

**Reserved on : 21.09.2020**

**Delivered on : 10.11.2020**

**O.A.No.151 of 2020**

**&**

**A.No.1350 of 2020**

**in**

**C.S.No.56 of 2020**

**P.T.ASHA, J.,**

**(COMMON ORDER)**

The plaintiff in the suit C.S.No.56 of 2020 has filed an application for an ad interim injunction restraining the defendants from in any manner interfering / obstructing the worship and other Church activities in the Church in the possession of the plaintiff, situate in the suit property. The 1<sup>st</sup> defendant has filed an application in A.No.1350 of 2020 to vacate the said order.

2. The dispute in the suit centres around the property which is situated at new no.9, old no.5, Ameerjan Street, Choolaimedu, Chennai, in which the Reorganized Church of Jesus Christ of Latter Day Saints is functioning. It is necessary to set out in brief the case of the plaintiff and the parties are referred to in the same array as in the suit.

**3. Plaintiff's Case:**

i) The plaintiff has filed the suit in respect of the suit property for a declaration that they are the sole and absolute owners of the suit property and to direct the defendants to handover peaceful possession of the same to them and for an injunction restraining them from trespassing into the suit property.

ii) The plaintiff is a global organization Headquartered at Missouri, USA. The plaintiff started operating its South India Mission in the year 1966. The plaintiff is a society registered under the Societies Registration

Act, 1860 on 16.09.1968. The core objects of the plaintiff society is charitable and religious purposes.

iii) In the year 1970, the 1<sup>st</sup> defendant had joined as a volunteer and ultimately in the year 1977, he rose to the rank of Mission President. The 1<sup>st</sup> defendant was entrusted with day to day management of the society and over a period of time he started mismanaging the society and there were allegations of siphoning of funds as well as attempts to alienate the suit property. In fact, the 2<sup>nd</sup> defendant who is a builder, in collusion with the 1<sup>st</sup> defendant was attempting to take over the property of the plaintiff.

iv) The 1<sup>st</sup> defendant was due to retire in the Month of August 2009 and he was therefore directed to handover all the documents relating to the plaintiff society for the same to be handed over to his successor. At this juncture, the 1<sup>st</sup> defendant had turned hostile and refused to handover the documents as demanded. He also refused to relinquish control of the FCRA account.

v) Taking note of this behaviour, the 1<sup>st</sup> defendant was removed from the post and his son-in-law, Ravichandran replaced him as the Mission President. Even then, the 1<sup>st</sup> defendant has refused to handover the documents and the Car belonging to the plaintiff society. In the month of August 2010, Ravichandran resigned and he continued in the office till Mr.Amson Mallick took over.

vi) After the new Mission President took over, the 1<sup>st</sup> defendant and his wife started making unsubstantiated allegations against the plaintiff society and its members. By communication dated 06.03.2011 and 29.03.2011, the 1<sup>st</sup> defendant's wife was warned of by the Head Quarters of the plaintiff society. In the year 2012, the current Mission President was appointed and he had unearthed several wrong doings and irregularities committed by the 1<sup>st</sup> defendant. He found that the accounts were not maintained properly and the mandatory filings to the Registrar of Societies were also not being done. Monies of the plaintiff society were embezzled

and the 1<sup>st</sup> defendant had an evil design of misappropriating the properties of the societies.

vii) The suit property was purchased by the first Chairman of the plaintiff society under a registered sale deed dated 07.07.1967. This property comprises of the Church building, residential quarters and newly constructed structure in between the other two buildings. This property measures an extent of 10,800 Sq.ft. Thereafter, under a registered sale deed dated 07.05.1971, the plaintiff society purchased a further extent of 3,600 Sq.ft, adjacent to the property purchased under the sale deed dated 07.07.1967. The two properties put together constituted the headquarters of the plaintiff society. While the 1<sup>st</sup> defendant was the Mission President and Pastor, he was permitted to stay in the house in the suit schedule property.

viii) It appears that in the year 1997, the 1<sup>st</sup> defendant in total defiance of the bye-laws of the plaintiff society attempted to unilaterally amend the bye-laws, which under the rules was exclusively the right of the Mission at

United States. The bye-laws also provided that any decision regarding the alienation, sale, lease or mortgage of the land or building has to receive the prior written approval of the First Presidency - the presiding Bishop and the Apostle incharge in United States.

ix) The plaintiff would submit that the earlier Mission President Ravichandran in order to placate his wife, who is none other than the daughter of the 1<sup>st</sup> defendant had permitted the 1<sup>st</sup> defendant to have access to the Church property, though the 1<sup>st</sup> defendant was no longer the Mission President and was living at Madurai. However, with the help of the earlier President they had entered and taken control of the suit property. The plaintiff by their legal notice dated 03.09.2017 had directed the defendants to vacate the premises and handover the documents to the society, since during the visit of the members of the society to the suit property in June 2017, they had found a new wall erected separating the Church from rest of the building and had also found a new building constructed with a billboard showing the name of the 2<sup>nd</sup> defendant. Since there was no response from

the defendants the plaintiff has filed the above suit.

