



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on	23.08.2023
Order pronounced on	05.09.2023

C O R A M :

The Hon'ble Mr. Justice **SENTHILKUMAR RAMAMOORTHY**

A.Nos.54 to 57 & 2584 of 2023 in C.S.No.86 of 2022,
O.A. Nos.818 & 819 of 2022 & A.No.5961 of 2022 in C.S.No.274 of 2022 &
O.A.Nos.21 & 22 of 2023 & A.No.190 of 2023 in C.S.No.7 of 2023

A.Nos.54 to 57 of 2023 in C.S.No.86 of 2022

1. Dr.A.D.Seshadri,
2. A.Selvaraj
3. S.Robert
4. Elizabeth J.Rani
5. G.Nalan
6. A.Vedaiah

... Applicants /Plaintiffs

Vs

- 1.Church of South India
represented by its Moderator
Most. Rev. Dharmaraj Rasalam
CSI Synod Secretariat, CSI Centre,
No.5, Whites Road, Royapettah, Chennai-600 014.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

2. Church of South India Trust Association,

Represented by its Hony. Secy.

Mr.C.Fernandas Rathina Raj

CSI Synod Secretariat, CSI Centre,

No.5, Whites Road, Royapettah, Chennai-600 014.

3. Most Rev. Dharmaraj Rassalam

Moderator

Church of South India, CSI Synod Secretariat, CSI Centre,

No.5, Whites Road, Royapettah, Chennai-600 014.

4. Reuben Mark

Deputy Moderator,

Church of South India, CSI Synod Secretariat, CSI Centre,

No.5, Whites Road, Royapettah, Chennai-600 014.

5. Zeam Enock,

S/o.Enock Issac

Secretary, CSI Trivandrum People Fellowship,

No.90, Bains Compound, Kowdiar Post,

Thiruvananthapuram 695 003.

6. Sarjine Thomas

S/o. Henry Thomas

Secretary, Mateer Memorial Church Congregational
Fellowship (MMCCF)

TC 4/74 (1) Ambala Nagar,

Kowdiar Post,

Thiruvananthapuram 695 003.

... Respondents/Defendants

A.No.2584 of 2023 in C.S.No.86 of 2022

1. D.Dharmanesa Selvin

2. P.Kirubairaj

... Applicants/
Defendants 11 & 12

Vs



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

1. Dr.A.D.Seshadri

2. A.Selvaraj

3. S.Robert

4. Elizabeth J. Rani

5. G.Nalan

6. A.Vedaiah

...Respondents/Plaintiffs

7. Church of South India

Represented by its Moderator,
Most. Rev. Dharmaraj Rasalam,
CSI Synod Secretariat, CSI Centre,
No.5, Whites Road, Royapettah,
Chennai-600 014.

8. Church of South India Trust Association,

Represented by its Hony Secretary,
Mr.C.Fernanadas Rathina Raj,
CSI Synod Secretariat, CSI Centre,
No.5, Whites Road, Royapettah,
Chennai-600 014.

9. Most Rev. Dharmaraj Rassalam,

Moderator,
Church of South India, CSI Synod Secretariat,
CSI Centre, No.5, Whites Road, Royapettah,
Chennai-600 014.

10.Reuben mark

Deputy Moderator,
Church of South India, CSI Synod Secretariat,
CSI Centre, No.5, Whites Road, Royapettah,
Chennai-600 014.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

11. Zeam Enock, Son of Enock Isaac,
Secretary, CSI Trivandrum People Fellowship,
No.90, Bains Compound, Kowdiar Post,
Thiruvanthapuram 695 003.

12. Sarjine Thomas
Son of Henry Thomas,
Secretary, Mateer Memorial Church Congregational
Fellowship (MMCCF)
TC 4/74 (1) Ambala Nagar,
Kowdiar Post,
Thiruvananthapuram 695 003.

... Respondents/Defendants

**O.A.Nos.818 & 819 of 2022 & A.No.5961 of 2022
in C.S.No.274 of 2022**

D.Lawrence
S/o.Devadasan
(former CSI Synod Council Member)
Chandamukku
Peyad Post, Kottakarra Village,
Trivandrum District.

... Applicant / Plaintiff

Vs

1. Church of South India (CSI)
Synod Secretariat,
No.5, Whites Road, Royapettah,
Chennai-600 014
Represented by its General Secretary.

2. The Most Rev. A.Dharmaraj Rasalam
Moderator, Church of South India,(CS),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.

3. Rt. Rev. Reuben Mark,
Deputy Moderator, Church of South India,(CS),



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.

4. Adv C.Fernandas Rathina Raja
General Secretary, Church of South India, (CS),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.

5. Prof. Dr. Vimal Sukumar,
Honorary Treasurer,
Church of South India, (CS),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.

6. Tuticorin Nazareth CSI Diocese
Rep. by Bishop Commissary,
Rt. Rev. Timothy Ravinder
Caldwell HSS Campus, 100, Beach Rd,
Thoothukudi, Tamil Nadu 628 001.

7. Nandial CSI Diocese,
Rep. by its Bishop,
Rt. Rev. Pushpa Lalitha,
Bishop's House, Nandyal RS,
Kurnool District, Andhra Pradesh 518 502.

8. Cochin CSI Diocese
Represented by its Bishop
Rt. Rev. Fen
PWD Quarters, Periyar Nagar,
Aluva, Kerala 683 101.

9. Tirunelveli CSI Diocese,
Rep. by its Lay Secretary,
Mr. D.S. Jeyasingh
No.5, Punithavathiyar Street,
Palayamkottai, Tirunelveli-627 002.

... Respondents/Defendants



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

O.A.Nos.21 & 22 of 2023 & A.No.190 of 2023
in C.S.No.7 of 2023

1. D.Sunildas, S/o.Devadasan
(Synod Council Member-Church of South India)
“Sunil Niva” Pulavanniyur Konam
Malayam, Vilavoorkal,
Thiruvananthapuram, Kerala State.

2. S.Jayaraj, S/o.Y.Selvaraj
(Synod Council Member-Church of South India)
Jayaraj Bhavan, Valiavilagam,
Bank Junction Panacode P.O.
Trivandrum-695 542.

... Applicants/Plaintiffs

Vs

1. Church of South India (CSI),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014
Represented by its General Secretary

2. The Most Rev. A.Dharmaraj Rasalam
Moderator, Church of South India (CSI),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014

3. Rt. Rev. Reuben Mark, Deputy Moderator,
Deputy Moderator,
Church of South India (CSI),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.

4. Adv. C.Fernandas Rathina Raja
General Secretary,
Church of South India, (CSI),
Synod Secretariat, No.5, Whites Road,
Royapettah, Chennai-600 014.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

5. Prof. Dr. Vimal Sukumar
Honorary Treasurer
Church of South India, (CSI),
Synod Secretariat,
No.5, Whites Road,
Royapettah, Chennai-600 014.

6. The CSI Diocese of Medak,
Cathedral Compound, Mission Compound,
Medak, Telangana-502 110
rep. by its Bishop.

7. The CSI Diocese of Coimbatore,
56, Race Course Rd, Opp. R K Photo Centre,
Coimbatore, Tamil Nadu 641 018
rep. by its Bishop.

8. The CSI Diocese of Kanyakumari,
71-A, Dennis Street, Thingal Nagar,
Weavers Colony, Nagarcoil,
Tamil Nadu 629 001
Rep. by its Bishop

... Respondents/Defendants

Prayer in A.No.54 of 2023 in C.S.No.86 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to declare as invalid, illegal, null and void, all the proposed amendments of the CSI Constitution proposed by the CSI, Synod at its meeting dated 07.03.2022 a copy of which proposed amendments is set out in Annexure A.

Prayer in A.No.55 of 2023 in C.S.No.86 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to stay the operation of the proposed amendments of the CSI Constitution proposed by



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

the CSI, Synod at its meeting dated 07.03.2022 a copy of which proposed amendments is set out in Annexure A.

Prayer in A.No.56 of 2023 in C.S.No.86 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Order 1 Rules 10(2) and Section 151 CPC praying to suspend the 3rd Respondent from acting as the Moderator of the 1st Respondent, Church of South India.

Prayer in A.No.57 of 2023 in C.S.No.86 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to appoint an Interim Administrator to take over and manage the affairs of the 1st Respondent, Church of South India, including to conduct the upcoming elections.

Prayer in A.No.2584 of 2023 in C.S.No.86 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to appoint an interim Administrative Committee headed by a retired Judge of this High Court to manage the affairs of the SYNOD till disposal of the Suit.

Prayer in O.A.No.818 of 2022 in C.S.No.274 of 2022: This original application has been filed under Order 14 Rule 8 of OS Rules r/w. Order 39 Rules 1 & 2 CPC praying to grant an order of interim injunction restraining the respondents/defendants 2 to 9 from conducting any diocesan council meeting, either by zoom mode or any other mode, CSI Synod council, executive committee or working committee of CSI Synod for approval or implementation



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

of the impugned resolution dated 7.3.2022 circulated by the respondents/defendants 2 to 5 and passing any resolution approving the disputed resolution dated 7.3.2022, pending disposal of the suit.

Prayer in O.A.No.819 of 2022 in C.S.No.274 of 2022: This original application has been filed under Order 14 Rule 8 of OS Rules r/w. Order 39 Rules 1 & 2 CPC praying to grant an order of interim injunction restraining the respondents/defendants 2 to 5 from conducting any election process for the forthcoming CSI Synod council election for the term 2023-2026 prior to streamlining the electoral college by an administrator(s) to be appointed by this Court, or altering the electoral college by any means, pending disposal of the above suit.

Prayer in A.No.5961 of 2022 in C.S.No.274 of 2022: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to appoint a former judge/s of this Court as interim administrator(s) for administration and managing the affairs of the 1st respondent/defendant and for enquiring, correcting the manipulating and illegalities and streamlining the electoral college including nomination to its Synod Council, of the 1st respondent/defendant and conducting the forthcoming CSI election for the term 2023-2026 in a free and fair manner, strictly as per the constitution of the CSI pending, pending disposal of the above suit.

