

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 03rd DAY OF JANUARY 2018

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.A. Nos.1064 to 1066 of 2017

and

A. Nos.6647 & 6648 of 2017

in

C.S. No.826 of 2017

1. D.Arun Peter,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
Plot No.8, Door No.31,
Annamalai Colony, Abusali Street,
Virugambakkam, Chennai-600 092.
2. A.Ramesh Arputharaj,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.29, Nagappan Street,
Rajiv Gandhi Nagar, Nesapakkam,
Chennai-600 078.
3. J.Selvakumar,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.19-C, Thilagar Street,
A.G.S.Colony, Alwarthirunagar,
Chennai-600 087.
4. I.Meshak Dsilva,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.67, Majestic Colony,
Valasaravakkam, Chennai-600 087.
5. F.Samson Chandramohan,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.87, 88, Indira Street,
Valasaravakkam, Chennai-600 087.
6. B.Sylvia Bhaskaran,
Member of CSI Christ Church

Virugambakkam Pastorate Committee,
No.192, Velan Nagar,

Alwarthirunagar, Valasaravakkam,
Chennai-600 087.

7. T.Jane Thanaraj,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.69, Padamavathi Nagar,
Virugambakkam, Chennai-600 092.

8. V.Jayasingh,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.68, Padmavathy Nagar,
Main Road, Kamaraj Salai,
Virugambakkam, Chennai-600 092.

9. A.Alexander,
Secretary of CSI Christ Church
Virugambakkam Pastorate Committee,
No.62/16, Lambert Nagar Main Road,
Alwarthirunagar (P.O),
Chennai-600 087.

10. J.Rajakumar,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.1/51, 3rd Cross Street,
Lambert Nagar, Alwarthiru Nagar,
Chennai-600 087.

... Applicant/Plaintiffs
(in all the applications)

(Suing for themselves and in
representative capacity on behalf
of the members of CSI Christ Church
Virugambakkam Pastorate Committee and
on behalf of the members of CSI Christ Church
Virugambakkam Pastorate)

-Versus-

1. CSI Madras Diocese,
rep. by its Secretary,
No.226, Cathedral Road,
Chennai-600 086
(being sued in representative capacity
represented by its Secretary on behalf
of the members of CSI Madras Diocese)

2. The Bishop,
CSI Madras Diocese,
No.226, Cathedral Road,
Chennai-600 086.

3. CSI Christ Church Virugambakkam,
rep. by its Presbyter
No.61, Arcot Road,
Virugambakkam, Chennai-600 092
(being sued in representative capacity
represented by its presbyter on behalf
of the members of CSI Christ Church,
Virugambakkam)

4. Rev.B.Devaprasad,
CSI Parsonage, CSI Christ Church,
No.61, Arcot Road, Virugambakkam,
Chennai-600 092.

5. A.Jeyaraja Samuel,
Treasurer CSI Christ Church
Virugambakkam Pastorate Committee,
No.69, Majestic Colony,
Valasaravakkam, Chennai-600 087.

6. S.Babitha Princiya,
W/o.Mr.Vethamani,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
No.184, Perumal Koil Street,
Alapakkam, Chennai-600 116.

7. D.Sundar Singh,
S/o.Late Devasittham,
Member of CSI Christ Church
Virugambakkam Pastorate Committee,
Flat No.S-1, Vinoth Foundations,
Plot No.7, Radha Nagar Main Road,
Valasaravakkam, Chennai-600 087.

8. CSI Christ Church
Virugambakkam Pastorate Committee
rep. by its Chairman,
CSI Christ Church,
No.61, Arcot Road,
Virugambakkam, Chennai-600092... Respondents/Defendants
(in all the applications)

(being sued in representative capacity
represented by its Chairman on behalf
of the members of CSI Christ Church
Virugambakkam Pastorate Committee)

O.A. No.1064 of 2017:-

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the fourth respondent or his men or his agent or anybody acting on his behalf from conducting election the Pastorate Committee of CSI Christ Church Virugambakkam Pastorate on 29.10.2017 or on any other date pursuant to the final voters list published by the fourth respondent on 15.10.2017 pending disposal of the suit.

O.A. No.1065 of 2017:-

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the fourth and fifth respondents from dealing with financial administration of CSI Christ Church, Virugambakkam pending disposal of the suit.

O.A. No.1066 of 2017:-

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the fourth respondent from functioning as Chairman of CSI Christ Church Virugambakkam Pastorate Committee pending disposal of the suit.

A. No.6647 of 2017:-

Application praying that this Hon'ble Court be pleased to appoint a Retired Judicial Officer or an Advocate to administer 3rd respondent CSI Church Virugambakkam Pastorate and to conduct the election of the Pastorate Committee of CSI

Christ Church Virugambakkam Pastorate for the period 2017-2020 and members of Diocesan Council from CSI Christ Church Virugambakkam Pastorate for the period 2018-2021 with the assistance of CSI Christ Church Virugambakkam Pastorate Committee and in accordance with the provisions of the constitution of first respondent CSI Madras Diocese pending disposal of the suit.

A. No.6648 of 2017:-

Application praying that this Hon'ble Court be pleased to grant to appoint a statutory auditor to audit the accounts of CSI Christ Church Virugambakkam Pastorate since March 2015 as per Section 3 of Religious and Charitable Trust Act, 1920 and to submit the report to this Hon'ble Court pending disposal of this suit.

