



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.04.2018

Pronounced on : 24.07.2018

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) No.185 of 2018

and

CMP (MD) No.4401 of 2018

1. The Chairman,
The Pastorate Committee,
St.George's Church, Madurai.

2.Surendran Jeyakumar

3.Selwyn Jeyakumar

4.T.A.Ebenezer

5.Devairakkam

.. Petitioners/Defendants

vs.

Rev.D.Stephenson

.. Respondent/Plaintiff

Prayer: Petition filed under Section 24 of C.P.C. to withdraw the suit in O.S.No.207 of 2018 from the file of the learned Principal District Munsiff, Madurai and to transfer it to the file of the any other competent Court.

For Petitioners : Mr.R.Manimaran

For Respondent : Mr.FX.Eugene

ORDER

The petitioners who are Defendants in the Original Suit in O.S.No.207 of 2018, on the file of the learned Principal District Munsif, Madurai Town, have filed the Transfer Civil Miscellaneous Petition to withdraw the aforesaid Original Suit from the file of the said Court and to transfer the same to any other competent Court.

2.The respondent herein has filed the aforesaid original suit for the relief of declaration that the alleged termination of his service as Assistant Presbyterian at the St.George Church, Madurai by the order of the 5th petitioner/5th defendant dated



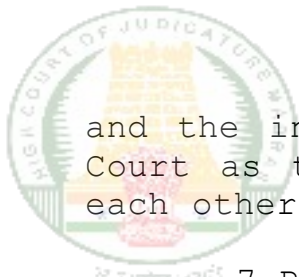
27.03.2018 is illegal, null and void and non-est in law and also sought for consequential relief of permanent injunction against the petitioners/defendants.

3.The learned Counsel for the petitioners would submit that the 2nd to 5th petitioners before this Court are the members of the Ad-hoc Committee appointed by the 1st petitioner herein. The Ad-hoc Committee was appointed by the 1st petitioner for the administration of the St.George Church as the tenure of the office bearers of the said church has been completed. However, in respect of the church election, two Original Suits in O.S.Nos.157 of 2017 and 271 of 2017 have been filed before the Principal District Munsif, Madurai Town, wherein Advocate Commissioner was appointed.

4.The grievance of the petitioners before this Court would be that though St.George's Church is the protestant Church, the learned District Munsif has appointed the Advocate Commissioner belongs to CSI denomination to conduct election. Apart from that the whole issue is pertaining to the invasion of CSI denomination against the church of Protestant Churches. In this regard St.George's Church has filed a suit in O.S.No.236 of 2018 sought for the relief of Permanent Injunction restraining the CSITA and its men from interfering in the management of St.George's Church and its branch Churches and the same is pending before the learned Ist Additional Subordinate Court, Madurai. Apart from that another suit was filed in O.S.No.231 of 2018 on 12.04.2018 and by the order of Ad-Interim ex-parte Injunction of the learned Principal District Munsif, Madurai Town the functions of the Ad-hoc Committee was restrained without deciding the application filed under Order 1 Rule 8 of the Code of Civil Procedure.

5.The crux of the instant petition is that the learned Principal District Munsif, Madurai Town expressed his view, when the injunction application in I.A.No.293 of 2018 in O.S.No.213 of 2018 that he would grant the interim order on the day of the 1st hearing itself. However, against the Interim Order, the petitioners preferred Civil Revision Petition before this Court in C.R.P.No.888 of 2018 and got interim order in their favour and the same is pending. However, an application in I.A.No.274 of 2018 was filed to advance the date of hearing in the aforesaid O.S.No.207 of 2018 and the date of hearing was advanced. Since the date of hearing is advanced by the order of the learned Principal District Munsif, Madurai Town apprehension is irked in the mind of the petitioners and thereby they preferred complaint against the said Munsif as their application for adjournment was dismissed without any valid cause.

6.In addition to the points canvassed as above, the learned <https://hcservices.hcscs.ltds.gov.in/hcservlets/> petitioners would also brought to the notice of this Court that the suit filed by them in O.S.No.236 of 2018 is pending before the learned I Additional Subordinate Judge, Madurai



and the instant suit may be transferred to the file of the said Court as the basis of these two cases are almost connected with each other.