**3. O.A.No.151 of 2020:**

While the suit was pending, the defendants had tried to take control of the Church and was disturbing the worship therein. A complaint was given by the Pastor to the jurisdictional Police Station and thereafter on the intervention of the Police, the plaintiff was able to resume the daily and Sunday worship. However, sporadic incidents of disturbances continued, which has constrained the plaintiff to file O.A.No.151 of 2020 for an injunction.

**4. A.No.1350 of 2020:**

i) The 1st defendant apart from filing a counter to O.A.No.151 of 2020, had also filed a vacate stay application in A.No.1350 of 2020, in which he would contend that the deponent of the affidavit is not the President as he had been removed from the post of President in the year 2010 and he is not even a member. The 1st defendant would contend that

he along with Amson Mallick were trying to hijack the FCRA account from the current Executive Committee and its bonafide President.

ii) The 1st defendant would contend that Rupavathy, the wife of the 1<sup>st</sup> defendant is the current President of the society. The 1<sup>st</sup> defendant would further contend that the deponent has never visited the Church since 2010 and all allegations made in the affidavit filed in respect of the application for injunction is totally false. However, the 1<sup>st</sup> defendant would submit that the property in question belongs to the plaintiff society and that he is not interfering or disturbing the worship or other Church activities. He would therefore seek to have the stay vacated.

**5. Plaintiff's reply to the vacate stay petition:**

In their counter to the vacate stay application, the plaintiff would submit that the deponent, Mr.Prince Daniel was appointed as the President on 01.02.2012 and the latest of his appointment by the Mission at United States was on 15.02.2020 and as per bye-laws he would continue till

February 2021. He would therefore submit that the 1<sup>st</sup> defendant's wife was never the President and in January 2010, she had been relieved from the post of member of the Executive Committee on her term coming to an end.

**6. Submissions:**

i) Elaborate arguments were made on the formation of the society and the tussle for controlling the plaintiff Church was narrated by both the learned counsels from their perspective. I do not intend traversing the length of the arguments advanced but to extract the crux of the same.

ii) Mr. Jose John, learned counsel appearing for the plaintiff Church would contend that the 1<sup>st</sup> defendant had stepped down from the post of the Mission President on 16.01.2010 and thereafter his son-in-law Ravichandran had been appointed in his place. Thereafter, the said Ravichandran was removed from the post of President and Mr. Amson Mallick was appointed as the President. The learned counsel would submit that during Executive Committee meeting in July 2010, the present Mission

President, Prince Daniel had questioned the 1st defendant and his wife. Thereafter, the then Mission President who is none other than the son-in-law of the 1st defendant had issued a showcause notice to Prince Daniel as well as suspension order.

iii) He would submit that, although the Mission Headquarters had appointed Amson Mallick as the President, the 1st defendant and his family together had held an illegal meeting re-inducting the 1st defendant's wife as an Executive Committee member. The meeting was chaired by Ravichandran who, by then, had already been removed. Therefore, the very meeting was non-est. Pursuant to this illegal meeting the 1st defendant's wife was appointed as the President in a meeting held on 15.08.2010 by Ravichandran, which is once again totally contrary to the bye-laws of the Mission of the plaintiff society, which clearly states that the Mission President would only be appointed by the Mission Headquarters at United States.

iv) He would submit that not only had they passed these illegal and unauthorised resolutions they had also taken over the Church property. The plaintiff had come to know the magnitude of the fraud and mismanagement by the 1st defendant only when they had visited the Church property in June 2017.

v) A notice was issued calling upon the 1st defendant to desist from putting up such constructions. Despite receipt of this notice the 1st defendant had failed to send a reply. In February 2020, Prince Daniel had been re-appointed as the President for a period of 12 months from the said date and he had immediately taken steps to file the present suit. Mr. Issac Bennett Joshua Prince Daniel was appointed as the Pastor of the Church by the Mission Headquarters at the United States by order dated 19.02.2020. The learned counsel would submit that, while the suit was pending the 1st defendant had prevented the worshippers from worshipping at the Church which led to a Police complaint being filed by the Pastor of the Church. Thereafter, on the intervention of the Police authorities the Pastor could

continue with the worship and the prayer at the Church. The learned counsel would submit that the 1st defendant and his family members are continuing to create obstacles in the smooth functioning of the Church and for this reasons that the application in question had to be filed by the plaintiff.

