



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.10.2018

Pronounced on : 09.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

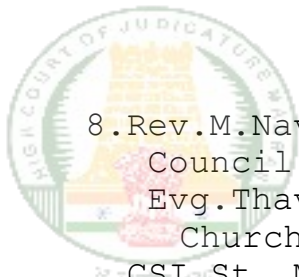
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CRP (PD) (MD) No.2177 of 2018

and

CMP(MD)No.9676 of 2018

- 1.C.S.I.Tuticorin - Nazareth Diocese,
Through its Bishop and
Administrative Committee of the Diocese,
100, Beach Road, Caldwell school campus,
Thoothukudi - 628 001.
- 2.The Bishop,
C.S.I.Tuticorin - Nazareth Diocese,
100, Beach Road, Caldwell school campus,
Thoothukudi - 628 001.
- 3.The Treasurer,
C.S.I.Tuticorin - Nazareth Diocese,
100, Beach Road, Caldwell school campus,
Thoothukudi - 628 001.
- 4.Re.J.S.Devaraj Gnanasingh,
Council Chairman,
Bishop Robert Caldwell Church Council,
CSI Abishehanathar Church campus,
205/1, Subbaiah Mudaliyarpuram Main,
New Colony Post,
Thoothukudi - 628 003.
- 5.Rev.S.Edwin Jebaraj,
Council Chairman,
Canon Margoschis Church Council,
CSI.St.Johns Patronage,
Nazareth - 628 617.
- 6.Rev.P.J.Groves Barnabas,
Council Chairman,
Dr.G.U.Pope Church Council,
C.S.I, Holy Trinity Parsonage,
Sawyerpuram - 628 251.
- 7.Rev.P.Yesudian Duraisamy,
Council Chairman,
Rev.T.G.Ragland Church Council,
C.S.I. St.Paul's Parsonage,
26, Perumal Street, Kovilpatti - 628 501.



8.Rev.M.Navaraj,
Council Chairman,
Evg.ThaveethuSundaranathanar
Church Council,
CSI St. Michael Parsonage,
Mudalur - 628 702.

9.Rev.T.O.Goldwin,
Council Chairman,
Rev.John Thomas Church Council,
CSI St.Paul's Parsonage,
Meignanapuram - 628 210.

... Revision Petitioners/
Defendants 1 to 9

-Vs.

1.C.Jeyaratchakar

2.Immanuel Prabu

...Respondents 1 & 2/Plaintiffs

(Plaintiffs themselves and
behalf of diocese members)

3.The Church of South India,
Rep.by its Moderator,
C.S.I Synod, Chennai.

4.The District Collector,
Collectorate, Thoothukudi.

5.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi.

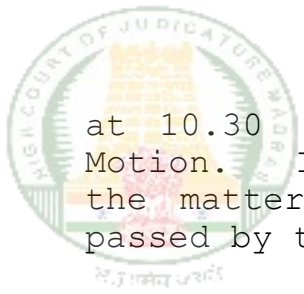
... Respondents 3 to 5/
Defendants 10 to 12

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in I.A No.77 of 2018 in O.S No.79 of 2018 dated 20.09.2018 on the file of the I Additional District Judge, Thoothukudi.

For Petitioners	: Mr.V.Lakshmi Narayanan for M/s.J.Kingsly Solomon
For Respondents	: Mr.C.Dhanaseelan

ORDER

O.S No.79 of 2018 on the file of the I Additional District Judge, Thoothukudi has been instituted by the respondents 1 and 2 herein seeking declaratory as well as injunctive reliefs in respect of the elections being conducted for C.S.I Tuticorin-Nazareth Diocese for the period 2018-2022. The plaintiffs also filed I.A No.77 of 2018 to restrain the holding of any election on 24.09.2018 for the Church Council. The trial Judge by order dated 20.09.2018 granted interim injunction till 26.09.2018. An urgent mention was made by the learned counsel for the revision petitioners before me



at 10.30 A.M on 24.09.2018 and I granted permission for Lunch Motion. In the presence of the learned counsel for the plaintiffs, the matter was taken up in the Afternoon and the interim order passed by the trial Judge was suspended by me.

2. When the matter was taken up again on 01.10.2018, I was informed that the trial Judge had dismissed I.A No.77 of 2018 itself on 24.09.2018. Since certain serious allegations were made with regard to the manner in which the interim order was granted in the first instance, I thought it fit to reserve orders in this CRP. The learned counsel for the plaintiffs/respondents 1 and 2 sought time to file their counter affidavit explaining the circumstances which led to the institution of the suit. Time was granted and accordingly counter affidavit was also filed on 08.10.2018.