These Applications coming on this day before this Court for hearing the court made the following order:-

All these applications have been filed by the Plaintiffs in CS.No.826 of 2017.

2. CS.No.826 of 2017 had been filed by ten Plaintiffs, out of which, nine are members of CSI Christ Church Virugambakkam Pastorate Committee, at Virugambakkam and one of them is the Secretary of the said Pastorate Committee. They had filed the said suit against eight Defendants. The 1st Defendant is the CSI Madras Diocese, represented by its Secretary and the 2nd Defendant is the Bishop of CSI Madras Diocese. The 3rd Defendant is the CSI Christ Church Virugambakkam, represented by its Presbyter and

the 5th Defendant is the Treasurer of CSI Christ Church Virugambakkam Pastorate Committee. The 6th and 7th Defendants are also members of the said Pastorate Committee. The 8th Defendant is the CSI Christ Church Virugambakkam Pastorate Committee represented by its Chairman. The 4th Defendant is Rev.B.Devaprasad, CSI Parsonage, CSI Christ Church, Virugambakkam.

3. The Plaintiffs had filed the suit for themselves and in representative capacity on behalf of the members of the CSI Christ Church Virugambakkam Pastorate Committee and on behalf of the members of the CSI Christ Church Virugambakkam Pastorate. The 1st, 3rd and 8th Defendants were sued in representative capacity and also on behalf of the members of the CSI Madras Diocese, CSI Christ Church, Virugambakkam and CSI Christ Church Virugambakkam Pastorate Committee.

4. The suit had been filed, seeking a judgement and decree, as follows:-

- (a) for declaration to declare that the 4th Defendant cannot hold the post of Chairman of the 8th Defendant CSI Christ Church Virugambakkam Pastorate Committee.
- (b)for declaration to declare that the final voters list of CSI Christ Church Virugambakkam Pastorate Committee published by the 4th Defendant on 15.10.2017 is null and void.
- (c)for appointment of a statutory auditor to audit the accounts of the 3rd Defendant CSI Christ Church Virugambakkam Pastorate since March 2015 as per Section 3 of the Religious and Charitable

Trust Act, 1920.

- (d) for appointment of a retired Judicial Officer or an Advocate as an administrator to administer the 3rd Defendant CSI Christ Church Virugambakkam Pastorate and to conduct the election of the Pastorate Committee of CSI Virugambakkam Pastorate for the period 2017-2020 and members of Diocesan Council from CSI Christ Church Virugambakkam Pastorate for the period 2018-2021 with the assistance of CSI Christ Church Virugambakkam Pastorate Committee and in accordance with the provisions of the Constitution of the 1st Defendant CSI Madras Diocese.
- (e) for permanent injunction, restraining the 4th Defendant from functioning as Chairman of CSI Christ Church Virugambakkam Pastorate Committee.
- (f) for permanent injunction, restraining the 4th and 5th Defendants from dealing with financial administration of CSI Christ Church, Virugambakkam.
- (g) for permanent injunction, restraining the 4th Defendant or anybody acting under them from conducting election of the Pastorate Committee of CSI Christ Church Virugambakkam Pastorate Committee on 29.10.2017 or on any other date.
- (h) for costs of the suit.

5. According to the Plaintiffs, the election for the members of the 8th Defendant Pastorate of CSI Christ Church Virugambakkam for the period March 2015-March 2017 was held on 1.3.2015. The 1st to 9th Plaintiffs were elected by the congregation and the 10th Plaintiff was co-opted by the elected members. Similarly, the 5th and 6th Defendants were also elected by the congregation and the 7th Defendant was nominated by the Chairman. It has been further stated that

Jacob R.Daniel was nominated by the Pastorate Chairman and the 10th Plaintiff, J.Rajakumar was co-opted by the elected members of the Pastorate as member of the Pastorate for the period 2015-2017. The 9th Plaintiff was elected as the Secretary of the Pastorate and the 5th Defendant was elected as the Treasurer.

6. It has been further stated that as per Article 71 (a)(iii) of the 1st Defendant Constitution, the Pastorate Committee should be convened by the 4th Defendant/ Chairman of the Pastorate in consultation with the 9th Plaintiff/ Secretary. Four meetings were convened and conducted peacefully. A circular was issued on 28.2.2016 that there would be a meeting on 3.3.2016. The nominated member, Jacob R.Daniel did not attend the meeting. Consequently, the 4th Defendant/ Chairman informed that he was nominating the 7th Defendant as nominated member in the place of Jacob R.Daniel, who was absent. The members were not aware whether Jacob R.Daniel had resigned or he was willing to continue his membership, as he was not present in the meeting. The members of the Pastorate Committee objected to the nomination of D.Sundar Singh. In the mean while, the 5th Defendant, Treasurer, by his letter dated 4.6.2016, informed the members of the Committee that he had resigned from the post of Treasurer.