Prayer in O.A.No.21 of 2023 in C.S.No.7 of 2023: This original application has been filed under Order 14 Rule 8 of OS Rules r/w. Order 39 Rules 1 & 2



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

CPC praying to grant an order of interim injunction restraining the respondents/defendants 2 to 5 and their men and agents from proceeding with any meeting of Church of South India Synod council or any other meeting for the election of Church of South India Synod Council and office bearers, for the forthcoming triennium 2023-2025 on the basis of the impugned notification dated 27.12.2022 or otherwise, pending disposal of the above suit.

Prayer in O.A.No.22 of 2023 in C.S.No.7 of 2023: This original application has been filed under Order 14 Rule 8 of OS Rules r/w. Order 39 Rules 1 & 2 CPC praying to grant an order of interim injunction restraining the respondents/defendants and their men and agents from in any manner amending the Constitution /Byelaws of the 1st respondent/defendant or implementing any amendments claimed to have been passed in the Special Synod council meeting dated 7.3.2022 in Tiruchirapalli or the impugned notification dated 27.12.2022, pending disposal of the above suit.

Prayer in A.No.190 of 2023 in C.S.No.7 of 2023: This application has been filed under Order 14 Rule 8 of OS Rules r/w. Section 151 CPC praying to appoint a former judge/s of this Court as interim administrator(s) for framing guidelines and for good administration and managing the affairs of the 1st respondent/defendant and for enquiring into all pending disputes affecting or relating to the electoral college of Church of South India Synod and the constituent dioceses of the 1st respondent/defendant and to streamline the electoral college and thereafter conduct the election for the CSI Synod council



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

for the triennium 2023-2025 strictly in accordance with the Constitution of the
1st respondent/defendant, pending disposal of the above suit.

For Applicants/Plaintiffs : Mr.Vineet Subramani
(in C.S.No.86/2022)

Mr.R.Bharanidharan
(in C.S.No.274/2022)

Mr.S.Thanka Sivan
(in C.S.No.7/2023)

For Respondents/Defendants : Mr.V.Prakash, Sr. Advocate
for M/s.Adrian D.Rozario
for D1 to D4 in C.S.No.86/2022
for D1 to D5 in C.S.No.274/2022 &
C.S.No.7 of 2023

Mr.P.R.Raman, Sr. Advocate
for M/s.Raman and Associates
for D7 to D9 in C.S.No.274/2022
for D6 to D8 in C.S.No.7/2023

Mr.Yashod Vardhan for
M/s.A.M.Packianathan Easter
for D6 in C.S.No.274/2022

Mr.V.Raghavachari, Sr. Advocate
for M/s.J.Kingsly Solomon
for D7 and D8 in C.S.No.86/2022

Mr.K.Thilageswaran for D5 & D6
in C.S.No.86 of 2022

Mr.V.Anandhamoorthy for
impleaded defendants in
C.S.Nos.274/2022 & 7/2023



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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COMMON ORDER

The focal point of these applications is the validity of amendments to specific provisions of the Constitution (the CSI Constitution) and bye-laws of the Church of South India (the CSI). A consequential challenge is made to the ordinary meeting of the Synod of the CSI to elect office bearers of the Synod on the basis of such amendments. The applicants seek relief in relation to such amendments and also request that an interim administrator be appointed to take charge of the assets and affairs of the CSI.

2. The above applications were filed in three suits. The first suit, C.S.No.86 of 2022, was presented on 10.01.2022 as a suit under Section 92 of the Code of Civil Procedure, 1908 (CPC). In the said suit, the plaintiffs request that a scheme be framed to set out the conditions for appointment, terms of office, and disqualification of the members of the Synod. The plaintiffs also request that the third defendant therein (the Moderator) be removed from office and, consequently, from the office of Chairman of the Church of South India Trust Association (CSITA). The interim applications in this suit are for the following relief: declare the amendments proposed at the Synod meeting on 07.03.2022 as illegal, null and void (A.No.54 of 2023); stay the operation of the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

proposed amendments (A.No.55 of 2023); suspend the 3rd respondent therein from acting as the Moderator of the Synod of the CSI (A.No.56 of 2023); and appoint an interim administrator to take over and manage the affairs of the CSI, including the conduct of the elections (A.No.57 of 2023). Defendants 11 & 12 also filed an interim application to appoint an interim administrative committee to manage the affairs of the Synod pending disposal of the suit (A.No.2584 of 2023). The second suit, C.S.No.274 of 2022, was presented on 20.12.2022 by a former CSI Synod member, D. Lawrence. In this suit, the resolution passed at the special session of the Synod on 07.03.2022 is assailed and the plaintiff seeks the appointment of a former Judge of this Court as an administrator of the CSI. The plaintiff also seeks the following interim relief: restrain the defendants from conducting diocesan council meetings, Synod meetings, or meetings of the executive or working committees of the Synod (O.A.No.818 of 2022); restrain respondents 2-5 from conducting elections to the CSI Synod for the 2023-2026 triennium without streamlining the electoral college by appointing an administrator (O.A.No.819 of 2022); and appoint a former Judge as an interim administrator to administer the affairs and conduct the election of office-bearers of the Synod for the 2023-2026 triennium (A.No.5961 of 2022). The third suit, C.S.No.7 of 2023, was presented by two Synod members,



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

D.Sunildas and S.Jayaraj, on 02.01.2023. In this suit, the notification issued by the Working Committee of the Synod on 27.12.2022 is assailed and the plaintiffs seek injunctive relief in respect of the conduct of Synod meetings on the basis of the notification dated 27.12.2022 and also seek to prevent amendments to the Constitution and bye-laws of the CSI on the basis of the Synod resolution dated 07.03.2022 and the notification dated 27.12.2022. The plaintiffs also request that a former Judge of this Court be appointed as an administrator to conduct the election of office bearers of the Synod. By way of interim relief, the plaintiffs seek the following: restrain respondents 2-5 from conducting meetings to elect office bearers of the Synod pursuant to the notification dated 27.12.2022 or otherwise (O.A.No.21 of 2023); restrain the respondents from amending the Constitution on the basis of the Special Session of the Synod held on 07.03.2022 (O.A.No.22 of 2023); and appoint a former Judge of this Court as an interim administrator of the affairs of the CSI and to conduct the election of Synod office bearers for the 2023-26 triennium after streamlining the electoral college (A.No.190 of 2023).

3. Before delving into the rival contentions, by way of preamble, it is pertinent to outline the structure of the CSI. The CSI was formed out of the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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union of four Church traditions: Anglican, Methodist, Presbyterian and Congregational. Its members are drawn from the residents of the Southern States of India and Jaffna in Sri Lanka. As on date, the CSI is said to have about 4.5 million members. At the apex of the organisation is the Synod, which is its highest representative body and supreme governing and legislative body. The membership of the Synod is drawn from five categories: all diocesan bishops and assistant bishops; the General Secretary and the Treasurer; the President and General Secretary of the Women's Fellowship and two members of the Order of Sisters; presbyters and lay persons elected by and representing the dioceses; and additional members appointed to the Synod by the Moderator in consultation with other officers of the Synod. The four officers of the Synod are the Moderator, Deputy Moderator, General Secretary and Treasurer. The Synod has both an Executive and Working Committee. The next largest unit in the organisation is the diocese. Each diocese has jurisdiction over a specific geographical area. All the pastorates and other institutions within that geographical area form the diocese. At present, there are 24 dioceses. Each diocese is administered by a diocesan council, which consists of: the Bishop; Assistant Bishop, if any; all presbyters in active service within the geographical area of the diocese; and lay representatives, who should be at least twice in



number as the presbyters in the council but not greater than thrice. The pastorates forming the diocese constitute the next layer in the organisation of the CSI and each pastorate is governed by a pastorate committee consisting of the Presbyter-in-charge; ordained ministers; and lay representatives. The smallest units of the CSI are the local congregations of 50 or more baptized members.

4. Oral arguments on behalf of the plaintiffs in the interlocutory applications in C.S.No.7 of 2023 were advanced by Mr.S.Thanka Sivan, learned counsel; on behalf of the plaintiffs in C.S.No.274 of 2022 by Mr.R.Bharanidharan, learned counsel; and on behalf of the plaintiffs in C.S.No.86 of 2022 by Mr.Vineet Subramani, learned counsel. Oral arguments on behalf of defendants 1 to 4 in C.S.No.86 of 2022 and defendants 1 to 5 in C.S.No.274 of 2022 and C.S.No.7 of 2023 were advanced by Mr.V.Prakash, learned senior counsel, assisted by Mr.Adrian D.Rozario; on behalf of the Tuticorin-Nazareth CSI Diocese (defendant 6 in C.S.No.274 of 2022) by Mr.Yashod Vardhan, learned senior counsel; on behalf of the Nandyal CSI Diocese, the Cochin CSI Diocese and the Tirunelveli CSI Diocese (defendants 7 to 9 in C.S.No.274 of 2022) and Medak CSI Diocese, Coimbatore CSI



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

Diocese and the Kanyakumari CSI Diocese (defendants 6 to 8 in C.S.No.7 of 2023) by Mr.P.R.Raman, learned senior counsel; and on behalf of defendants 11 and 12 in C.S.No.86 of 2022 by Mr.V.Raghavachari, learned senior counsel.

PRELIMINARY OBJECTIONS:

LEAVE UNDER ORDER I RULE 8 CPC

5. Mr. V. Prakash raised a preliminary objection with regard to the maintainability of the suits on the ground that the CSI is an unincorporated body. As a corollary, he contended that leave under Order I Rule 8 CPC is a mandatory pre-requisite for the institution of the suit and for the prosecution of interlocutory applications. In support of this contention, he relied upon the following judgments:

(i) The Assistant Commissioner, Hindu Religious and Charitable Endowments, Salem v. Nattamai K.S. Ellappa Mudaliar (Ellappa Mudaliar), 100 L.W. 240, particularly paragraph 9 thereof.