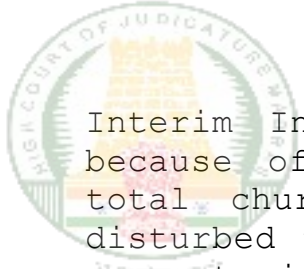
7. Per contra, the learned counsel for the respondents would vehemently contend that the Tr.C.M.P. is filed with ulterior motive and it is an act of interference in the administration of justice. Moreover, he also added that the Judicial Officer cannot be dragged into the higher forum for his official act simply for the whims and fancies of the parties and such attitude cannot be encouraged in any manner that would deeply affect the justice delivery system of our country.

8. The learned counsel for the respondents would further submit that the reasons adduced in the affidavit filed along with the Transfer C.M.P. are not required for consideration of this Court. Because for the reasons that the dismissal of the application filed to adjourn the Interim application for Injunction was the domain of the Learned Trial Judge so by appreciating the totality of the case, it was the discretion of the learned Trial Judge to pass an order on the application on either way. The Petitioners are not entitled to file application for transfer as if they are prejudiced for the dismissal of their application for adjournment. Such reasons cannot be encouraged. Hence the learned counsel for the respondent would pray for the dismissal of the Tr.C.M.P.

9. I heard Mr.R.Manimaran, learned counsel for the petitioners and Mr.M.Rajaraman, learned counsel for the respondent and the materials available on records are perused.

10. The instant Tr.C.M.P. is preferred by alleged that the learned Trial Judge has dealt with their case in a biased manner. Their main grievance is that he passed an order of Interim Injunction without hearing the petitioners. Further it is also stated that the application for adjournment filed before the learned Trial Court was dismissed on the other hand the application for advance hearing was allowed. It is seen from the records that in connection with St.George's Church several suits are pending before the learned Principal District Munsif, Madurai Town and the 1st Additional Subordinate Judge at Madurai. Conduction of election and election related issue were the main cause for the filling of those original suits. The Learned Trial Judge already passed an order to conduct election by appointing the Advocate Commissioner. Apart from that some other cases are also pending for the issue related with the administration of the church and pastorate.

<https://hcservices.ecourts.gov.in/GhoseServices/> It is clear that the Learned Principal District Munsif, Madurai Town is aware about the issue and the number of Civil Suits are filed and pending. In this regard admittedly



Interim Injunction was granted by the Learned Trial Court and because of the Interim order, as per the petitioners that the total church administration becomes paralyzed. One factor has disturbed the judicial mind of this Court which is the passing of ex-parte injunction order. The reason is since connected suits are pending before the same Court, it would be advisable to hear the other side when subsequent suit is filed and before passing any order in the Interim application. But the case on hand the learned Trial Judge, though competent and very well entitled to pass interim order, he ought to have taken note of the previous and existing surrounding circumstances while passing ex-parte injunction order. Apart from that this Court has also dealt with the connected C.R.P.No.888 of 2018 for the very same church administration. In that case the conduct of the learned District Munsif has taken note of as he has passed some order even though stay was granted by this Court. The explanation given by the learned district Munsif is not found satisfactory but he has only extended the earlier Interim order after the stay was granted by this Court.

12. Another factor is to be noted that the petitioners have lodged a complaint as against the learned judge and the same was brought to the notice of this Court. Though the petitioners have made out a case for transfer to Sub-Court, Madurai or some other Court in Madurai cannot be entertained by this Court. This Court is having power to transfer of cases from one District to other District. If the petitioners want to transfer of suit in O.S.No.207 of 2018 within the District, he ought to have approached the Principal District Court at Madurai. Yet another thing also not permitting this Court to entertain this transfer petition for the reason that the petitioners want to transfer O.S.No.207 of 2018 alone to other Court, without seeking to transfer of other suits pending before the Learned Principal District Munsif, Madurai Town.

13. In fine for the above discussion, this Court is of the view that the Transfer Civil Miscellaneous Petition is liable to be dismissed, accordingly, it is dismissed. However, liberty is given to the petitioners to file Transfer Civil Miscellaneous Petition before the learned Principal District Court at Madurai, if they are so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To
The Principal District Munsiff,
Madurai.

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+1cc to Mr.R.Manimaran, Advocate Sr.No.74624

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VB/KAK/SAR3/23.08.2018/5P/3C

order made in
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and
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