7. It was stated that several lakhs of rupees had

been spent on education of poor children without the approval of the Pastorate Committee. The 4th Defendant then appointed two persons for the maintenance of the Church Campus without the approval of the Pastorate Committee. These two persons were provided with family quarters within the Church premises without the approval of the Pastorate Committee. Consequently, the Plaintiffs submitted representations to the 2nd Defendant/ Bishop on 20.7.2016 and 23.7.2016, seeking to change the 5th Defendant/ Treasurer and to audit the accounts. The 2nd Defendant appointed a fact finding Committee on 6.8.2016. In the mean while, an emergency meeting of the Pastorate Committee was held on 23.8.2016 in the presence of one of the members of the fact finding Committee. They conducted an enquiry on 21.9.2016, but did not take any further action.

8. The 4th Defendant had issued a circular for convening of the 7th Pastorate Committee meeting on 18.11.2016, without the signature of the 9th Plaintiff/ Secretary. The agenda did not contain the income and expenditure for the year 2015-2016. None of the members of the Pastorate Committee attended the meeting. Another circular dated 20.11.2016 was issued for the 7th meeting on 23.11.2016. This also did not contain the signature of the 9th Plaintiff/ Secretary as well as the 4th Defendant/ Chairman. The circular was rejected. Another circular was

issued on 23.11.2016 without the signature of the 9th Defendant/ Secretary for a meeting on 26.11.2016. The name of the 7th Defendant was removed and the income and expenditure for the year 2015-2016 was not mentioned . The 4th Defendant announced on 29.1.2017 that the meeting was held on 26.11.2016 and the 7th Defendant was nominated in the place of Jacob R.Daniel. It was stated that since the meeting was held without the signature of the 9th Plaintiff, it was illegal.

9. It was further stated that another circular was issued on 19.3.2016 for a meeting of the Pastorate Committee on 23.3.2017. The said meeting was held without the signature of the 9th Plaintiff and hence, it is illegal and the resolutions are null and void. Yet another circular dated 28.6.2017 was issued for a meeting to be held on 1.7.2017 and again, there was no agenda for income and expenditure and the notice was not issued to the 1st Plaintiff. The Plaintiffs did not attend the meeting and there was no quorum and again the circular did not contain the signature of the 9th Plaintiff. Yet another circular was issued on 02.07.2017 for the 10th meeting of the Pastorate Committee by the 4th Defendant for a meeting to be held on 5.7.2017. The agenda did not contain the income and expenditure account. There was yet another circular issued on 2.8.2017 for a meeting to be held on 5.8.2017, which was claimed to be the adjourned 8th

meeting and subsequently, it was corrected. The 10th meeting held without the signature of the 9th Plaintiff is illegal. Yet another circular was issued on 30.9.2017 for a meeting to be held on 3.10.2017, but this was cancelled by the 4th Defendant. Another circular was issued on 3.10.2017 to convene a meeting on 7.10.2017.

10. It was further stated that the 2nd Defendant/ Bishop, by his letter dated 23.2.2017, placed the 9th Plaintiff/ Secretary under suspension from the Pastorate Committee. It has been stated that the said letter is non est in law since the Bishop does not have the power to suspend the elected member of the Pastorate Committee. It has been stated that the members of the Madras Diocesan Council were elected in January 2015 for the period 2015-2017 and had been extended for three years and the next election will be held only in January 2018. However, the Defendants 1 and 2 had issued a circular dated 3.8.2017 that the Diocesan Executive Committee in its meeting held on 14.6.2017 resolved that the election to the membership of the Pastorate Committee is to be held triennially before the ordinary session of the Madras Diocesan Council within two months period. It has been stated that the Pastorate Committee should prepare a list of eligible voters and that should be published. However, it is stated that the 4th Defendant published the list of eligible voters on 8.10.2017 without

the consent of the Pastorate Committee. It consisted of 1499 names. It has been stated that the list is null and void. Election programme was also issued. It was stated that the election was scheduled on 29.10.2017.

11. It has been stated that several dead persons have been included in the voters list. It has also been stated that the many more ineligible voters have been included by the 4th Defendant without convening the Pastorate Committee. It was with an intention of committing fraud in the election and to elect his own men to the Pastorate Committee. The Plaintiffs have already submitted representations to the 2nd Defendant/ Bishop on 20.7.2016 and 23.7.2016, regarding the maladministration of the Pastorate by the 4th Defendant/ Chairman. But, no action was taken. Another representation was given on 9.10.2017. But, again there was no action taken. It has been stated that the Pastorate Committee meetings from 18.11.2016 were held without the presence of the 9th Plaintiff / Secretary. It has been stated that the circulars for the meeting without the signature of the 9th Plaintiff are null and void and the resolutions are not binding. Consequently, in view of all these facts, the suit was filed under Article 20(b) of the 1st Defendant Constitution within the jurisdiction of this court.

12. In this suit, as stated above, the Plaintiffs

have filed the following applications, which are to be determined:-

(i) OA.No.1064 of 2017 has been filed seeking an order of interim injunction, restraining the 4th Defendant/ Defendant, from conducting election to the Pastorate Committee of the CSI Christ Church Virugambakkam Pastorate, on 29.10.2017 or on any other date.

(ii) OA.No.1065 of 2017 has been filed, seeking an order of interim injunction, restraining the 4th and 5th Respondents/ Defendants from dealing with the financial administration of the CSI Christ Church Virugambakkam Pastorate Committee.