vi) Mr.S.S.Rajesh, learned counsel for the 1st defendant would deny all the allegations contained in the plaint, application and the submissions made by the plaintiff. The contention of the 1st defendant was that Prince Daniel had been removed as a member of the plaintiff society even as early as in the year 2010 and he along with the Amson Mallick had been engaged in illegal activities which included siphoning of funds, misusing FCRA account, conducting illegal meetings, etc. He would contend that after Ravichandran had stepped down as the President, Rubavathy Kumar was appointed as the President in unanimously approved general body meeting. He would submit that this appointment was in conformity with the amended bye-laws.

vii) The learned counsel would submit that the 1st defendant's wife had been appointed as the President on 17.11.2012 and she continues to retain the said post to date. He would further argue that Prince Daniel has never visited the Church since the year 2010 after he had been removed from the society and therefore his contention that the 1st defendant is disturbing the Church activities is absolutely false. He would contend that, on the contrary Prince Daniel and his henchmen had forcibly entered into the Church and taken over the same. He would further contend that the relief claimed in the interlocutory application has not relevance to the main relief sought for by the plaintiff in the suit. He would submit that since the plaintiff has not come to the Court with clean hands, he is not entitled to the relief of injunction.

7. Heard the learned counsels and perused the records.

8. The suit in question has been filed for declaration and recovery of possession along with consequential prayer of injunction. The application which is the subject matter of contest before this Court is for an injunction restraining the defendants from interfering with the service and worship being conducted in the Church. In the affidavit filed in support of the application to vacate the stay, the 1st defendant has stated that he has never claimed the properties of the society as his properties and that he never intends to do so. The 1st defendant has therefore admitted that the suit schedule property is the property of the society. He has further stated as follows:

*"I am not interfering or disturbing the worship and other Church activities in the suit property and no proof has been submitted by C.Prince Daniel in respect of his allegations."*

9. Nowhere in the affidavit filed in support of the application has the 1st defendant stated that he is the President and the Pastor incharge of the Church. Further, in the complaint filed by the daughter of the 1st defendant

before the jurisdictional Police Station on 22.02.2020, she would contend that the 1st defendant is the Pastor as well as the President of the Society. This runs contrary to the defence taken by the 1st defendant who would state that he is in no way interfering with the worship or prayer at the Church.

10. In the course of the arguments it is stated by the learned counsel for the 1st defendant that the 1st defendant's wife is the President of the plaintiff society since 17.11.2012. Therefore, different lines of defense are being taken by the defendants both individually and collectively. It is also seen that in the year 2013, a complaint was lodged by the plaintiff society dated 28.03.2013 to the Deputy Commissioner of Police, Triplicane Range, informing the Police about the 1st defendant forcibly throwing out the Pastor from the property belonging to the society. It is therefore seen that the 1st defendant have been intermittently interfering in the functioning of the Church belonging to the plaintiff society.

11. The Mission at United States had appointed Mr.Issac Bennet Joshua Prince Daniel as the Pastor of the Church belonging to the plaintiff society vide order dated 19.02.2020. The complaint has been given by the Pastor alleging interference in the conduct of the Church. The suit relates to the property in which the Church is situate and the relief is one for declaration and recovery of possession. It is pending this suit that the defendants have attempted to obstruct the functioning of the Church and the same has been restored after the Police had been called in. Therefore, it cannot be said that the relief claimed in the interlocutory application is outside the scope of the main relief.

12. The plaintiff society has been constrained to move this application since the defendants are at regular intervals obstructing the functioning of the Church. The complaint lodged by the daughter of the 1st defendant to the Police on 22.02.2020 would also give indication that the defendants are stacking a claim for conducting mass and other religious

gatherings in the Church and it is for this reason that the defendants have frequently disturbed the plaintiff. The Church is being run by the Pastor who is a different person and not the Mission President, whose authority the defendants question. It is the case of the defendants that he had been removed in the year 2010 itself. However, the Pastor in question is appointed by the Mission headquarters in United States on 19.02.2020. This fact has not been denied anywhere by the defendants. The Police complaint has also been given only by this Pastor.

13. Considering the fact that there has been an interference in offering worship at the Church and also taking into account the stand taken by the 1st defendant's daughter in her police complaint which is contrary to the contention of the 1st defendant that he does not intend to interfere with the worship at the Church it would be in the interest of Justice that the defendants are injuncted from in any manner interfering with plaintiff society's right to hold prayers and other religious activities in the schedule Church till the disposal of the above suit.

14. Consequently, O.A.No.151 of 2020 is allowed and the application in A.No.1350 of 2020 to vacate the stay is dismissed.

**10.11.2020**

Internet : Yes/No  
Index : Yes/No  
Speaking / Non-Speaking  
kan



WEB COPY

**P.T.ASHA, J.,**

kan



**Pre-delivery Order in**  
**O.A.No.151 of 2020 &**  
**A.No.1350 of 2020 in**  
**C.S.No.56 of 2020**

WEB COPY

10.11.2020