3. Prima facie impression has been formed in my mind that the suit itself is a gross abuse of legal process. This litigation has a chequered history. It must be seen in the context of the order dated 04.07.2018 made in CRP (PD) (MD) No.820 of 2015 and its subsequent reversal by the Hon'ble Division Bench on 17.09.2018 in Contempt Appeal (MD) Nos.2 to 4 of 2018 and Letters Patent Appeal (MD) No.1 of 2018. I felt inclined to go the whole hog. That is why to give a fair opportunity to the plaintiffs, I called upon the learned counsel appearing for the respondents 1 and 2 herein to file their affidavit also.

4. The power and jurisdiction of the civil court to interfere in electoral matters was considered by me in CRP (PD) (MD) No.1796 of 2018 on 17.08.2018. For granting any interim injunctive relief, the triple tests of prima facie case, irreparable injury and balance of convenience will have to be satisfied. I took the view that in election matters, there is a fourth requirement to be complied with. The Hon'ble Supreme Court in a catena of decisions has held that when once the election notification has been issued and the election process had commenced, courts must be adopt a "hands off" approach. If this "hands off" approach is to be departed from, an exceptional case must be made out. In the present case, none of the requirements were fulfilled and that is why I suspended the order of the court below on 24.09.2018.

5. A learned single Judge of this Court by order dated 04.07.2018 in CRP (MD) No.820 of 2015, set aside the election dated 17.06.2018 and also the subsequent steps and the parties were restored to the status that obtained prior to the commencement of the election process. That was set aside by the Hon'ble Division Bench by order dated 17.09.2018 in LPA No.1 of 2018. But, one of the reliefs sought for by the plaintiffs is that the election dated 17.06.2018, 23.06.2018 and 30.06.2018 held for the Diocese in question as per the earlier election schedule is null and void.

6. I am of the view that this portion of the suit prayer is patently in defiance of the order passed by the Hon'ble Division



Bench. It is also brought to my notice that before the Hon'ble Division Bench on more than one occasion fervent plea was made for staying the elections. The Hon'ble Division Bench refused to heed the said plea. In fact, my original instinct was to place even this Civil Revision Petition before the Hon'ble Division Bench.

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7. That the very institution of the suit flies in the face of the order passed by the Hon'ble Division Bench can be seen from the plaint averments. The primary grievance of the plaintiffs is that during the relevant period prohibitory orders had been passed under Section 144 of Cr.PC and that vitiated the very election process itself. This contention was pointedly rejected by the Hon'ble Division Bench by holding that more than 120 Pastorates have been elected on the basis of the nominations sent on 28.04.2018 and that therefore this contention has no legs to stand.

8. It is not as if the constitution of Thoothukudi-Nazareth Diocese does not provide any remedy. Rule 4(a) of the Constitution of the Diocese in Chapter No.1 (B) provides that a Commission shall be appointed to enquire into and to settle all election disputes in the Diocese. The Bishop will be the Chairman and the Diocesan and Treasurer will be the convenor of the commission. The election process contemplates a number of stages. It is seen that the process is almost substantially completed. The rights of the plaintiffs do not appear to have been infringed at all. I get a feeling that the parties who lost before the Hon'ble Division Bench have set up the present plaintiffs to file the present suit. The manner in which the trial Judge granted interim order without even arriving at a prima facie satisfaction shocks the mind of this Court. But, the very same trial Judge, who granted the interim order dated 20.09.2018, chose to dismiss the injunction application on 24.09.2018.

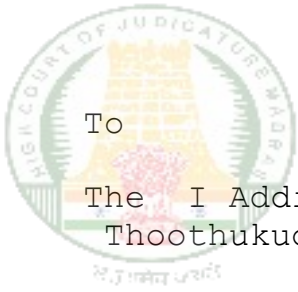
9. At this stage, I am informed that the order dated 24.09.2018 dismissing I.A No.77 of 2018 is the subject matter of challenge in CMA (MD) SR.42825 of 2018. When another learned Judge of this Court is seized of the matter, considering judicial comity, I deem it fit and appropriate not to say anything more on the subject. Though subsequent developments have taken place rendering the civil revision petition infructuous, I must record my conclusion that interim order ought not to have been granted at all.

10. With these observations, this Civil Revision Petition is closed as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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To

The I Additional District Judge,
Thoothukudi.

+1CC to M/s.J.Kingsly Solomon, Advocate, SR.No.89488

+1CC to Mr.C.Dhanaseelan, Advocate, SR.No.89654

CRP (PD) (MD) No.2177 of 2018
and

CMP (MD) No.9676 of 2018
09.10.2018

SKM

ES/PM/SAR 1/27.10.2018/5P/4C