IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Third day of September Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE P.D.AUDIKESAVALU

WMP No.26100 AND 27106 of 2019

IN WP.26718/2019

S.ARIVU — PETITIONER IN WMP No.26100 OF 2019 AND 1ST RESPONDENT IN WMP.NO.27106/2019 IN WP.26718/2019

Vs

1 THE SECRETARY TO GOVERNMENT DEPARTMENT OF COMMERCIAL TAXES AND REGISTRATION, SECRETARIAT, FOR ST.GEORGE, CHENNAI-9 — [1 TO 6 RESPONDENTS IN WMP No.26100 OF 2019 AND 2ND RESPONDENT IN WMP.27106/2017

2 THE INSPECTOR GENERAL OF REGISTRATION, NO.100, SANTHOME HIGH ROAD, CHENNAI-28 — AND 3RD RESPONDENT IN WMP.27106/2017

3 THE DISTRICT REGISTRAR/ REGISTRAR OF SOCIETIES, CUDDALORE — AND 4TH RESPONDENT IN WMP.27106/2017

4 THE BISHOP ALC, BHARATHI ROAD, CUDDALORE-607 001 — 4TH RESPONDENT IN WMP No.26100 OF 2019 AND 1ST PETITIONER IN WMP.NO.27106/2019

5 THE CHAIRMAN PASTORATE COMMITTEE/CONVENER, ALC ARBITRATION BOARD, ALC CAMPUS, BHARATHI ROAD, CUDDALORE - 607 001

6 THE SECRETARY ALC CHURCH BOARD, BHARATHI ROAD, CUDDALORE-607 001 — 6TH RESPONDENT IN WMP No.26100 OF 2019AND 1ST AND 2ND PETITIONER IN WMP.NO.27106/2019

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to injunction restraining the respondents 4 to 6, their men agents or any other person claiming through them from interfering or managing or administering the day to day affairs Arcot Lutheran Church Society (WMP.26100/2019) pending disposal of this WP.26718/2019

(II)*To vacate the interim order dated 6.9.2019 made in WMP No.26100 of 23019 in WP No.26718 of 2019, on the file of this Honourable Court IN WMP.NO.27106 OF 2019 Respectively.*

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR. PRABAHAKARAN, SENIOR COUNSEL FOR M/S.P.S.AMALRAJ, Advocate PETITIONER IN WMP No.26100 OF 2019 AND 1ST RESPONDENT IN WMP.NO.27106/2019 for the petitioner and of MR.T.M.PAPPIAH, SPECIAL GOVERNMENT PLEADER on behalf of the 6TH RESPONDENT IN WMP No.26100 OF 2019 AND 2ND PETITIONER IN WMP.NO.27106/2019 and of MR.SRINATH SRIDEVAN, Advocate 4TH RESPONDENT IN WMP No.26100 OF 2019 AND 1ST PETITIONER IN WMP.NO.27106/2019 the court made the following order:-

The parties are hereinafter referred to as per their description in the Writ Petition for the sake of convenience.

2. Heard Mr. Prabhakaran, Learned Senior Counsel assisted by Mr. P.S. Amalraj, Learned Counsel for the Petitioner, Mr. T.M. Pappiah, Learned Special Government Pleader (Registration) appearing for the First to Third Respondents and Mr. Srinath Sridevan, Learned Counsel appearing for the Fourth and Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. When the matter came up for admission on 06.09.2019, this Court taking note of the submissions of the Learned Counsel for the Petitioner that the Fourth Respondent, viz., Arcot Lutheran Church Society, had been declared as defunct on 05.09.2001 and its annual returns have been submitted only till the financial year 1996-1997 and thereafter, no attempts were made for its revival, this Court passed the following interim order:-

> *"4. In view of the aforesaid submissions made, there shall be an order of interim injunction restraining the Fourth to Sixth Respondents from withdrawing any amount from its bank account until further orders. Further, any amount collected or received by the Fourth to Sixth Respondents shall be immediately remitted in their accounts with in any Nationalized bank, but no withdrawal of those amounts shall be made without prior permission of this Court, until further orders."*

4. The Fourth and Sixth Respondents have filed W.M.P. No. 27106 of 2019 for vacating the aforesaid interim order.

5. Learned Counsel for the Fourth and Sixth Respondents submits that the aforesaid contentions of the Learned Senior Counsel appearing for the Petitioner are factually incorrect inasmuch as the Fourth Respondent has not been declared as defunct as claimed and only a notice under Section 44(3) of the Tamil Nadu Societies Registration Act, 1965, had been issued and no final

decision for striking off its name from the register has been taken in terms of Section 44(4) of that Act. Insofar as the contention that the annual returns have not been submitted after the financial year 1996-1997 is concerned, records have been produced showing that the annual returns have been submitted till the financial year 2017-2018 and the meeting of the General Body has been called on 28.09.2019 for passing the accounts for the financial year 2018-2019.