(iii) OA.No.1066 of 2017 has been filed, seeking interim injunction, restraining the 4th Defendant/ 4th Defendant, from functioning as Chairman of CSI Christ Church Virugambakkam Pastorate Committee.

(iv) A.No.6647 of 2017 has been filed, seeking appointment of a retired Judicial Officer or an Advocate to administer the 3rd Respondent, CSI Christ Church Virugambakkam Pastorate and to conduct the election of the Pastorate Committee of the CSI Christ Church Virugambakkam Pastorate for the period 2017-2020 and members of Diocesan Council from CSI Christ Church Virugambakkam Pastorate Committee for the period 2018-2021 with the assistance of CSI Christ Church Virugambakkam Pastorate Committee in accordance

with the provisions of the 1st Respondent Constitution.

(v) A.No.6648 of 2017 has been filed, seeking a direction to appoint a statutory auditor to audit the accounts of the CSI Christ Church Virugambakkam Pastorate Committee from March 2015 in accordance with Section 3 of the Religious and Charitable Trust Act, 1920 and submit a report to this Court.

13. In the affidavits filed in support of all the above applications, the 1st Plaintiff, on behalf of the other Plaintiffs, has stated the very same facts as stated in the plaint.

14. The Applicants have stated that the meetings held under the circulars without the signature of the 9th Plaintiff are null and void and the resolutions passed therein are not binding. It was further stated that the elections have been scheduled without preparing the voters list in accordance with the rules and without consulting the members of the Pastorate Committee. It has been stated that several dead persons have been included as voters and this was done with an aim to commit fraud, particularly, by the 4th Defendant to elect his persons as members of the Pastorate Committee. It has been further stated that the accounts have not been finalised and the 5th Respondent, who is the Treasurer, should not be permitted to continue to act as the Treasurer and it

was under these circumstances that appointment of a retired Judicial Officer/Advocate and a statutory auditor were also sought.

15. In the mean while, the above original applications have also been filed, seeking interim injunction, restraining the 4th Respondent from conducting elections and from functioning as the Chairman of the Virugambakkam Pastorate Committee and also against the 5th Respondent/ Defendant from functioning as the Treasurer.

16. All these applications came up for consideration on 27.10.2017 before this Court. They were moved urgently since the elections were scheduled to be held on 29.10.2017. The Respondents were also represented by their counsel even at the time when the applications were moved. On 27.10.2017, this Court had ordered as follows:-

"6. However, I feel that in an Organisation, particularly, in an Organisation meant for religious purposes, an opportunity must be given to the Respondent to see that by their actions, they ensure that the allegations do not come true. This conduct is entirely in the hands of the Respondents. However, to ensure that the elections are conducted in a fair and free manner, instead of appointing an Observer, I hold that the entire process must be video graphed and also audio recorded. The recording has to commence immediately after the prayer service had completed in the morning in the Church Premises. The video graph/ audio recording should cover the entire campus of the Church starting from the out door to the place where the elections are conducted and where the ballot boxes being kept and the counting is also done.

7. It is also made clear that the results of the

election shall not be declared. The entire records shall be produced before this Court.

8. Apart from the above arrangement, since allegation has been raised about the list of voters, the entire list of voters who actually participated in the election must be produced. The entire list of subscription members must be produced. The entire list of members to whom notices were issued must be produced.

9. The video graph and audio recording may be done by any person appointed by the Applicants. Plaintiffs.

10. The entire records of ballot papers, list of members, subscription list of members and compact discs/DVD and audio records are to be produced before this Court on 31.10.2017."

17. The matter was again heard on 31.10.2017 and this Court by order dated 31.10.2017, had observed as follows:-

"The learned counsel appearing on behalf of the Defendants has produced the entire records including ballot papers and list of voters, list of subsequent members, list of members to whom notices were issued and all other related records in a sealed cover. The entire records have to be handed over to the Assistant Registrar (OS-I), High Court, Madras, who shall make inventory of the same and preserve the records in safe custody. The list of inventory may be handed over to the learned counsel for the Defendants. However, it is seen that the Plaintiff has not produced DVD recordings which they had conducted during the elections on 29.10.2017. On the other hand, the Defendants have also video graphed the

entire proceedings of the conduct of elections and the DVD is also produced by the Defendants, which is also handed over to the Assistant Registrar (OS-I), High Court, Madras.

2. It is further represented that copies of affidavit, typed set of documents have not been furnished to the learned counsel for the Defendants. The learned counsel for the Plaintiff is requested to furnish necessary copies to enable the Respondents/ Defendants to file a counter on 6.11.2017. Call on 6.11.2017."

18. Subsequently, on the very same, the Plaintiffs had produced the DVDs containing video recordings of the elections held on 29.10.2017. The Respondents have also filed a common counter affidavit. The 4th Respondent had sworn the affidavit on behalf of the other Respondents also.