(ii) Rev. Noble Gambeeran and others v. Peter P.Ponnan and others (Rev. Noble Gambeeran), 1999-1-L.W.300, particularly paragraphs 17,20 and 21 thereof.

(iii) Rt.Rev.Timothy Ravinder Dev Pradeep, The Bishop, CSI Coimbatore Diocese v. Rev.Charles Samraj N.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

and others(Rt.Rev.Timothy Ravinder), C.R.P.(PD) Nos.2923 & 2924 of 2021 dated 23.12.2021, particularly paragraph 33 thereof.

(iv) N.P.Thangaraj and another v. Church of South India and another, 2014 SCC OnLine Mad 140.

(v) Margaret Almeida and others v. Bombay Catholic Cooperative Housing Society Limited and others, (2013) 6 SCC 538, particularly paragraph 36 thereof.

6. In response to these contentions, Mr. Vineet Subramani, learned counsel, submitted that C.S.No.86 of 2022 was filed after obtaining leave under Section 92 CPC and that such leave was granted after the defendants were heard. He also pointed out that the order was not appealed against and continues to be binding as on date. As a consequence of obtaining leave under Section 92 CPC, he contended that the requirements of Order I Rule 8 CPC do not apply to the said suit.

7. Mr.Thanka Sivan, learned counsel, contended that leave under Order I Rule 8 CPC may be obtained at any stage of the suit and, in fact, even at the appellate stage. He also pointed out that an application for leave under Order I Rule 8 was filed by the plaintiffs (A.No.38 of 2023 in C.S.No.7 of



2023) and that there is no embargo against interlocutory applications being considered before the application for leave is taken up. In support of these contentions, Mr Thanka Sivan relied upon the following judgments:

(i) *R.K.Chandramohan v. Elephant G. Rajendran and others*, 2011 – 2 – L.W. 776, particularly paragraphs 19, 20 and 26;

(ii) *Bishop/Election Officer, Kanyakumari Diocese v. Dr.K.Jegan and others*, 2022-(1) MWN (Civil) 131, particularly paragraphs 10 to 12 and 16 to 25 thereof;

(iii) *Kodia Goundar and another v. Velandi Goundar and others*, AIR 1955 Madras 281 (Full Bench), particularly paragraph 20 thereof;

(iv) *M.V.Narayanan and others v. Periyadan Narayanan Nair and others*, 2021 (3) KHC 211;

(v) *Hari Ram v. Jyoti Prasad & another*, (2011) 2 SCC 682, particularly paragraphs 19 to 22 thereof;

(vi) *Krishnan Vasudevan and others v. Shareef and others (Krishnan Vasudevan)*, (2005) 12 SCC 180, particularly paragraph 3 thereof;

(vii) *Singhai Lal Chand Jain (dead) v. Rashtriya Swayamsewak Sangh, Panna and others*, (1996) 3 SCC 149, particularly paragraphs 7 and 8 thereof;

(viii) *Chairman, Tamil Nadu Housing Board, Madras v. T.N.Ganapathy* (1990) 1 SCC 608.



Discussion, analysis and conclusion on leave

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8. As regards C.S.No.86 of 2022, the admitted position is that leave was obtained under Section 92 CPC after contest. The order granting leave was not assailed by the defendants and continues to operate as on date. The CSI, represented by its Moderator, the CSITA, and the four office bearers of the Synod were the original defendants in the suit. Section 92 CPC enables the principal civil court of original jurisdiction, including the High Court exercising original jurisdiction, to grant leave to, *inter alia*, two or more persons having interest in the trust to institute a suit relating to the breach of an express or constructive trust created for public purposes of a charitable or religious nature. Any stakeholder in the trust may participate in such suit. Although trusts are unincorporated bodies, the law prescribes a distinct procedure for such suits and the requirement of leave under Order I Rule 8 CPC is clearly inapplicable. Therefore, the contentions regarding maintainability are not relevant as regards C.S.No.86 of 2022.

9. As discussed earlier, four interim applications were filed in C.S.No.86 of 2022. Out of these, two applications relate directly to the amendments to the CSI Constitution. The other two applications pertain to the



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suspension of the 3rd respondent as the Moderator and for appointment of an interim administrator, including for purposes of conducting the election of office bearers. Irrespective of the conclusions on the maintainability of the interim applications in the other two suits, there is no doubt that the four applications in this suit may be considered on merits. If these applications are considered on merits, keeping in mind the scope thereof, the non-consideration of the interim applications in the other two suits becomes largely inconsequential. The contentions regarding the maintainability of the interim applications in C.S.No.274 of 2022 and C.S.No.7 of 2023 are considered against this backdrop.

10. In relevant part, Order I Rule 8 CPC is as under:

"8. One person may sue or defend on behalf of all in same interest.--

(1)Where there are numerous persons having the same interest in one suit,--

(a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested;

(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.

(2) The Court shall, in every case where a permission or



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A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

direction is given under sub-rule (1), at the plaintiff's expense, give notice of the institution of the suit to all persons so interested, either by personal service, or, where, by reason of the number of persons or any other cause, such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

(3) Any person on whose behalf, or for whose benefit, a suit is instituted, or defended, under sub-rule (1), may apply to the Court to be made a party to such suit.

(4)...

(5)...

(6) A decree passed in a suit under this rule shall be binding on all persons on whose behalf, or for whose benefit, the suit is instituted, or defended, as the case may be.

Explanation- For the purpose of determining whether the persons who sue or are sued, or defend, have the same interest in one suit, it is not necessary to establish that such persons have the same cause of action as the persons on whose behalf, or for whose benefit, they sue or are sued, or defend the suit, as the case may be."(emphasis added)



On surveying relevant judgments, such as *Kalyan Singh v. Smt. Chhoti and others (Kalyan Singh)*(1990) 1 SCC 266, it is evident that leave under Order I Rule 8 CPC is mandatory where the plaintiff seeks to sue as a representative of a class of persons or where the plaintiff seeks to sue the named defendants as representatives of a class of defendants. Thus, this provision is a procedural device that enables the named plaintiff or defendant, as the case may be, to represent a determinate, typically large, class of persons with commonality of interest (as regards the subject of the action). While considering an application for leave under this provision, the primary considerations would be: whether numerous persons have a common interest in the subject of the suit; and whether it is feasible or convenient to array all such persons as parties. Because the determination that all such persons have a common interest may turn out to be incorrect and yet such persons would be bound by the decree in the suit, subsection (3) enables any such person to apply to be made a party to the suit. In the absence of commonality of interest, this provision cannot be resorted to because the unnamed parties are likely to take a stand at variance with the named plaintiff or defendant, as the case may be. Consequently, if such parties are not separately arrayed as parties to the action and the order/judgment is made binding on them, injustice will be caused.



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11. In the two relevant suits, the respective plaintiff(s) canvassed grievances with regard to the amendments to the CSI Constitution and its bye-laws and also assailed the election of office-bearers on the basis of the amended CSI Constitution and bye-laws. There are about 4.5 million members of the Church. It is likely, even probable, that a good proportion of the about 4.5 million members of the Church may not take the same position as the plaintiff(s) on the subject of the suits. Therefore, the named plaintiff(s) cannot represent the other members of the Church. Whether they can, nonetheless, file the suits as individuals is considered next.

12. The plaintiff(s) in the two suits are either current members of the Synod (plaintiffs in C.S.No.7 of 2023) or an adult communicant member of the CSI (plaintiff in C.S.No.274 of 2022). The respective plaintiff(s) contend(s) that the amendments to the Constitution and the bye-laws were not made in accordance with the Constitution. The right to raise such contention is available to every member of the Church by virtue of his/her membership therein. Put differently, these are individual and not community rights that the two sets of plaintiffs are canvassing. In *Ellappa Mudaliar*, this Court categorically held that in cases where an individual puts forward a right which he has acquired as



a member of a community, the individual is not debarred from maintaining the suit in his own right in respect of a wrong done to him even though the act complained of may also be injurious to some other persons having the same right. Applying this principle, I conclude that it is open to the respective plaintiff(s) to prosecute the suits as individuals subject to the caveat that they are not suing on behalf of or as representatives of a class. Notwithstanding the above conclusion, the question whether the defendants can be sued as named representatives of a class of defendants is distinct and warrants independent examination.

13. The contention of Mr. Prakash, learned senior counsel, was that an unincorporated body is not a legal entity and, therefore, only a representative action is maintainable against the CSI. In order to substantiate this contention, he placed considerable emphasis on **Rev. Noble Gambeeran** and **Rt.Rev.Timothy Ravinder**. In both these judgments, this Court held that leave under Order I Rule 8 CPC is necessary to sue the CSI and/or its dioceses. The Court further held that interlocutory applications should not be considered until leave is granted. If an entity is incorporated or is a body corporate by statutory prescription, such entity may be sued and any order would bind the entity and,



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therefore, all its members. By contrast, an unincorporated body cannot sue or be sued in its name and the sequitur thereof is that the order would not bind the entire body of persons/members forming such unincorporated body. This predicament is typically dealt with by the governing statute providing for the manner in which the specific unincorporated entity may be sued. For instance, the Tamil Nadu Societies Registration Act, 1975 enables the committee of the registered society or an officer authorised by its bye-laws to sue or defend an action on behalf of the society. There is, however, no governing statute dealing with bodies like the CSI and prescribing the manner in which legal proceedings may be initiated by and against them.

