/ No

Speaking Order/ Non-speaking Order

P.D. AUDIKESAVALU, J.

vjt



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