19. According to the 4th Respondent, quite apart from denying all the averments made in the plaint and in the affidavits filed in support of all the applications filed by the Plaintiffs, has stated that the 8th and 9th Plaintiffs had been suspended by the 2nd Defendant Bishop, by order dated 23.2.2017. The 1st Plaintiff, who had crossed the age of 35 years as on 29.5.2017, was not eligible to continue as a member of the Pastorate Committee. It has been stated that each Pastorate has also a Pastorate Constitution. The Pastorate Committee consists of 10 members and when the Chair

Person is included, it become 11 members. It has been stated that the 5th Defendant/ Treasurer had not submitted any resignation letter and he continued as the Treasurer. It has been stated that the deponent of the affidavit had nominated the 7th Defendant in the place of Jacob R.Daniel, by exercising the powers of the Chairman and that the 9th Plaintiff had prevented the Treasurer, from handling service collections and finance matters and it was under such situation that the 2nd Defendant had appointed a fact finding Committee.

20. It has been further stated that the 9th Plaintiff as Secretary prevented the smooth functioning of the 8th Defendant Pastorate Committee. The Plaintiffs acted according to their whims and fancies. Since the 8th and 9th Plaintiffs were suspended, notices were issued by the deponent of the affidavit, calling for a Committee meeting. It has been stated that the elections to the Diocesan Council from the Pastorates and other Constituencies have to precede the Council on a reading of the CSI Constitution, which is a supreme and binding on the Dioceses and the Pastorates. The circular dated 3.8.2017 of the 1st Defendant Diocese, has been accepted. It has been stated that the elections to the 8th Defendant is therefore in order. It has been stated that notices were sent, but the Plaintiffs evaded the same. The electoral roll, time schedule for the election and the

members to be elected were finalised on 7.10.2017 in the presence of the Observer of the 1st Defendant Diocese. Thereafter, on 11.10.2017, scrutinisation of the representations, which were received, were also sent. The primary electoral roll consisted of 1612 members. The Schedule for the elections were also given. There was also time given for representations if the electoral rolls were defective. However, not even a single representation was received from the Plaintiffs. It has been stated that inclusion of persons, who are dead, are clerical and not intentional.

21. It has been further stated that subscriptions are paid for the entire family and consequently, the names have been published. It has been stated that the Plaintiffs did not give any representation in respect of the voters list. It has been stated that in accordance with Article 23 of the Pastorate Constitution, all disputes regarding elections should be referred to the Bishop, within a period of 14 days from the date of election. It has been stated that the allegations of the Plaintiffs are false. It has been stated that the first Plaintiff filed his nomination and contested in the election for the men above 35 years category and also seconded the candidature of one S.P.Sathiaraj under the same category. The 3rd Plaintiff also proposed a candidature. The 4th Plaintiff filed his nomination and

contested in the election under the youth below 35 years category. The 6th Plaintiff proposed the candidature of her husband, who contested in the election under the men above 35 years category. The 7th Plaintiff filed her nomination for the elections and proposed the candidature of her daughter, who contested under the youth below 35 years category. The 8th Plaintiff filed his nomination for the election and proposed the candidature of his wife, who contested under the women above 35 years category. The 9th Plaintiff seconded the candidature of his son for the election and proposed another candidature. The 10th Plaintiff proposed the candidature of his sister for the election. The 9th Defendant declared the candidates and the details constituting his alliance for the election. The Plaintiffs, according to the deponent of the counter affidavit, suppressed all the above material facts. It has been stated that there is thrust of the suit against the Presbyter and Chairman, not out of any genuine interest for the Church. It has been stated that the suit is wholly misconceived.

22. A reply affidavit was filed on behalf of the Plaintiffs and it was signed by the 1st Plaintiff. With respect to the averments in the counter affidavit that notices were sent and there was evasion from receipt of notices, it has been stated that the notices had been returned for the reasons 'door locked' or 'refused'. The 2nd

and the 4th Plaintiffs had refused the notice. A list of persons, who are dead and who had been included in the voters list, have also been declared. It has been stated that a lady had been included as the wife of an unmarried person. It has been stated that the 1st and 2nd Respondents by their circular dated 3.8.2017 informed the Church members that the election would be conducted triennially and hence, the tenure would be for three years and not two years. It was stated that the persons, those who are eligible to vote, must have paid subscription up to June 2017. This announcement was made in August 2017. Consequently, about 200 members, who normally pay the subscription in December of each year, have been deleted from the eligible voters list. They were not given any opportunity to pay the subscription.

23. With respect to the statement that there is a provision for arbitration for settling the disputes, in the reply affidavit, it has been stated that there was no binding arbitration clause and it was only optional. It has been stated that the rules are of procedure and only intended to be a guide. Quite interestingly, in the affidavit, case laws have also been given, explaining about when arbitration clause would be binding in nature. The allegation that the 9th Plaintiff prevented the smooth functioning of the 8th Defendant Pastorate Committee was denied. It was stated that the 9th Plaintiff had requested by letter dated 6.6.2016 to

convene the Pastorate Committee and this had irritated the 4th Defendant. The 9th Plaintiff had also sent a representation to the 2nd Defendant, which again increased the anger of the 4th Defendant. It has been stated that the 4th Defendant developed animosity towards the 9th Plaintiff. It has been stated that the deponent of the reply affidavit, who was the 1st Plaintiff, was entitled to hold office for the entire tenure of the current Pastorate Committee. This was in response to the allegation that he had crossed 35 years.