14. As noted earlier, the plaintiff(s) in C.S.No.274 of 2022 and C.S.No.7 of 2023 sued not only the CSI, represented by its General Secretary, but also the four office bearers of the Synod (i.e. the Moderator, Deputy Moderator, General Secretary and Treasurer) and specific dioceses. In order to examine whether the office bearers may be sued as representatives of the CSI, it is instructive to set out and examine the provisions of the CSI Constitution relating to its office bearers. Chapter IX of the CSI Constitution contains the relevant provisions, which are as under:



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A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

"Officers of the Synod

....

6. The officers of the Synod shall be a Moderator, a Deputy Moderator, a General Secretary and a Treasurer.

....

- 9. The Moderator shall be the presiding officer of the Synod, and the Chairman of its Executive Committee. He shall be the official representative of the Church during his term of office in all business with other Churches or organizations.*
- 10. The Deputy Moderator shall preside at the Synod and its Executive/ Working Committee, and perform the other duties of the Moderator during the absence, illness or other incapacity of the latter....*
- 11. The General Secretary shall keep a faithful record of all actions taken by the Synod, and shall keep its record and files. The General Secretary shall be the correspondent between the Synod and the Diocesan Councils.*
- 12. The Treasurer shall hold all moneys belonging to the Synod, and shall from time to time submit accurate statements of his accounts to the Synod or to such other bodies as the Synod may direct."*



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

From the above provisions of the CSI Constitution, it is evident that the executive powers of the Synod have been vested substantially in these office bearers. In fact, in the special leave petition filed by the CSI before the Supreme Court (SLP(C) No.10562 of 2023) in respect of the ratification of amendments to the CSI Constitution by the Karnataka Central Diocese, the petitioner no.1 therein was the "Church of South India, An Autonomous Indian Church Represented by the General Secretary, Synod Secretariat (Governing Body of Church of South India), CSI Centre, #5, Whites Road, P.O. Box, 688, Royapettah, Chennai – 600 014 (Tamil Nadu)." While this was an appeal by the CSI against an order in a civil suit in which the CSI was arrayed as a party, it is indicative of the fact that the General Secretary (one of the office bearers of the Synod) initiates and defends legal actions on behalf of the CSI. Although the Synod is the supreme governing body of the CSI, suing only the office bearers does not fully resolve the problem of suing the unincorporated CSI effectively so as to ensure that the decree binds all its members. Given the unincorporated character of the CSI and the absence of a statutory prescription, the only ways of achieving such outcome would be by taking the Section 92 or Order I Rule 8 CPC route.



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15. On this issue, it is pertinent to notice that in the judgments cited by the bar, i.e. *Krishnan Vasudevan* and *Raval Manharbhai Kalidas & Ors. v. Bhaskarbhai Chandubhai Patel & Ors.*, (2017) 14 SCC 235, the Supreme Court held that leave may be obtained at any stage of the proceedings. An application for leave was also filed by the plaintiffs in C.S.No.7 of 2023. Until such leave is obtained, however, orders passed in C.S.No.274 of 2022 and C.S.No.7 of 2023 will not be binding on the CSI's membership (about 4.5 million members). In these circumstances, albeit subject to the right to apply for interim relief after leave is obtained, I propose to close the applications in C.S.No.274 of 2022 and C.S.No.7 of 2023 and adjudicate on merits only the applications in C.S.No.86 of 2022.

ALTERNATIVE REMEDY

16. The second preliminary objection raised by Mr.V.Prakash, learned senior counsel, was that these suits are not maintainable in view of the existence of an effective alternative remedy under the CSI Constitution. In particular, Mr. Prakash referred to Chapter XI of the CSI Constitution, which provides for resolution of disputes. By drawing reference to Rule 3 of Chapter XI, he contended that all members of the Church expressly agreed to first



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exhaust all provisions available in the CSI Constitution before seeking remedy in a court of law. He also pointed out that the CSI Constitution provides for the resolution of election-related disputes under Rules 29 to 33 of Chapter XI and for the resolutions of disputes at the Synod level under Rules 36 and 37 of Chapter XI. In particular, he pointed out that Rule 36 is framed in expansive terms and provides for the resolution of all disputes of any nature, whatsoever, concerning the affairs of the Synod and/or any of the institutions. He also pointed out that the CSI Constitution provides for a situation where an officer of a Synod, including the Bishop, is charged with misconduct. By referring to the relevant provisions, he pointed out that a complaint in writing is required to be submitted to the General Secretary and the Moderator. Upon receipt thereof, the Moderator is entitled to decide the dispute himself or appoint a conciliation board to settle the matter. If such conciliation board is unable to settle the dispute, the CSI Constitution provides for the formation of an arbitration board. In the face of such elaborate provisions for dispute resolution, Mr. Prakash submitted that the suits and interlocutory applications are liable to be dismissed.

17. In response, Mr.Vineet Subramani, learned counsel, submitted that a suit under Section 92 CPC cannot be rejected on the basis of an



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arbitration clause or any other contractual dispute resolution mechanism. He pointed out that the suit was filed under Section 92 CPC after taking into account the lacunae in the CSI Constitution. Therefore, he submitted that framing of a scheme to regulate the affairs of the CSI is essential.

18. Mr.Thanka Sivan, learned counsel, submitted that the present dispute involves amendments to the CSI Constitution and its bye-laws and also the elections conducted in January 2023. By drawing reference to the relevant provisions of Chapter XI of the CSI Constitution, he pointed out that the Constitution does not provide for the resolution of a dispute of this nature. Even with regard to the formation of the arbitration board, he contended that the Moderator appoints the chairperson for the arbitration board and that conflict of interest would vitiate the contractual mechanism.

Discussion, analysis and conclusion on alternative remedy:

19. As on date, an application under Section 8 of the Arbitration and Conciliation Act, 1996, has not been filed in any of the suits. The existence of an arbitration clause in a contract between the contesting parties to a suit does not *per se* operate as an ouster of the jurisdiction of the civil court concerned.



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Put differently, if the defendants in such suit choose to participate in the proceedings and not seek reference of the dispute to arbitration, the court concerned is entitled to proceed with the suit. Indeed, Mr.Prakash contended that the CSI was not seeking reference to arbitration because the stand of the CSI is that the CSI Constitution is not a legal contract. In these circumstances, the objection on the ground of the existence of an alternative remedy cannot be countenanced. In addition, Rule 31 provides for a specific procedure in relation to disputes regarding elections and Rule 36 provides for the procedure regarding other disputes. The present dispute involves both amendments to the CSI Constitution and its bye-laws (not directly election-related) and also the election of the office bearers. The CSI Constitution does not appear, *prima facie*, to provide for the resolution of a dispute of this nature. It should also be noticed that the arbitration board is formed from and out of bishops, presbyters and laypersons with the Moderator appointing the chairperson. Therefore, *prima facie*, the prescribed dispute resolution process appears to be inappropriate also on account of conflict of interest. Upon taking into consideration all these aspects, the preliminary objection on the ground of existence of an alternative remedy is rejected.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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20. A third preliminary objection was raised on the ground of non-joinder. Mr.Prakash contended that all the diocesan councils were not joined as parties. He also pointed out that persons who became eligible to contest the election on account of the amendments were not joined as parties. As regards the failure to implead such persons, he relied on the judgement of the Hon'ble Supreme Court in *Prabodh Varma and others v. State of Uttar Pradesh & Ors.*, (1984) 4 SCC 251, particularly paragraphs 11 and 37 thereof. These contentions warrants a brief discussion. The respective plaintiff(s) have joined some diocesan councils as parties on the ground that the ratification of the amendments by the defendant diocesan councils were invalid. The suits are founded, *inter alia*, on the ground that the Working Committee of the Synod should not have notified the amendments because two thirds of the diocesan councils did not ratify the amendments. This charge is directed primarily against the Synod, which is represented in these suits by its four office bearers, and against specific diocesan councils, which are joined as parties. The suits were filed before the election of the office bearers and the plaintiff(s) were unaware of the contestants. Therefore, the contentions on non-joinder are rejected. The contentions on merits are addressed next.



CONTENTIONS ON MERITS

AMENDMENTS

21. Learned counsel for the respective plaintiff(s) assailed the validity of the amendments to the provisions of the CSI Constitution and its bye-laws. The amendments were challenged on the ground that they were not made in accordance with the procedure prescribed in the CSI Constitution. Mr.Thanka Sivan drew reference to Chapter XIII of the CSI Constitution which deals with alterations in the Constitution. After pointing out that Rule 1 thereof deals with the procedure for amendments to Chapter II of the Constitution, which deals with the governing principles of the CSI, he pointed out that the impugned amendments do not deal with the governing principles of the CSI. Consequently, Rule 2 is applicable in respect thereof. As per Rule 2, learned counsel submitted that the proposal for amendment should be brought before the Synod by a resolution passed either by one or more diocesan councils or by the Executive Committee of the Synod. At the meeting of the Synod, the resolution for amendment should be carried by not less than a 2/3rd majority of the Synod. Such resolution is, thereafter, required to be ratified by not less than 2/3rd of the diocesan councils of the Church. He also pointed out that the diocesan councils are required to either ratify or reject the amendments and



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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submit a report in respect thereof to the General Secretary of the Synod within two years from the date of circulation of the amendments. The Synod Executive/Working Committee is authorized to declare that the amendments have come into force from the date of communication thereof if ratifications from not less than 2/3rd of the diocesan councils were received by the Synod.

22. According to Mr.Thanka Sivan, even the first hurdle of the Synod passing the resolution with a 2/3rd majority was not crossed in this case. Mr.Thanka Sivan submitted that a meeting of the special session of the Synod was convened on 07.03.2022 and that the amendments to the age of retirement of bishops and presbyters were taken up for consideration therein. He further submitted that a majority of the members of the Synod, including the plaintiffs in C.S.No.7 of 2023, requested that the resolution be put to vote by adopting a secret ballot. The said request was rejected without providing any reasons. This resulted in the disruption of proceedings and the police had to be called for. Since the meeting was disrupted, he submitted that the resolutions pertaining to the amendments were not carried. A slice of such proceedings was also provided by the plaintiffs in C.S.No.7 of 2023 in order to substantiate the above contention. Mr. Thanka Sivan also submitted that the minutes of the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

proceedings of 07.03.2022 do not correctly reflect the events that transpired at the meeting and that by wrongly recording that the amendments were duly carried with more than a 2/3rd majority, the minutes were drawn up. Subsequent thereto, the resolutions were circulated to 22 diocesan councils.

