

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.752 of 2020

And

C.M.P.No.4626 of 2020

Rev.N.Kaaviraj George .. Appellant/Petitioner/Plaintiffs

vs.

- 1.CSI Coimbatore Diocese represented by its Chairman/Bishop, CSI Diocesan Office, No.256, Race Course Road, Coimbatore-641 018.
(Being sued in representative capacity represented by its Chairman/Bishop on behalf of the members of CSI Coimbatore Diocese).
- 2.CSI Coimbatore Diocesan Council represented by its President/Bishop, CSI Diocesan Office, No.256, Race Course Road, Coimbatore-641 018.
(Being sued in representative capacity represented by its President/Bishop on behalf of the members of CSI Coimbatore Diocesan Council).
- 3.CSI Coimbatore Diocesan Executive Committee represented by its Chairman/Bishop, CSI Diocesan Office, No.256, Race Course Road, Coimbatore-641 018.
(Being sued in representative capacity represented by its Chairman/Bishop on behalf of the members of CSI Coimbatore Diocesan Executive Committee).
- 4.CSI Coimbatore Diocese Ministerial Committee represented by its Chairman/Bishop, CSI Diocesan Office, No.256, Race Course Road, Coimbatore-641 018.
(Being sued in representative capacity represented by its Chairman/Bishop on behalf of the members of CSI Coimbatore Diocese Ministerial Committee).

5.Enquiry Committee represented by its Convenor

Rev.Joshua Karamchand,
No.770, Puliakulam Road,
Pappanayakkan Palayam,
Coimbatore-641 037.

(Being sued in representative capacity represented by
its Convenor on behalf of the members of
Enlquiry Committee).

6.The Bishop,

CSI Coimbatore Diocese,
CSI Diocesan Office,
No.256, Race Course Road,
Coimbatore-641 018.

7.Mr.Timothy Ravinder

8.Mrs.Alice Adisayam

9.Rev.Arul Prakash

10.The Vice-President,

CSI Coimbatore Diocese,
CSI Diocesan Office,
No.256, Race Course Road,
Coimbatore-641 018.

11.The Honorary Secretary,

CSI Coimbatore Diocese,
CSI Diocesan Office,
No.256, Race Course Road,
Coimbatore-641 018.

12.The Honrary Treasurer,

CSI Coimbatore Diocese,
CSI Diocesan Office,
No.256, Race Course Road,
Coimbatore-641 018.

Respondents/Respondents/Defendants

The Civil Miscellaneous Appeal is preferred under Order
43 Rule 1 of Code of Civil Procedure, against the order and
decretal order dated 13.01.2020 passed in IA No.2 of 2019 in
O.S.No.475 of 2019 by the learned I Additional District Judge,
Coimbatore.

For Appellant	:	Mr.A.Immanuel
For Respondents-1to4,6,7 & 10 to12	:	Mr.S.V.Karthikeyan for Mr.S.Bharathirajan
For Respondents-5,8 & 9	:	No Appearance

J U D G M E N T

The fair and decretal order dated 13.01.2020 passed in I.A.No.2 of 2019 in O.S.No.475 of 2019 by the learned I Additional District Judge, Coimbatore, is under challenge in the present Civil Miscellaneous Appeal.

2. The plaintiff is the appellant. The suit was instituted for declaration and for permanent injunction.

3. Declaration was sought for with reference to several decisions taken by the defendants and the Executive Committee, including the decision taken by the Committee to suspend the appellant from the activities of the Coimbatore Diocese. One of the declaration is that the order of suspension dated 08.03.2019, suspending the appellant is null and void. In fact, perusal of the order of suspension dated 08.03.2019 reveals that the Executive Committee had taken a decision on 05.03.2019 and the recommendations of the Executive Committee was accepted by the Bishop and the Bishop passed an order of suspension in proceedings dated 08.03.2019.