24. It has been stated that the Plaintiffs participated in the elections as per the directions of this Court. It has been further stated that during the election, the 4th Defendant filled out a team of candidates and canvassed for them. He brought 15 persons from outside and they conducted the elections and the list of eligible voters were not given to the candidates. The candidates, who opposed the 4th Defendant, were not allowed inside the balloting area to check the identity of the voters. The list of contesting candidates were not displayed. Instructions for voting were not given. 182 votes were declared invalid since pen was used to tick instead of sketch pen. The signature of the candidates were not obtained in the covered ballot boxes. It was stated that the ballot boxes would have been tampered. It has been stated that the applications should be allowed.

25. This Court heard the arguments of Mr.A.Immanuel, the learned counsel for the Applicants/ Plaintiffs and Mr.Adrian D.Rozario, the learned counsel for the Respondents/ Defendants.

26. Any quarrel within a closed community, leading to litigation is very unfortunate. More particularly, any dispute or quarrel among the members, who profess peace and harmony in the name of religion, but whose actions speak otherwise, is also very unfortunate. Adjudicating any issue of this nature is still more difficult. I sincerely hoped that the Plaintiffs and the Defendants would come to some sort of settlement among themselves. Hopes of this Court were of no avail. Hence, it has now become necessary to render a judicial order on the claims made by the Plaintiffs.

27. For the sake of convenience, the parties herein shall be referred to as the Plaintiffs and the Defendants.

28. The Plaintiffs have a long history of complaints. The 4th Defendant is the Chairman of the Pastorate Committee. The Plaintiffs are the members. The 9th Plaintiff is the Secretary and the 5th Defendant is the Treasurer.

29. For any closed community to function, there must be cooperation and meeting of minds among the Chairman, Secretary and Treasurer. But, unfortunately, in this case, there seems to be a vertical divide among the members, with

one group taking the side of the Secretary and the other group, taking the side of the Chairman and the Treasurer. Naturally, when there is a vertical divide, there will also be a refusal to understand the functioning of the post of a Chairman/ Secretary/ Treasurer. The only intention, as is evident from a reading of the affidavit, counter affidavit and the reply affidavit, is to level allegations after allegations against each other. Both the parties are equally to be blamed and this would not mean that the Plaintiffs are at a better footing.

30. Four meetings of the CSI Christ Church Virugambakkam Pastorate Committee were convened and conducted and they went smoothly. Thereafter, problems arose with respect to settlement of accounts for the year 2015-2016. Very peculiarly, no effective steps were taken to resolve the disputes then and there. The group, which alleged maladministration, began to collage records by giving representations after representations to various third persons, but without directly addressing the issue. The persons, to whom representations were given, were the 1st and 2nd Defendants, who have also been unfortunately dragged into this controversy.

31. The 2nd Defendant is the Bishop of the CSI Madras Diocese. He appointed a fact finding Committee to enquire into the allegations, but the Plaintiffs were not

satisfied. The 2nd Defendant appears to have suspended, particularly, the 9th Plaintiff. Incidentally, the 9th Plaintiff was functioning as the Secretary. From the date of his suspension, his post as Secretary automatically stood jeopardised. It was evident that he could no longer function as Secretary since he was suspended from being a member of the Pastorate Committee. Meetings have to be held subsequently. The 4th Defendant/ Chairman therefore issued circulars in his own name. This was from November 2016 onwards. The Plaintiffs, as a whole, thought it fit to either refuse to attend the meeting or to accept the resolutions passed therein. It was primarily contended that since the circulars did not have the signature of the 9th Plaintiff, who was the Secretary, the meetings itself were illegal and consequently, the resolutions passed thereon, were null and void. I am quite unable to understand the logic behind this contention of the Plaintiffs. The 9th Plaintiff having been suspended could not be asked to function again for the sole purpose of signing the circulars, calling for the meeting. Minds with maturity must act with maturity. They should not invite actions being taken against them and thereafter, complain about the nature of the actions taken.

32. In this case, the 9th Plaintiff had been suspended by the 2nd Defendant. Whether the 2nd Defendant had powers to suspend a member, who had been elected by the

congregation, is not in issue before this Court. It is also not known whether the 9th Plaintiff in his individual capacity had taken that as an issue in any legal proceedings. He cannot ride on the back of the other Plaintiffs and also seek an ancillary relief in this suit. The thrust of all the arguments appears to be against the 4th Defendant. The 4th Defendant is in an enviable position. He is a member of CSI Pastorate. He has also been appointed as Chairman. The Plaintiffs obviously appear not to have a good opinion on him. According to the Plaintiffs, he has brought in more acrimony among the members than unity among the members. It is under these circumstances that the Plaintiffs have sought for appointment of a retired Judicial Officer/Advocate, to administer the functioning of the Church. The Plaintiffs have also sought for appointment of an auditor to examine the accounts. In the mean while, they seek injunction as against the 4th and 5th Defendants, from functioning as the Chairman and Treasurer, respectively.

33. As has been stated above, elections were scheduled to be held on 29.10.2017 and elections were conducted. This court had hoped that the elections would put an end to the interse quarrels among the members. The ballot boxes had been presented before the Court. They have not yet been opened. They have to be examined only in the presence of both the learned counsel for the Plaintiffs and the

Defendants. But, however, the Plaintiffs are quite unhappy with the method, in which the elections have been conducted. Both sides have produced DVDs of the events surrounding the elections. They will have to be examined again in the presence of both the learned counsel for the Plaintiffs and the Defendants.