23. With regard to the alleged ratification by a 2/3rd majority of the diocesan councils, Mr.Thanka Sivan submitted that there are 24 diocesan councils and not 22. With reference to the South Kerala Diocese, he submitted that the Diocesan Council exists and that the Bishop was unlawfully replaced by a Commissary appointed by the Moderator. As regards the Kanyakumari Diocese, he submitted that the Diocesan Council was not dissolved and continues to be in existence. In order to substantiate this contention, he relied upon the order of the Division Bench dated 19.12.2022 by which the Diocesan Council members were permitted to participate in meetings.

24. He turned his attention to the Thoothukudi-Nazareth Diocese (the Thoothukudi Diocese) next. By drawing reference to the Constitution of the Thoothukudi Diocese, he submitted that Rule 14 thereof requires a 15 day prior notice for a meeting. He further submitted that a meeting was originally



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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convened on 06.12.2022 but the said meeting did not take place. The meeting was convened again on 27.12.2022 but permission to conduct the meeting was refused. In these circumstances, he submitted that the alleged meeting on 27.12.2022 cannot be construed as a valid meeting and that the meeting and the resolutions allegedly passed therein are vitiated on account of non-compliance with the requirements of the Constitution of the Thoothukudi Diocese. Likewise, as regards the Coimbatore Diocese, he submitted that Rule 1(c) of the Constitution stipulates a notice period of three months. The first notice was issued on 18.11.2022 and the meeting was allegedly held on 10.12.2022. Even if reckoned from the first notice, he contended that the stipulation with regard to the notice period was not adhered to. Consequently, he submitted that the meeting was not valid. With reference to the Medak Diocese, he submitted that the Bishop was suspended on 29.11.2022 and a notice dated 29.11.2022 was issued by the Commissary for a meeting on 01.12.2022. This contravened Part 2, chapter 1(D) (4) of the Constitution of the Medak Diocese, which prescribes a 30 day notice period. As regards the Karim Nagar Diocese, he submitted that Chapter 5, Article 4 of the Constitution prescribes a 21 day notice period, whereas the meeting that was allegedly held on 26.12.2022 was purportedly convened by notice dated 24.12.2022. He also submitted that the meeting



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

purportedly took place on the zoom platform and that the Constitution does not provide for online meetings.

25. Mr.Thanka Sivan also placed for consideration a subsequent development relating to the Karnataka Central Diocese. He submitted that an order was passed by the Karnataka High Court holding that the Karnataka Central Diocese was not entitled to hold a meeting for the purpose of ratifying the amendments in view of the interim order restraining the conduct of such meeting. He also pointed out that the order of the Karnataka High Court makes it abundantly clear that *status quo ante* be restored if any resolution for ratification of the amendments had been passed. By virtue of this order, Mr.Thanka Sivan submitted that the CSI does not have 15 ratifications even assuming without admitting that the other 14 Diocesan Councils, whose ratifications the CSI relies on, ratified the amendments. Mr. Thanka Sivan also placed for consideration the order of the Hon'ble Supreme Court by which the special leave petition against the order of the Karnataka High Court was rejected.



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26. Mr.Vineet Subramani also made submissions on the alleged ratification by 15 Diocesan Councils. At the outset, he pointed out that the earlier order of this Court dated 12.01.2023 made express reference to the non-production of the minutes of the purported meetings of the 15 Diocesan Councils. In spite of such observation, he pointed out that the CSI failed to produce the minutes of the meetings of the 15 Diocesan Councils. By referring to the Constitution of the Coimbatore Diocese, Mr.Vineet Subramani submitted that a 3 month notice period is prescribed, whereas the notice requirement was not adhered to. With reference to the Constitution of the Jaffna Diocese, he submitted that only special meetings to transact urgent business may be convened with a 3 day notice. The relevant communication dated 30.08.2022 did not state that the business to be transacted at the meeting was urgent. Therefore, he submitted that the alleged ratification by the Jaffna Diocese should be disregarded. As regards the Karim Nagar Diocese, after pointing out the constitutional prescription, he submitted that the Diocese had indicated that a zoom link would be provided for the meeting but no subsequent notice with a zoom link was placed for consideration. He next submitted that the Constitution of the Madurai-Ramnad Diocese prescribes a 20 day notice period, whereas



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only 4 days notice was provided. He concluded his submissions on this issue by pointing out that the notice issued by the Commissary of the Medak Diocese was for a physical meeting, whereas the CSI subsequently states that a zoom meeting was held.

27. These contentions were refuted by Mr. Prakash on behalf of the CSI. Mr.Prakash submitted that the CSI Constitution is a document of faith and not a contract in terms of the Indian Contract Act, 1872 (the Contract Act). According to Mr.Prakash, a contract is void unless there is consideration. As regards the CSI Constitution, the 4.5 million members of the CSI are bound by their common faith and not by the payment of a subscription fee. In order to substantiate this contention, he relied upon paragraphs 40 and 41 of the judgment in *State of W.B. v. Calcutta Club Ltd.*(2019) 19 SCC 107, and paragraph 160 of the judgment in *CIT v. Ahmedabad Urban Development Authority*, 2022 SCC Online SC 1461.

28. His next contention was that no complaint was lodged after the special session of the Synod on 07.03.2022 by the members of the Synod although the said meeting was attended by 326 Synod members. Specifically,



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other attendees (except the plaintiffs in C.S.No.7 of 2023) did not allege that the amendments were not carried at the meeting. By drawing reference to the minutes of the special session of the Synod on 07.03.2022, he contended that the amendments were duly carried as recorded in the minutes. In order to buttress the above contention, a video recording of the proceedings of the special session on 07.03.2022 was produced.

29. As regards the ratification by the diocesan councils, Mr.Prakash referred to and relied upon paragraphs 25 to 28 of the counter of the CSI wherein details of the relevant meetings are provided. He also pointed out that the plaintiffs are not members of the respective diocesan councils. According to Mr.Prakash, only a majority of the members of the Synod or of the diocesan councils can impugn the election.

30. He concluded his submissions by summarizing his arguments. He reiterated that the CSI Constitution is a document of faith, which is required to be construed liberally and not hyper-technically. The next submission was that the motives of the plaintiffs are questionable and that the litigation is driven by the agenda of supporting rival candidates. The third contention was that the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

balance of convenience lies in not interfering with the elections because interference causes far greater hardship to the CSI as compared to the hardship caused to the respective plaintiffs by non-interference. With regard to the order of the Karnataka High Court on the Karnataka Central Diocese, he submitted that it is an interlocutory decision and, consequently, not binding on this Court. Without prejudice to other submissions, his last submission was that the amendments have an impact only on the elections of the Moderator and not on the election of the other three office bearers.

31. Mr. Yashod Vardhan, learned senior counsel, made submissions for the Thoothukudi Diocese. His first submission was that the meeting was duly convened by issuing a notice enclosing the agenda for the meeting. The original date of the meeting was 06.07.2022 but the meeting was rescheduled and held on 27.12.2022. Since the meeting was duly convened and held, learned senior counsel submitted that the ratification of the amendments by the Thoothukudi Diocese does not call for interference especially at the interlocutory stage.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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32. Mr.P.R.Raman, learned senior counsel, made submissions on behalf of defendants 7 to 9 in C.S.No.274 of 2022 and defendants 6 to 8 in C.S.No.7 of 2023. His first submission was that the dispute regarding the meetings of specific diocesan councils should be adjudicated before the respective jurisdictional courts and not before this Court. Without prejudice to this preliminary objection, he addressed arguments with regard to the diocesan councils. According to him, it is sufficient if there is substantial compliance with the provisions of the respective diocesan council's constitution on the conduct of meetings. By relying upon paragraph 25 of the counter of defendants 1 to 5 (the CSI and its office bearers), he submitted that a zoom meeting was held by the Medak Diocese because of disruption by the minority. Similarly, as regards the Coimbatore Diocese, by drawing reference to paragraph 27 of the counter of defendants 1 to 5, he submitted that a zoom meeting was duly held.

33. His next submission was that the Court should not examine whether the amendments are in the interest of the CSI. For this proposition, he relied upon the judgment of the Supreme Court in *Zoroastrian Coop. Housing Society Ltd. v. District Registrar, Coop. Societies (Urban)*, (2005) 5 SCC 632.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

He further submitted that zoom meetings may be held unless prohibited and placed reliance on the judgment in *Srinivasa Rao Kothapalli & Ors. v. Appa Rao Mukkamala & Ors., Manu/AP/3534/2013*.

34. By way of rejoinder, Mr.Thanka Sivan focused on the effect of the Karnataka High Court's order. He also drew reference to grounds (S) and (T) of the SLP filed by the CSI before the Hon'ble Supreme Court and submitted that the CSI admitted that the election would be invalid if the amendments are not given effect to.

35. The next contention of Mr. Thanka Sivan was that Rule 2 of Chapter XIII of the CSI Constitution also applies to amendments of the bye-laws. By referring to the judgment of the Division Bench of this Court in *Dr.R.Jayakaran v. Church of South India, 2017-1-L.W.150*, particularly paragraphs 20 and 21, he contended that the Court expressly recorded that the amendments to the CSI Constitution and the bye-laws were duly ratified by the majority of diocesan councils. He also made an alternative submission that the CSI Constitution prescribes that every adult communicant member is entitled to participate in the government of the Church. Since the impugned bye-laws



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

prescribe qualifications for participation in the governance of the Church, he contended that the amendment procedure prescribed in Rule 2 of Chapter XIII should be followed.