6. It is also strenuously urged by the Learned Counsel for the Fourth and Sixth Respondents that this Court by order dated 22.12.2009 in W.P. No. 10812 of 2004 and order dated 27.11.2012 in W.P. No. 14173 of 2011 has issued directions for taking necessary action on the annual returns submitted by the Fourth and Sixth Respondents, but no final decision has been communicated so far in that regard, for which the Fourth and Sixth Respondents cannot be faulted and penalized by the interim order.

7. In response to the specific query as to the present status of the matter with the First to Third Respondents, Learned Special Government Pleader appearing on their behalf, states that it is informed to him by the Third Respondent, viz., the District Registrar, Cuddalore, that the decision on the condonation of delay in submitting the annual returns could not be taken in view of the pendency of the Writ Petition in W.P. No. 18641 of 2017 before this Court. In this context, Learned Counsel appearing for the Fourth and Sixth Respondents points out that the relief sought in that Writ Petition is same as that in W.P. No. 19296 of 2009 filed by one P. James against the Fourth Respondent, which has been rejected by this Court by order dated 25.02.2010 and that the Petitioner, who has filed W.P. No. 18641 of 2017, is bound by the same and there is no impediment for the First to Third Respondents to take a final decision in the matter.

8. Having regard to the aforesaid submissions made by the Learned Counsel appearing for the respective parties, it is evident that the contentions made on behalf of the Petitioner based upon which the aforesaid order came to be passed are factually incorrect and cannot be sustained. At the same time, it cannot be lost sight of the fact that the concerned authorities have not taken a final decision pursuant to the notice under Section 44(3) of the Tamil Nadu Societies Registration Act, 1965, and that the annual returns of the Fourth Respondent, though claimed to have been submitted, have not yet been accepted in terms of the statutory provisions.

9. In such circumstances, there has to be adequate safeguard to ensure that the funds of the Fourth Respondent are properly utilized and the following directions are issued in that regard:-

(i) The Fourth Respondent shall remit the amounts collected in any form in the bank accounts operated in its name and shall be properly accounted with the source of funds received. However, in respect of withdrawal from bank accounts are concerned, it shall be done in the following manner:-

(a) Payments relating to taxes and other statutory liabilities shall be made depending upon the demand from the concerned authorities;

(b) As a one time measure, routine and recurring expenses in the form of salaries and allowances etc., including those incurred towards feeding and taking care of children in boarding schools of the Fourth Respondent payable to the respective persons and the amounts incurred for the same, shall be placed before Mr. N. Sridharan, Chartered Accountant appointed by the Fourth Respondent to its audit accounts, for his certification and thereafter payments towards the same shall be effected, and whenever any changes in that regard take place, the same shall be placed for his concurrence before giving effect to it;

(c) In respect of other forms of expenses are concerned, the withdrawal of the amounts from the bank accounts in favour of any person shall be made only after the same is certified by the said Mr. N. Sridharan, Chartered Accountant.

(ii) In the event of any clarification required, it is open to the Fourth Respondent to approach this Court in that regard.

10. The interim order dated 06.09.2019 in W.M.P. No. 26100 of 2019 stands modified on the aforesaid terms.

11. Accordingly, W.M.P. Nos. 26100 and 27106 of 2019 are disposed of.

-sd/-
23/09/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT
DEPARTMENT OF COMMERCIAL TAXES AND
REGISTRATION, SECRETARIAT,
FOR ST.GEORGE, CHENNAI-9

2 THE INSPECTOR GENERAL OF
REGISTRATION, NO.100, SANTHOME HIGH ROAD,
CHENNAI-28

3 THE DISTRICT REGISTRAR/REGISTRAR
OF SOCIETIES, CUDDALORE

4 THE BISHOP
ALC, BHARATHI ROAD,
CUDDALORE-607 001

5 THE CHAIRMAN
PASTORATE COMMITTEE/CONVENER, ALC
ARBITRATION BOARD, ALC CAMPUS, BHARATHI
ROAD, CUDDALORE - 607 001

6 THE SECRETARY
ALC CHURCH BOARD, BHARATHI ROAD,
CUDDALORE-607 001

+2 C.C. to M/S.P.S.AMALRAJ Advocate SR.NO.11530

C.C. to MR.SRINATH SRIDEVAN, Advocate SR.NO.111538

Order
in
WMP.26100 AND 27106 /2019
in
WP.26718/2019

Date :23/09/2019

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