34. In the mean while, much has been argued with respect to the injunctions to be granted. As a matter of fact, the 1st Plaintiff in his affidavit and his reply affidavit had also mentioned about the precedents in dealing with the disputes among the Church Community. I would not like to stoke flame further. I read and re-read the judgements cited by both sides. But, the trial in this case has not yet started. At this interim stage, it would only be advisable that the court does not thrust itself on the elected members and substitute itself as a decision making authority. The Court cannot be a substitute for the general members of the congregation of the Church.

35. It is a fact that the Plaintiffs had proposed, seconded and contested the elections. These events took place much prior to the interim orders passed on 27.10.2017. But, these facts were not pleaded in the plaint or in the affidavits. They have come to light only subsequent to the counter affidavit filed on behalf of the Defendants. At the time when the applications were moved, the Plaintiffs did not

bring to the notice of this Court that they have been, either in their own names or in the names of their family members, desirous of contesting the elections. Consequently, I hold that no purpose would be served by withholding the results of the elections. Results have to be declared. If there had been disturbances during the elections, both sides can take advantage of the same at the time of trial. But, as an interim measure, there has got to be a Committee in place. It would have been very appreciable, had the Plaintiffs, in the very first instance, admitted their participation in the elections. That was not disclosed. But, however, they had tried to stall the elections. This cannot be allowed. This is not allowed.

36. The justification of the Plaintiffs that they participated in the elections only as per the orders of this Court cannot be accepted. They had come to Court at the very last minute by filing the suit on 23.10.2017. The Schedule for the election with the last date for filing of nominations was on 18.10.2017. The list of valid nominations had been released on 19.10.2017. The date for withdrawal of nominations was on 21.10.2017 and the final list of valid nominations was released on 22.10.2017. It was only thereafter that the Plaintiffs came to Court.

37. It is the contention of the Plaintiffs that several dead persons have been included in the list of

eligible voters. Once again, the primary electoral list was published on 8.10.2017 and representations could have been given on or before 11.10.2017. The Plaintiffs have not brought to the Court any document to show that they had given representations before the 4th Defendant, complaining about the list of eligible voters. I am not going into the minutes of the earlier meetings, which do not contain the signature of the 9th Plaintiff. They are part of the records and the records speak for themselves and they have to be established during the trial and the Defendants have to be given an opportunity to explain as to why the circulars were issued for the meeting without the signature of the 9th Plaintiff.

38. The Defendants in their typed set of papers have filed the nomination forms submitted for the elections, which concern the Plaintiffs. Even as a fact, these were not disclosed by the Plaintiffs. As a matter of fact, the election pamphlets / manifestos of the 9th Plaintiff group have also been furnished by the Defendants. The Plaintiffs have also not disclosed that the CSI Christ Church Virugambakkam Pastorate has a Constitution of its own. This had been produced by the Defendants. Both the learned counsel for the Plaintiffs and the Defendants have brought to the notice of this Court the minutes of the adjourned 10th meeting of the 8th Defendant Pastorate Committee on 7.10.2017. In the said minutes, quite apart from a reference to the

resolutions and Ramesh Arputharaj, Daniel Selvakumar and Meshok Desilva and the 9th Plaintiff, Alexander, there is also a reference about auditing of the accounts. There is also reference about the Schedule for the elections. It had commenced on 8.10.2017 with the publication of the primary list of eligible voters and ended on 29.10.2017 with the actual elections. These facts have not been pleaded in the plaint. Consequently, without going into the judgements cited by either side, it is seen on facts that the Plaintiffs have not disclosed that they had either in their own names or in the names of the very close family members, decided to contest the elections in one way or the other either directly or by nominating or seconding a member of their own family.

39. The Plaintiffs have also not disclosed that the Virugambakkam Pastorate has its own Constitution. This is also very significant because in the said Constitution, there are clauses with respect to the disputes, with respect to arbitration, with respect to appeals and more particularly, with respect to election disputes and also with respect to decisions and complaints and very significantly with respect to validity of resolutions and proceedings. It is thus seen that a comprehensive Constitution governs each member of the Virugambakkam Pastorate, to which the Plaintiffs belonged.

40. It is a weak statement to say that taking recourse to the rules governing the congregation under the

Constitution of the very same congregation is optional. That had been stated only as reply affidavit and not as a primary statement of fact. These facts naturally tilt the balance in all these applications towards the Defendants. The learned counsel for the Plaintiffs had made considerable arguments on issue of law, particularly, stating that in every Pastorate Committee, persons have been inducted to manage the Committee.

41. In the present case, I am primarily going on a fundamental principle of disclosure of facts at the preliminary stage. As stated above, the Plaintiffs have not done so. Elections have been held and at that point of time, on 27.10.2017, the Plaintiffs have already filed their nominations, had prepared themselves for the elections of the Pastorate as is evident by the circulars issued by them and produced by the Respondents/ Defendants and it has not been specifically denied by the Plaintiffs. Consequently, the Plaintiffs cannot take refuge, holding out that they participated in the elections because of advise from the Court.