4. Learned counsel for the appellant strenuously contended that there are many corrupt activities going on in the administration of the Church and the appellant is the person, who brought the corrupt activities to the limelight and therefore, he is victimised. There are several allegations of misappropriation of funds of the Church and the appellant has taken steps to initiate action against all such corrupt activities in the administration of the Church and that is the reason why actions are initiated against the appellant.

5. Learned counsel for the appellant reiterated that there is no provision for suspending the appellant under the constitution of the Coimbatore Diocese and therefore, the very order of suspension issued by the Bishop is unsustainable. In the absence of any provisions in the constitution of the Coimbatore Diocese, the Bishop ought not to have issued an order of suspension, placing the appellant under suspension from the Church administration and its activities.

6. Learned counsel for the appellant, at the outset, contended that the appellant is a person of integrity and the Bishop has no power to issue an order of suspension under the provisions of constitution of Coimbatore Diocese.

7. Learned counsel for the sixth respondent disputed the said contentions of the learned counsel for the appellant by stating that it is only an interim suspension issued pursuant to the resolution passed by the Diocese Executive Committee. The

Bishop issued an order of suspension, accepting the resolution passed by the Executive Committee and therefore, there is no reason whatsoever to interfere with the order passed by the Trial Court. The Trial Court has considered the provisions of the constitution of the Coimbatore Diocese and accordingly declined to grant the interim injunction as prayed for in the interlocutory application. There is no infirmity in respect of the findings of the Trial Court and thus the present Civil Miscellaneous Appeal is liable to be dismissed.

8. This Court is of the considered opinion that power to suspend may be either express or implied. The power of appointment conferred under the constitution would provide inherent power to the Appointing Authority to place the person under suspension, if allegations are of serious misconduct or otherwise are initiated. In other words, power of appointment provides an inherent power to suspend an employee, pending disposal of the enquiry. Suspension is not a punishment. Suspension is required in order to keep a person away from the activities and in order to conduct free and fair enquiry. The very concept of suspension is derived only to run the administration peacefully. Thus, the order of suspension cannot be construed as a punishment. Accordingly, the appellant cannot take a stand that the suspension is a punishment and to issue such an order, there is no provision under the constitution of the Coimbatore Diocese. Even in the absence of any provision, the Appointing Authority is empowered to suspend a person pending enquiry.

9. In the present case, the order of suspension issued by the Bishop in proceedings dated 08.03.2019 reveals that Rev. N.Kaviraj George, the Presbyter-in-Charge of CSI Pandalur Pastorate in Nilgiris and Convenor of the Hostels and Special Homes Committee and Creche Committee of CSI Coimbatore Diocese for the triennium 2016-2019 has violated the discipline of the Church by interfering and indulging in an issue, which has not been assigned to him, behaved in a manner which is unwarranted, uncalled for and inconsistent with his calling and criminal charges have been made against Rev. N.Kaviraj George, Presbyter, CSI Coimbatore Diocese and he was arrested and remanded to judicial custody from 01.03.2019. Under those circumstances, the order of suspension was issued by stating that the appellant was placed under suspension with immediate effect and debarred from Church privileges, pending enquiry. He was further temporarily inhibited from preaching and carrying out the connected responsibilities in the Church of South India, until further orders and during the period of the suspension, 50% of the salary has been paid as a subsistence allowance.

10. The order of suspension reveals that the appellant was placed under suspension pending enquiry as well as the criminal case. Procedures are contemplated under the constitution of the Coimbatore Diocese. Pending enquiry, 50% of the salary is ordered to be paid as subsistence allowance. Thus, the said order cannot be construed as a final order in the disciplinary proceedings.

11. It is needless to state that the authorities competent are bound to conduct an enquiry by following the procedures contemplated in the constitution of Church of South India. However, this Court, in the present Civil Miscellaneous Appeal, cannot go into the merits of the issues raised in the suit by the parties. All such issues are to be adjudicated on merits of the documents as well as the evidences to be submitted by the respective parties.

