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S.A(MD)No.543 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.01.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

S.A. (MD) .No.543 of 2019

and

C.M.P (MD) No.203 of 2020

and

C.M.P (MD) No.11359 of 2019

and

C.M.P (MD) No.10762 of 2019

and

C.M.P (MD) No.205 of 2020

1.T.Elisa
2.R.Paul George
3.V.Koil Pitchai

... Appellants / Respondents 1 to 3 /
Plaintiffs

Vs.

1.D.C.Backiaraj
2.B.Jeyasingh Malraj
3.P.Gabriel

... Respondents 1 to 3 / Appellants /
Defendants 1 to 3

4.The District Registrar,
District Registrar Office,
Cheranmahadevi,
Tirunelveli District.

5.The State of Tamil Nadu,
Through the District Collector,
District Collector's Office,
Tirunelveli.

... Respondents 4 & 5 / Respondents 4 & 5 /
Defendants 4 & 5

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 23.07.2019 in A.S.No.110 of 2018 on the file of the Additional Subordinate Judge, Tirunelveli partly reversing the Judgment and Decree dated 29.06.2018 passed by the II Additional District Munsif Court, Tirunelveli in O.S.No.418 of 2012.

(*)C.M.P (MD) No.203 of 2020

**Tirunelveli Cms-Evangelical
Church Registered Society No.2/1925-1926**

<https://hcservicetamilnadu.org/services/>



Nanguneri Tk,
Tirunelveli District

Rep. by its Secretary S. Thomas Walker ... Petitioner/Proposed
Respondent 6

Vs

- 1 T.Elisa
2 R.Paul George,
3 V.Koil Pitchai
4 D.C.Backiaraj
5 B.Jeyasingh Malraj
6 P.Gabriel
7 The District Registrar
District Registrar Office Cheranmahadevi
Tirunelveli District
8 The State of Tamil Nadu
Through the District Collector
District Collectors Office
Tirunelveli. ... Respondent 4 to 8 /Respondents 1 to 5

Prayer :-

This petition filed under order 1 Rule 10(2) of the Civil procedure Code to implead the petitioner herein as 6th respondent in the Second Appeal (MD)No.543 of 2019.

For Petitioner :Mr.S.Xavier Rajini

For Appellants : Mr.V.Panneerselvam
For R1 to R3 : Mr.M.P.Senthil

For R4 & R5 : No appearance
: Mr.S.Xavier Rajini
for impleading petitioner

JUDGMENT

C.M.P(MD)No.203 of 2020

This application has been filed by the petitioner represented by its Secretary seeking to implead itself in the second appeal.

2. The second appeal arises out of a suit in O.S.No.418 of 2012 filed by the appellants herein seeking a declaration that the Form-7, dated 06.10.2020 filed by the second respondent before the District Registrar, Cheranmahadevi is fraudulent and invalid, a consequential Form-7, dated 10.01.2012 submitted by the defendants 1 to 3 is illegal and invalid, for a declaration that the election held by the plaintiffs to the Managing Committee of the Tirunelveli Evangelical Church a registered Society as valid for the period from 2012 to 2014, for the injunction restraining the defendants from interfering with the plaintiffs functioning as Managing Committee of



the said Society and for a mandatory injunction directing the District Registrar to accept the Form-7 filed by the plaintiffs on 05.01.2012 and for costs. The suit was decreed by the Trial Court. Aggrieved by the said judgment and decree, the defendants in the suit filed an appeal in A.S.No.110 of 2018.

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3. The lower appellate Court by its judgment and decree dated 23.07.2019 partially allowed the appeal granting the reliefs of declaration, permanent injunction and mandatory injunction and a declaration that the Form-7 filed by the defendants 1 to 3 on 06.10.2010 and 10.01.2012 are invalid. The relief in respect of the Form-7 filed by the plaintiffs on 27.12.2011 was rejected by the lower appellate Court. Aggrieved by the said judgment and decree, the plaintiffs in O.S.No.418 of 2012 have come up with this second appeal.

4. The second appeal was admitted and there was an interim direction directing the District Registrar to conduct the election for the Society since the period of office of plaintiffs had also come to an end even in the year 2014. It is at this juncture, this application for impleading has been filed by certain persons representing the society claiming that they have been elected as Office bearers of the Society at Extraordinary General Body Meeting held on 16.11.2019. The validity of this election is very seriously disputed by both the appellants and the respondents in the appeal. Since the validity of the election cannot be decided in a second appeal without evidence, I am of the considered opinion that the parties should be relegated to appropriate proceedings regarding the validity of the election. Therefore, I do not think that the petitioner could seek impleading in this second appeal. If the petitioners claim to be validly elected and the respondents herein dispute the election, it is open to the respondents to challenge the claim of the petitioners that they have been validly elected as the Managing Committee of the Society in question in the manner known to law. It is made clear that this Court has not decided on the validity or otherwise of the election that is said to have been held on 16.11.2019.

5. With the above observation, this Civil Miscellaneous Petition is dismissed.

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Coming to the main appeal though the appeal was admitted on various questions of law, I do not see any necessity to go into the questions as in my considered opinion that the very suit itself has become infructuous. The prayers in the suit as per the amended plaint are for a declaration that the Form-7 submitted by the second defendant on 06.10.2010 is illegal, the Form-7 submitted by the defendants 1 to 3 on 10.01.2012 is illegal, the Form-7 submitted by the plaintiff on 27.12.2011 as legally valid, for mandatory injunction directing the District Registrar to accept the Form-7



filed by the plaintiff on 27.12.2011 and for costs. The Form-7 filed by the plaintiff dated 27.12.2011 itself is only for a period of three years i.e., between 2012 and 2014. The said period had expired long back. Even the Form-7 filed by the defendants dated 06.10.2010 and 10.01.2012 have become redundant in view of lapse of time. Therefore, the bone of contention between the parties which relates to the election were said to have been taken place in the year 2011 for the period 2012 to 2014 had itself faded into insignificance due to lapse of time. The parties by keeping this appeal pending cannot seek this Court's interference to decide on the validity of the elections that is claimed to have been held subsequently. Hence, I do not find any need to keep this appeal pending. The appeal is dismissed as having become infructuous. The question relating to the validity of the election said to have been held on 16.11.2019 is left open to be decided in an appropriate proceedings if the parties chose to challenge it. No costs. Consequently, all the Civil Miscellaneous Petitions are closed and the interim order already granted is vacated.

Sd/

Assistant Registrar(CS III)

**(*) INSERTED AS PER ORDER OF THIS HON'BLE COURT
DATED 25.02.2020**

/True Copy/

/ /2020

Assistant Registrar

To

TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 06/02/2020

1.The Additional Subordinate Judge, Tirunelveli.

2.The II Additional District Munsif, Tirunelveli.

Copy to:

The Section Officer, (2 Copies)

V.R.Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-2447[F] dated 22/01/2020

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-2302[F] dated
22/01/2020)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-2287[F] dated 22/01/2020)

S.A. (MD) .No.543 of 2019

and

C.M.P (MD) No.203 of 2020

21.01.2020

am

SDS (05.02.2020) 4P-8C

KK/16.03.2020/4P-8C

<https://hcservices.ecourts.gov.in/hcservices/>