42. Elections are contested purely on voluntary basis. Election procedures has been video graphed and photographed and they are part of the court records. Elections can always be revisited if manipulation is found. But, that would be a matter of trial because if manipulation

is alleged, opportunity to rebut the same will have to be given. Therefore, prima facie, on the ground of suppression of material facts, I hold that the Plaintiffs have themselves invited a finding against them. When their own Constitution stares at their face, it would not be necessary on the part of this Court to examine the Constitution of the 1st Defendant Diocese.

43. For all these reasons, I am not able to convince myself that the Plaintiffs have to be given any relief in these applications and accordingly, all these applications are dismissed. No costs. I hold that the results of the elections will have to be declared and I also give opportunity to both the Plaintiffs and the Defendants through their respective counsel to view the DVDS, now in the custody of the Assistant Registrar (OS-I) and file necessary applications pointing out irregularities during the elections. But, till that is decided, the Body has to function and consequently, till such time, the results of the elections will have to be declared. The results will be binding on both the parties. It is again very sincerely hoped that sense and sensibility would prevail and the men, who are to uphold the teachings of forgiveness would reconcile and accept brotherhood in spite of the many faults in their fellow bretheren and join in holy prayer in the coming congregations.

After the order copy has been pronounced in the afternoon today ie., on 03.01.2018 at 2.15 p.m., both the counsels were requested to be present in the Court hall at 4.00 p.m., so that the sealed card board box, containing all the elections related papers, was brought from the Chamber of the Deputy Registrar, Original Side, High Court, Madras, and opened by the Court Staff, to enable the Court to declare the results of the elections, which was conducted on 29.10.2017.

2. From the papers in the sealed box, the details of votes were given for the three categories of elected members for Lay Communicant Members of the C.S.I. Christ Church, Virugambakkam. Pastorate Committee Election was taken out and election results are hereby declared:-

I. Men above 35 years:

Total No. of Eligible Voters:	1615
No. of Total Votes Polled	: 1014
No. of Invalid Votes	: 0205

II. Women above 35 years:

Total No. of Eligible Voters: 1615

No. of Total Votes Polled : 1014

No. of Invalid Votes : 0204

III. Youth below 35 years:

Total No. of Eligible Voters: 1615

No. of Total Votes Polled : 1014

No. of Invalid Votes : 0193

3. The results of the Pastorate Committee Election were also disclosed. The total votes secured by each candidates are as follows:-

I. Men above 35 years:

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	ABRAHAM AROKIYA DOSS. C	418
2.	ARUN PETER. D	372
3.	BHASKARAN JEBA SUNDAR. B	390
4.	JAYA SUNDER.D	402
5.	KOIL RAJ. S	452

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
6.	PACKIA RAJ. N.T	434
7.	RAJA SINGH. D	432
8.	SATHIA RAJ. S.P	358
9.	SUDHAKAR. S	374
10.	SUNDER SINGH. D	363
11.	THANGARAJ. P	345
12.	WESLEY	424

II. Women above 35 years:

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	LIDIA HEMALATHA. D	430
2.	PONMALAR. R	387
3.	RUBY KIRUBAI RAJ. K	412
4.	SUJINI SINGH	374

III. Youth below 35 years:

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	MISS. ANNETTEE JEBASTINE. T	397
2.	MR. CHARLES. I	426
3.	MR.IMMANUEL ROBINSON. T	384
4.	MRS. JUDY	410
5.	MR.MESHACK D SILVA	370
6.	MRS. RACHEL ANISHA JOHN	414

4. Each one of the candidates had also signed the number of votes secured by them. According to the C.S.I. Christ Church, Virugambakkam, Pastorate Constitution,

A. Elected Members

Lay Communicant Members of the church to be elected biennially by the lay communicants of the Pastorate as follows:-

C.S.I. Christ Church, Virugambakkam

Total Elected Members	11
(i) Men above 35 years of age	6
(ii) Women above 35 years of age	2
(iii) Youth below 35 years of age (Men/Women or both)	3
(iv) Nominated by Chairperson	1
(v) Co-opted by the Pastorate Committee	1

5. Accordingly, in the Men above 35 years of age, the following are declared as elected:-

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	KOIL RAJ. S	452
2.	PACKIA RAJ. N.T	434
3.	RAJA SINGH. D	432

<i>Sl. No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
4.	WESLEY. D	424
5.	ABRAHAM AROKIYA DOSS. C	418
6.	JAYA SUNDER. D	402

6. Similarly, the following are declared as elected candidates in the Women above 35 years:-

<i>Sl.No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	LIDIA HEMALATHA. D	430
2.	RUBY KIRUBAI RAJ. K	412

7. Similarly, the following are declared as elected candidates in the youth below above 35 years:-

<i>Sl.No.</i>	<i>Names</i>	<i>Total Vote Secured</i>
1.	MR.CHARLES. I	426
2.	MRS. RACHEL ANISHA JOHN	414
3.	MRS. JUDY	410

8. The above candidates are declared elected. They permitted to do the functions with respect to the post for which they have been elected and discharge duty of the Pastorate Committee.

9. Any disputes shall be resolved in accordance with Clause XXIII of the Election Commission in the Pastorate Constitution of the C.S.I. Christ Church, Virugambakkam, Pastorate.

Sd/-C.V.K.J
03.01.2018

//Certified to be a true copy//

Dated this the day of 2018
JJ 5/1/18

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.