12. The suit is to be decided independently by the Trial Court with reference to the issues to be framed. However, the Trial Court in the present case declined to grant an order of interim injunction in view of the fact that the Bishop has got powers to suspend the appellant, pending enquiry.

13. This Court is of the considered opinion that there is no infirmity as such in respect of the findings of the Trial Court and the parties have to adjudicate the matter in a full-fledged trial by adducing evidences and by producing documents.

14. This being the factum, the fair and decretal order dated 13.01.2020 passed in I.A.No.2 of 2019 in O.S.No.475 of 2019 by the learned I Additional District Judge, Coimbatore, stands confirmed. Consequently, CMA No.752 of 2020 stands dismissed. However, the Trial Court shall dispose of the suit as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this judgment. The parties to the suit are directed to cooperate for the early disposal of the suit. No unnecessary adjournments are to be granted at the instance of the parties for prolongation of the litigation. Even adjournments on genuine grounds are to be granted only by recording the reasons.

15. Accordingly, CMA No.752 of 2020 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

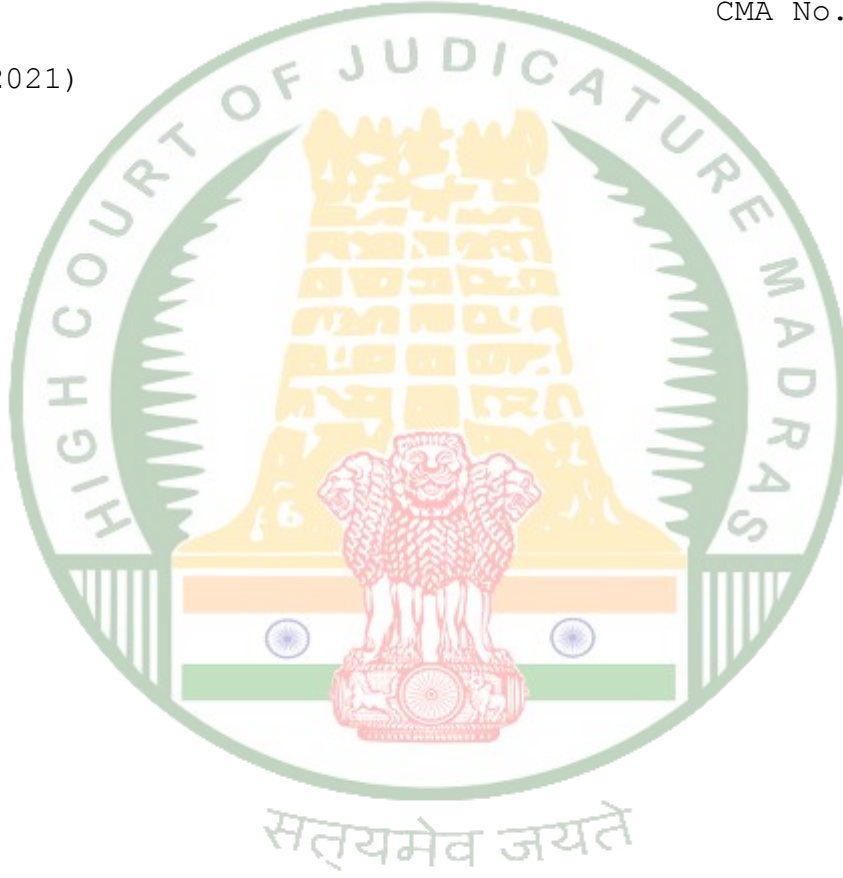
To

The I Additional District Judge,
I Additional District Court,
Coimbatore.

+1cc to Mr.A.Immanuel, Advocate SR.1938
+2cc to Mr.S.Bharathi Rajan, Advocate SR.1701

CMA No.752 of 2020

BS (CO)
CB(08/04/2021)



WEB COPY