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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM :

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

O.S.A.NO.70 OF 2022
AND C.M.P.NO.5642 OF 2022

1.Rev.Rajagambeeram
2.B.Rajanbabu
3.S.Benniman
4.C.Raja Ravi Varma
5.R.Victor Sam
6.J.Mohandas
7.Sajan

...Appellants

Vs.

1.India Evangelical Lutheran Church (I.E.L.C.),
Represented by its Administrator,
Mr.Justice D.Hariparanthaman,
Retired Judge, Madras High Court,
47, Eldams Road, Teynampet,
Chennai - 600 018.

2.Mr.Baulsundar

3.R.Bennet Stephenson

...Respondents

Original Side Appeal filed under Clause 15 of Letters Patent and Order 36 Rule 1 of Original Side Rules to set aside the order dated 09.12.2021 made in Memo No.16, dated 23.11.2021 in Tr.C.S.No.741 of 2017 and allow this appeal.

Prayer in Tr.C.S.No.741 of 2017 : The Plaintiff has been filed under Order VII Rule 1 of CPC.

(a)for declaration declaring that the notification No.2 of 2017 issued by the 2nd defendant dated 06/06/2017 as null and void.

(b)for a permanent injunction restraining the defendants their men, agents, servants or any body else claiming through or under them in any manner from interfering with the smooth functioning of the Office of the Indian Evangelical Lutheran Church (I.E.L.C)



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(c) for a permanent injunction restraining the 2nd defendant, his men, agents, servants or any body else claiming through or under him in any manner from conducting the election to Indian Evangelical Lutheran Church (I.E.L.C) to be held on 26.06.2017 or any other dates as per notification dated 06.06.2017 and for costs.

For Appellants : Mr.Liju V. Stephen
for M/s.Shivakumar and Suresh

For Respondents : Mr.Ravikumar Paul, Senior Counsel
for Mr.S.Bazer Ahamed

Mr.Gaarkey Chandhar - R2 & R3
for M/s.Mythili Srinivas and
N.Senthil

JUDGMENT

(Order of the Court made by M.DURAI SWAMY, J.)

Challenging the order passed by the learned Single Judge in Memo No.16, dated 23.11.2021 filed by the learned Administrator, in Tr.C.S.No.741 of 2017, the third parties have filed the above Original Side Appeal.-

2. By order dated 31.07.2018, a retired Judge of this court was appointed as Interim Administrator to administer the India Evangelical Lutheran Church (I.E.L.C.) till the entire dispute between the parties are resolved and new elections are conducted as per the Bye-Laws of Church. In the said order, the learned Single Judge has also observed that the Interim Administrator shall administer the Church even though there are elected Office Bearers, who are said to have been elected on 26.5.2017 and the decision of the Administrator in respect of any decision is final. Further, the learned Single Judge observed that the Interim Administrator shall make endeavour to conduct the election immediately existing Office Bearers term comes to an end as per Bye-Laws of the Church. With these observations, the learned Single Judge disposed of the suit in Tr.C.S.No.741 of 2017.

3. Thereafter, the learned Administrator filed a memo dated 23.11.2021 in the disposed of suit in Tr.C.S.No.741 of 2017 seeking for the following prayers:-

(i) Extending time for a period of 6 months to the Administrator to hold elections for IELC, from the date of registration of amendments to the 1959 Constitution and ;Bye-Laws and thus render Justice.



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(ii) Directing the Registration Department of Tamil Nadu Government to exempt various provisions of the Tamil Nadu Societies Registration Act 1975 including sections 2(j), 12, 15(3), 15(4), 16(3)(b)(i), 16(3)(b)(ii), 16(3)(b)(iii), 26(1), 53 and Rule 17(2) of the 1978 Rules framed thereunder to IELC from 19.01.2006 to the date of Registration of the proposed Amendments within a time frame as fixed by this Hon'ble Court and thus render justice.

(iii) Directing the Registrar of Societies, Chennai Central to register the proposed amendments to the 1959 Constitution and Bye-Laws of the India Evangelical Lutheran Church bearing Registration number 111959, within a time frame as fixed by this Hon'ble Court and thus render justice.

4. The learned Single Judge, by order dated 09.12.2021, after taking into consideration the submissions made by the learned Administrator and for the private parties, allowed the memo dated 23.11.2021 as prayed for.

5. Thereafter, one J.Mohanraj and others filed a Special Leave Petition in S.L.P.(C) No.18100 of 2011 before the Hon'ble Supreme Court and the Apex Court by order dated 16.02.2022, passed the following order:-

" Learned counsel for the Administrator submits that two months time has been granted in terms of an order of the High Court for consideration and approval by the State Government (Tamil Nadu) and the amendments are expected to be sent on or before 31st December, 2021. We expect the State of Tamil Nadu to take an earlier consideration of the matter. The order be informed to the State of Tamil Nadu.

List on 18th February, 2022."

Subsequently, by order dated 18.02.2022, the Apex Court disposed of the Special Leave Petition. While disposing of the Special Leave Petition, the Apex Court observed that as far as the aspect of amendments are concerned, the High Court has to take a call.

6. It is brought to the notice of this Court by Mr.Ravikumar Paul, learned Senior Counsel appearing for the 1st respondent-learned Administrator that on 10.02.2022, pursuant to the order passed by the Apex Court on 16.12.2021, the Government of Tamil Nadu had amended the Rule as sought for by the learned Administrator in the memo dated 23.11.2021.

7. It is pertinent to note that the appellants herein, who are third parties to the Civil Suit in Tr.C.S.No.741 of 2017,



have not filed any appeal before the Supreme Court. As already stated, the Special Leave Petition was filed by J.Mohan Raj and others.

8. Mr. Liju V. Stephen, learned counsel appearing for the appellants submitted that the appellants are aggrieved over the amendment made pursuant to the memo filed by the learned Administrator.

9. When the State Government had already amended the Rules, the same cannot be interfered in this Original Side Appeal, which has been challenged by the appellants-third parties questioning the correctness of the order passed by the learned Single Judge in the memo filed by the learned Administrator.

10. Since the State Government had already acted upon the order passed by the learned Single Judge by amending provisions of the Tamil Nadu Societies Registration Act 1975, the correctness of the same cannot be canvassed by the appellants in this Original Side Appeal. The Hon'ble Supreme Court has repeatedly observed that the Administrator should complete the election process at the earliest date. We do not find any merits in the above Original Side Appeal. Accordingly, the Original Side Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

Rj

To

1.The Administrator,
Mr.Justice D.Hariparanthaman,
Retired Judge, Madras High Court,
India Evangelical Lutheran Church (IELC),
47, Eldams Road, Teynampet, Chennai - 600 018.

2.The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to M/s.Shivakumar & Suresh, Advocate Sr.No.21464

O.S.A.No.70 of 2022
and C.M.P.No.5642 of 2022

SPD(CO)
RVM(12/04/2022)