36. By referring to the notice for the special session of the Synod on 07.03.2022, he submitted that no agenda was enclosed with such notice. As regards the minutes of the meeting, he pointed out that item Nos.2 to 6 were strongly opposed and that the minutes erroneously record that the resolutions were passed unanimously. In spite of a notice to produce documents dated 01.03.2023, Mr.Thanka Sivan stated that no response was received to such notice.

37. Mr.Raghavachari, learned senior counsel, made submissions on behalf of the impleaded members of the Thoothukudi Diocese. He submitted that the representatives of the Thoothukudi Diocesan Council, who were elected to the Synod, were not allowed to participate in the meeting and that the meeting was held at a location different from that indicated in the notice.



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38. Mr.Vineet Subramani submitted that the elections are liable to be interfered with on several grounds. First, on the ground that at least two diocesan councils were not permitted to participate by electing representatives to the Synod. Secondly, on the ground that the composition of the electorate was altered by the amendments. Such alterations were both by inclusion of persons who were otherwise ineligible and by exclusion of those who were previously eligible. As regards inclusion, by drawing reference to Chapter IX of the CSI Constitution, he pointed out that the members of the Synod include presbyters and lay-persons representing the dioceses. As a result of the increase in the retirement age of presbyters from 67 to 70, he submitted that the pool of eligible presbyters increased. Consequent thereto, he submitted that persons, who would otherwise have been ineligible to be elected as representatives of the respective diocesan councils for the Synod election, became eligible. By referring to Rule 3 of Chapter IX, he further submitted that every diocesan council is required to hold a fresh election of the ministerial and other representatives of the diocese in the Synod for each ordinary meeting of the Synod. Since such election of diocesan representatives was required to be held on the basis of the amended CSI Constitution, he contended that the amendments to the CSI Constitution altered the membership of the Synod and,



consequently, materially altered the electorate for the election of office-bearers of the Synod.

39. By way of a brief response, Mr. Prakash submitted that the plaintiffs changed their position from time to time over the course of arguments. While the entire focus was initially on the amendment relating to the Moderator, the respective plaintiff(s) turned their attention to the bye-laws subsequently. Mr. Prakash refuted the contention that the procedure prescribed for amendment of the provisions of the Constitution would apply to an amendment of the bye-laws. According to him, the bye-laws may be amended in accordance with Rule 3 of Chapter XIII, which enables the bye-laws to be framed by the Executive Committee of the Synod subject to approval by the Synod. He submitted that the proposed amendments to the bye-laws were placed before the special session of the Synod on 07.03.2022, pursuant to the Executive Committee of the Synod approving such amendments at its meeting on 12.01.2022.

40. Even with regard to the impact of the amendments on the incumbent Moderator, Mr. Prakash submitted that the Moderator had not



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

completed 67 years of age as on the date of election. Consequently, he was eligible to contest the election even under the pre-amended Constitution. Once elected, he further submitted that the term of office is 3 years irrespective of the age of the Moderator. As regards the election of the General Secretary and the Treasurer, Mr. Prakash contended that the respective plaintiff(s) did not plead that the election of these office bearers was not valid. He concluded his submissions by contending that none of the plaintiffs are persons aggrieved inasmuch as they were not candidates or potential candidates for election as office bearers.

DISCUSSION, ANALYSIS, AND CONCLUSIONS

41. At the core of this dispute are the amendments to the CSI Constitution and its bye-laws. Mr. Raman contended that this Court should not examine the desirability of the amendments. Unless the plaintiffs establish that the amendments are *ex facie* arbitrary, which the plaintiffs have not succeeded in doing at this juncture, I agree that the role of this Court is limited to examining whether prescribed procedures were followed while making the amendments. Towards such end, the first port of call should be the provisions relating to amendment of the CSI Constitution. Rule 2 of Chapter XIII reads as



below:

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The following procedure shall be necessary for the making of any alteration or addition in this Constitution other than one in the Governing Principles of the Church:-

(a) The proposal for any such alteration or addition must be brought before the Synod by a resolution passed by one or more Diocesan Council of the Church, or by the executive committee of the Synod (S.56:11)

(b) A resolution for alteration or addition must be passed by a two-third majority of the Synod, the special procedure laid down in Rules 22 to 24 of Chapter IX being followed in the cases referred to in those Rules

(c) The resolution so passed must be ratified by not less than two-thirds of the Diocesan Councils of the Church.”

Chapter XIII of the bye-laws prescribe when an amendment comes into force.

The relevant bye-law reads as under:

“Amendments passed by the Synod should be circulated to the Dioceses for ratification by the Diocesan Councils. The Diocesan Councils shall either ratify or reject the amendments and report the matter to the General Secretary of the Synod within the two years of the date of circulation of the amendments. The Diocesan Councils have no right to propose any change to the wording of the amendments. If a Diocesan Council fails to take any action on the



amendments sent to them for ratification within the prescribed time, it shall be presumed that the council has ratified the amendments. In the meantime, if the ratification from the required number of Diocesan Councils are received, the Synod Executive Committee / Working Committee shall authorize the General Secretary to declare that the amendments shall come into force from the date of such communication.”

42. Thus, the aforementioned Chapter XIII Rule 2 read with the above bye-law prescribes the following requirements for amendments to the Constitution to come into force:

(1) A proposal for amendment by way of a resolution of one or more diocesan councils or by the Executive Committee of the Synod.

(2) The resolution for amendment being passed by not less than a 2/3rd majority of the Synod, including by following the special procedure prescribed by rules 22 to 24 in chapter IX, wherever applicable.

(3) The ratification of the resolutions passed by the Synod by not less than 2/3rd of the diocesan councils.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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(4) Upon receipt of requisite ratifications, authorization by the Synod Executive Committee/Working Committee to the General Secretary of the CSI to declare that the amendments have come into force.

(5) the issuance of such declaration by the General Secretary.

43. Thus, the first stage is the proposal for amendment. The CSI has placed for consideration the minutes of the Special Executive Committee of the Synod for the meeting held on 12.01.2022. The minutes disclose that the Executive Committee of the Synod resolved to forward the proposed constitutional amendments and amendments to the bye-laws for the consideration and approval of the Synod at the special session. The Executive Committee further resolved to convene a special meeting of the Synod for the above purpose and to direct the General Secretary to prepare and circulate the proposed amendments to all the Bishops for the purpose of forwarding the same to all members of the Synod. *Prima facie*, the first requirement for amendment to the CSI Constitution and the bye-laws appears to have been satisfied. As stated earlier, the second requirement is for the Synod to approve the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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amendments by not less than a 2/3rd majority. Whether the special session of the Synod was duly convened and held is considered next.

44. The special session of the Synod was convened by notice dated 10.02.2022. The said notice specifies that the meeting will be held on 7th and 8th March 2022. The CSI Constitution does not contain provisions relating to the conduct of meetings of the Synod. Specifically, the Constitution does not prescribe the notice period, the contents of the notice, or the manner in which the notice should be served on the members of the Synod. In the absence of specific regulations, the limited scope of scrutiny would be whether a reasonable notice period was provided. In this case, about 25 days' notice was provided to the members of the Synod. In the absence of express prescription of notice period, the length of notice cannot be construed *prima facie* as unreasonable. The programme for the meeting appears to have been annexed to the notice. Such programme indicates that constitutional amendments and amendments to the bye-laws would be considered at the meeting but the specific amendments were not indicated in the programme. However, the admitted position is that the plaintiffs in C.S.No. 7 of 2023, who are members of the Synod, attended the special session on 07.03.2022. It also appears that



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they received the agenda prior to the meeting because they did not canvass the grievance that they did not receive the agenda. Indeed, none of the plaintiffs raised a grievance with regard to non-receipt of the agenda.

45. The video recording provided by the CSI was viewed in Court at the hearing on 15.06.2023. On viewing the video, it was noticeable that some members of the Synod requested that a secret ballot be resorted to with regard to the amendments to the age of retirement of bishops and presbyters. The said request was not acceded to by the Moderator and other office bearers of the Synod. Eventually, it appears that the resolutions were put to vote by a show of hands. The video recording does not capture the audience and, therefore, it is not possible to conclude on the basis of the video whether the amendments were carried by the requisite 2/3rd majority. The video recording, however, captures the statement by the General Secretary that the amendments to the age of retirement of bishops and presbyters were carried. It was also noticeable that there was considerable commotion while these amendments were discussed. Such commotion appeared to have petered out while subsequent resolutions were taken up for discussion.



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46. With reference to the amendments to the bye-laws, the video recording indicates that the amendments with regard to the qualifications of the general secretary and treasurer (item Nos. 3, 5 & 6 of the proposed amendments to the bye-laws) were taken up along with item 7 of the amendments to the Constitution. The video recording on these items of business is not clear enough to draw firm conclusions as to whether the amendments to the bye-laws were duly carried at the meeting on the basis of such video recording.

47. In addition to the video recording, the minutes of the special session are on record. The copy placed on record is unsigned but bears the names of the four office bearers of the CSI. In response to a question, Mr. Adrian Rozario, learned counsel for the CSI, stated that the minutes are recorded in registers maintained for such purpose but the original minutes books were not placed for consideration. The minutes of the special session on 07.03.2022 deal both with amendments to the Constitution and bye-laws and indicate *prima facie* that such amendments, including amendments to the qualifications for the post of general secretary and treasurer, were carried.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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48. As discussed above, in view of the 25 day notice and the absence of provisions in the CSI Constitution with regard to the manner of convening meetings of the Synod, it is concluded *prima facie* that the meeting of 07.03.2022 was duly convened. As regards the outcome of the meeting, the video recording indicates *prima facie* that a section of members objected to the amendments pertaining to the age of retirement of bishops and presbyters and requested for a secret ballot. While there was commotion when these items of business were transacted, the commotion appeared to have died down while the remaining business was transacted. When the video recording and the minutes of the special session meeting are looked at cumulatively, for interlocutory purposes, I conclude that the meeting was duly convened and that the minutes of meeting cannot be disregarded.

49. The third stage is the ratification of the amendments by the requisite majority of diocesan councils. The CSI relied upon the alleged ratifications by the following 15 Diocesan Councils:

1. Coimbatore
2. Domakal
3. Jaffna
4. Karnataka Central
5. Karnataka North
6. Karnataka South



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

7. Karimnagar
8. Krishna-Godavari
9. Kollam-Kottarakara
10. Madras
11. Madurai-Ramnad
12. Medak
13. Rayalaseema
14. Thoothukudi-Nazareth
15. Trichy-Tanjore

50. The list of 15 includes the Karnataka Central Diocese. The order dated 21.04.2023 of the Karnataka High Court, with regard to the meeting of the Karnataka Central Diocese, is self-evident. The operative portion of the order is set out below:

“(iii) Defendant No.3 is restrained temporarily from taking any decision to ratify the resolution passed by Synod and to accept the proposed amendment, till disposal of the suit. If any decision is already taken in the meeting that was held on 21.12.2022 by defendant No.3, the same will not have any effect and the same is to be ignored.”

With regard to this order, Mr. Prakash contended that it is interlocutory and not binding on this Court. It is pertinent to note that the special leave petition filed by the CSI against this order before the Hon'ble Supreme Court was withdrawn by the CSI. Hence, the interim order of the Karnataka High Court became final. The scope of the proceedings before the Karnataka High Court pertained to and



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was focused on the meeting of the Karnataka Central Diocese. The said Karnataka Central Diocese is not a party to any of the 3 suits before this Court. In this factual context, as regards the conclusions drawn in the said order with regard to the meeting of the Karnataka Central Diocese, for interlocutory purposes, I see no reason to deviate from the conclusion of the Karnataka High Court. Effectively, even assuming without admitting that the other 14 Diocesan Councils duly ratified the amendments, the requisite 2/3rd majority is not satisfied.

51. Both Mr. Thanka Sivan and Mr. Vineet Subramani referred to the prescription in the constitutions of specific diocesan councils (other than Karnataka Central Diocese) as regards the conduct of meetings and contended that the ratifications are invalid on account of the meetings not being held in accordance with requirements specified in the respective constitution. On the contrary, both Mr.Prakash and Mr.Raman contended that the CSI Constitution and the constitutions of the dioceses should not be construed as legal contracts or, at any rate, technically. Consequently, they contended that notice period and other requirements in the respective constitutions need not be adhered to strictly provided the participants at such meetings were informed of the relevant



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meeting. The CSI Constitution itself provides an answer to whether it is intended to operate as a binding contract by stipulating as follows in Chapter XI:

“1. It is hereby reiterated that all members of the Church of South India, by reason of their being baptized and/or confirmed or admitted as members of the Church have agreed to abide by the Constitution of the Church and its dioceses, and all the rules and regulations prescribed from time to time.

2. It is further reiterated that by reason of Clause 1 above, the Constitution of the Church is a contract between the Church and its members (whether collectively or severally), and the provisions therein shall be binding on all members.”

In view of the above, I conclude that the CSI Constitution is binding as a contract between the Church and its members and, therefore, all members, including those elected as office bearers, are required to act in conformity therewith. Whether the prescribed procedure for the conduct of meetings was adhered to by some of the diocesan councils - on whose ratifications reliance was placed - is examined next. For such purpose, the focus is limited to diocesan councils that are arrayed as parties to these suits.



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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52. The Diocesan Council of the Coimbatore Diocese consists of the Bishop; Assistant Bishop, if any; all presbyters in active service in the Diocese; lay representatives elected by boards and committees; lay representatives elected by adult communicant members; and the Bishop's nominees. As per the counter of respondents 1-5, there are 387 members. The Constitution of the Coimbatore Diocese prescribes a three month notice under Rule 1 C (5) for meetings of the Diocesan Council, whereas the earliest notice (referred to in the counter of respondents 1-5 and placed on record) is dated 18.11.2022 for a special meeting on 2.12.2022. The special meeting was eventually rescheduled and held on 10.12.2022. Even if reckoned from 18.11.2022, the notice period is not even 30 days. In the affidavit in support of O.A.No.21 of 2023, it is alleged that the meeting was cancelled and that the members of the Diocesan Council opposed the amendments. These allegations were dealt with by respondents 1-5 in paragraph 27 of the counter. In the said paragraph, it is stated that 236 members attended the meeting on the Zoom platform and that 221 voted in favour of the resolution. As stated earlier, the CSI Coimbatore Diocese was represented by learned counsel in these proceedings but no separate counter was filed. Significantly, neither respondents 1-5 nor the CSI Coimbatore Diocese placed the minutes of the meeting on record although I had stated in



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

order dated 12.01.2023 that this was the appropriate way to deal with allegations regarding the conduct of a meeting. Considering the non-adherence to the notice period; the large membership of about 387 members; the significance of the agenda (to consider amendments to the charter document); the failure to produce the minutes of meeting; and the purported conduct of the meeting on the Zoom platform, I reach the *prima facie* conclusion that the meeting of the CSI Coimbatore Diocese to ratify the amendments was not in accordance with the Constitution and that this ratification was *prima facie* invalid.

53. The composition of the Medak Diocesan Council is specified in Chapter I of its Constitution. The members of the Diocesan Council are drawn from the following categories: presbyters appointed to specific offices and thereby as *ex officio* members; other *ex officio* members; members nominated by the Bishop; and lay representatives. As per the counter of respondents 1-5, there are 534 members. The Constitution of the CSI Medak Diocese deals with meetings of the Diocesan Council in Article VI and the regulations framed thereunder. Regulation 6 prescribes the issuance of a preliminary notice three months before an ordinary session of the Diocesan Council and also provides



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

that a special session may be convened at a month's notice. As regards the Medak Diocese, it appears that the Bishop was suspended and the Moderator's Commissary was placed in charge. It also appears that the following two sets of meetings were convened at the instance of the Bishop and Moderator' Commissary, respectively. An ordinary session of the Medak Diocesan Council was convened on 29th and 30th December 2022 by the Ministerial Secretary (interim) and Diocesan Lay Secretary by notice dated 29.11.2022. Separately, in order to consider the proposed amendments to the CSI Constitution, a notice dated 29.11.2022 for a special meeting on 01.12.2022 was sent at the instance of the Bishop's Commissary. For interlocutory purposes, I take into account only the meeting convened by the Moderator's Commissary. In the affidavit in support of O.A.No.21 of 2023, it is stated that a majority of the Diocesan Council members opposed the amendments. By contrast, at paragraph 25 of the counter of respondents 1-5, it is stated that a Zoom meeting was held on 01.12.2022 pursuant to notice dated 29.11.2022. It is further stated that 378 out of 534 members logged-in. Even assuming for interlocutory purposes that the statement in the counter regarding the notice is correct, the prescribed notice period was not adhered to and the meeting was conducted within three days from the date of notice. As in the case of the CSI Coimbatore Diocese, the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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minutes of the meeting were not produced either by respondents 1-5 or the CSI Coimbatore Diocese. By taking into account the non-adherence to the notice period especially in the context of the large membership of about 534 members; the significance of the agenda (to consider amendments to the charter document); the failure to produce the minutes of meeting; and the purported conduct of the meeting on the Zoom platform, I reach the *prima facie* conclusion that the meeting of the CSI Medak Diocese to ratify the amendments was not in accordance with the Constitution and that this ratification was *prima facie* invalid.

54. Thus, apart from the Karnataka Central Diocese, the ratifications by the CSI Coimbatore Diocese and the CSI Medak Diocese are *prima facie* invalid. In effect, the ratifications of two thirds of the diocesan councils are *prima facie* not available and the conclusion that follows is that the amendments to the Constitution were not ratified in accordance with the procedure prescribed in Rule 2 of chapter XIII of the Constitution. Consequently, the amendments cannot be given effect to. Although rival contentions were advanced as regards the meetings of various other diocesan council meetings, in view of the above conclusion, it is unnecessary to examine



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

the same at this juncture.

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55. The amendments to the bye-laws fall into a different category.

The amendments to the bye-laws were challenged in C.S.No.7 of 2023 and the interim applications filed therein but not in C.S.No.86 of 2022. I concluded earlier that the interlocutory applications in C.S.No.86 of 2022 but not those in C.S.No.274 of 2022 and C.S.No.7 of 2023 are being adjudicated on merits. Nonetheless, since extensive arguments were advanced on the validity of the amendments to the bye-laws, I propose to deal with the same briefly. Mr. Thanka Sivan contended that the procedure prescribed in Rule 2 of Chapter XIII should be followed whereas Mr.Prakash contended that Rule 3 governs. Rule 3 of Chapter XIII (pg 116 of the Constitution) is as under:

“Power to make rules – Unless otherwise provided, the Executive Committee of the Synod shall have the right to frame rules, regulations and bye-laws for the operation of the provisions of this Constitution, subject to the approval of the Synod. (1999)”

Rule 3 deals with the power of the Executive Committee of the Synod to frame rules, regulations and bye-laws for the operation of the provisions of the Constitution. Since the power to frame bye-laws is conferred on the Executive



Committee of the Synod, in my view, the power to amend bye-laws is implied therein. Rule 3 applies subject to the rider “unless otherwise provided”. None of the plaintiffs were able to point to any other provision of the Constitution which fetters the power of the Executive Committee of the Synod to frame bye-laws. In the face of an express provision empowering the Executive Committee of the Synod to frame bye-laws (which, by implication, includes the power of amendment), it is not possible to accept the contention that amendments to the bye-laws are required to be made by resort to the stringent procedure prescribed for amendments to the Constitution. Whether the bye-laws were duly amended remains to be seen.

56. The minutes of the meeting of the Special Executive Committee of the Synod, which was held on 12.01.2022, is on record. *Prima facie*, the minutes indicate that the Executive Committee of the Synod framed amendments to the bye-laws and resolved to place the same before the Synod. The amendments to the bye-laws were, thereafter, placed before the Synod at the special session on 07.03.2022. As discussed earlier, the video recording of the special session indicates that the amendments to the qualifications of the general secretary and treasurer (item nos. 3, 5, 6) were taken up along with the



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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amendment to item 7 of the amendments to the Constitution and it is not possible to draw clear conclusions there from about the passing of these amendments as these amendments were not read out or discussed separately. Therefore, the video recording should be considered conjointly with the minutes of the special session. The minutes indicate that the amendments were passed unanimously. In the absence of any material indicating otherwise, I tentatively conclude that the amendments were carried at the special session.

57. The impact and implications of the above *prima facie* conclusions on the elections conducted on 13.01.2023 warrant careful consideration. As regards the election of the Moderator, such election is required to be done by following a two stage process. In the first stage, one of the bishops is nominated by the council of bishops for approval by the Synod as the Moderator. The Synod is empowered to either approve or reject the nomination. In this case, the incumbent Moderator appears to have been nominated by the bishops of the Church and such nomination appears to have been approved by the Synod. The incumbent Moderator completed 67 years of age on 19.05.2023. Since he had not completed the age of 67 on the date of election, Mr.Prakash contended that he was eligible for nomination and election



even if the amendments are held to be *prima facie* invalid. On the contrary, Mr.Thanka Sivan and Mr.Vineet Subramani submitted that the person nominated by the Bishops to be the Moderator should not be due to retire during the ensuing term. The relevant provisions of Chapter IX of the CSI Constitution are set out below:

“7. The Moderator and Deputy Moderator shall be elected by the ballot of the Synod, from among the diocesan Bishops of the Church. The General Secretary and the Treasurer shall be elected by the ballot of the Synod (2015).

8. All the Officers shall be elected during each ordinary meeting of the Synod, and shall hold office from the close of that meeting till the close of the next ordinary meeting of the Synod. 'Provided that if any vacancy occurs, the Executive Committee shall fill up such vacancy subject to the approval of a majority of the members of the Synod which approval shall be obtained by circular vote'.”

58. Bye-law 7 of Chapter IX, which deals with the procedure for the election of the Moderator, is set out below:

“7. Procedure for the Election of the Moderator

a) On the first day of the ordinary session of the



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Synod or earlier, the Bishops shall meet as a Council for nominating a candidate for the office of the Moderator. They shall nominate one from among themselves (who is not due to retire during ensuing term) either unanimously or by a 2/3 majority.

b) This name shall be presented to the Synod and if the Bishop thus nominated gets the affirmative votes of the majority members of the Synod he/she shall be declared as Moderator.

c) If the Bishops Council fails to propose one name, or if the Bishop nominated does not get majority affirmative votes in the Synod, the Bishops Council shall choose two names by secret ballot among themselves, and the Synod shall elect one of them by a simple majority of votes.

d) Moderator shall hold office till the close of the next ordinary meeting of the Synod.”

59. As is evident, Rules 7 and 8 of Chapter IX prescribe that the Moderator shall be elected by the ballot of Synod from among the Diocesan Bishops and that the term of office is until the close of the next ordinary meeting of the Synod. The procedure and other requirements relating thereto are contained in bye-law 7, which prescribes that the bishop who is nominated by the bishop's council to be the Moderator should not be due to retire during



the ensuing term. If the bye-laws conflict with the provisions of the Constitution, the bye-laws would be subservient, whereas, if there is no conflict, they should be read together, construed harmoniously and given effect to. Apart from prescribing that the Moderator shall be elected by the ballot of the Synod from and out of the Diocesan Bishops and shall hold office until the next ordinary meeting of the Synod, the CSI Constitution does not specify any further eligibility requirements to be elected Moderator. Since there is no conflict between the CSI Constitution and bye-laws, these two documents should be read conjointly. If construed harmoniously, the conclusion that emerges is that the Bishops' Council is required to agree upon and nominate one amongst themselves as the Moderator and such nominee should be a Bishop who is not due to retire during the term of office, i.e. the entire period running from the close of this ordinary meeting until the close of the next ordinary meeting. As per Rule 20 of Chapter IX, an ordinary meeting of the Synod is required to be held once in every three years; therefore, the nominee should be a person who is not due to retire over the next three years. Unless the impugned amendments are held to be valid, effectively, it means that the nominated Bishop should not complete the age of 67 before the next ordinary meeting of the Synod in 2026. The incumbent Moderator completed the age of



67 in May 2023. *Prima facie*, the election of the incumbent Moderator is invalid in view of the earlier conclusion that the amendments were not duly ratified.

60. The next aspect to be considered is whether the amendments to the Constitution impacted the composition of the electoral college and, consequently, the election of other office bearers. Chapter IX prescribes the composition of the membership of the Synod. The membership is drawn from about six categories, which includes bishops and presbyters. All bishops and assistant bishops, if any, are *ex officio* members of the Synod. As regards presbyters, depending on the total number of baptised members of the diocese, a specific number (maximum of six) are elected by each diocese to the Synod. By taking into account the amendments and the composition of the Synod, I find that four amendments could have impacted the composition of the electoral college. The first of these being the increase in the age of retirement of bishops from 67 to 70 years. The amendment, in relevant part, is set out below:

Item no.1 : Chapter-V-Pg.No:39

“12.(a) Duration of Appointment

.... A bishop shall retire on completion of 70 years of age”

This amendment potentially impacts the electoral college because all bishops



are *ex-officio* members of the Synod and, consequently, entitled to participate in the election of office bearers of the Synod, including as members of the Bishops' Council. The consequence of increase in the age of retirement of bishops from 67 to 70 years is that even bishops who completed the age of 67, as on the date of election, would be entitled to continue as bishops and, therefore, *ex officio*, as members of the Synod.

61. The second amendment with potential impact on the electoral college is the amendment to the age of retirement of presbyters from 67 to 70 years. This amendment is set out below:

Item no.2 : Chapter-V-Pg.No:47

“26. No person shall be ordained presbyter until he/she has attained the age of twenty four years. A presbyter shall retire on the completion of 70 years of age (2022).”

As a result of the increase in the retirement age of presbyters, persons who were previously ineligible would become eligible for being elected as representatives of the respective diocesan councils to the Synod.

62. After examining the documents submitted by respondents 1-5 on



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21.06.2023, Mr. Vineet Subramani filed a memo dated 03.07.2023. Because the memo raises the legal issue of interpretation of Rule 3 of Chapter IX with reference to facts gleaned from documents filed by respondents 1-5, the same is examined. With regard to the election of representatives of diocesan councils to the Synod, Rule 3 of Chapter IX of the CSI Constitution stipulates the following:

“Every Diocesan Council shall hold a fresh election of ministerial and lay representatives of the Diocese in the Synod for each ordinary meeting of the Synod.

Notwithstanding the provisions contained herein, if any Diocesan Council is unable to meet and elect its representatives to the Synod, or in case the elected representatives are unable to be present at the meeting of the Synod, the absence of such representatives shall not invalidate the constitution of the Synod and the actions taken by the Synod so constituted.”

By relying on Rule 3, Mr.Vineet Subramani contended that the representatives of the Synod are required to be elected by a fresh election by each diocesan council after the Synod announces the election. If such fresh election had been conducted after the bye-laws came into effect on 24.11.2022 and after the notification dated 27.12.2022 for the ordinary meeting of the Synod, he contended that the composition of the electorate would necessarily have been



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altered by the two amendments discussed earlier. He also stated that ten dioceses conducted elections prior to the entry into force of the bye-laws on 24.11.2022 and, therefore, prior to 27.12.2022; and that a further six dioceses conducted elections after 24.11.2022 but before 27.12.2022. He further stated that only three dioceses, namely, Jaffna, Medak and Rayalaseema, conducted fresh elections after 27.12.2022, and that the electorate, therefore, consisted of a mix of persons elected under the pre-amended and amended bye-laws. On the contrary, Mr. Prakash contended that each diocesan council conducts such election by following its own schedule; that it is sufficient that fresh elections are held to elect representatives for each ordinary meeting of the Synod; and that it is not necessary that such elections be held after the Synod elections are convened.

63. Rule 20 read with Rule 8 of Chapter IX of the CSI Constitution provides that the officers of the Synod are elected by the Synod for a three year term (triennium) at an ordinary meeting and that an ordinary meeting should be held once in three years. On examining Rule 3, I find that it stipulates that a fresh election of diocesan representatives be held in respect of each ordinary meeting of the Synod and not that a fresh election of diocesan representatives



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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be held after the ordinary meeting of the Synod is scheduled. Put differently, by virtue of Rule 3, the diocesan representatives to the Synod for the ordinary meeting for the previous triennium cannot participate in the election for the 2023-2025 triennium unless freshly elected. If construed as suggested by Mr. Vineet Subramani, all the diocesan councils would have been required to hold elections after 27.12.2022 and communicate the list of elected representatives in time for the election of Synod office bearers on 13.01.2023. For reasons stated above, I am unable to accept Mr. Vineet Subramani's interpretation.

64. Mr. Vineet Subramani also contended that the electorate consisted of a mix of representatives elected under the pre-amended and post-amended bye-laws and that this vitiates the election. On this issue, I find that the amendments to the bye-laws were not challenged in C.S.No.86 of 2022. Even otherwise, I find that none of the amendments to the bye-laws had a bearing on the election of diocesan representatives to the Synod. It is, however, a distinct matter that the impact of certain amendments to the CSI Constitution on the election, including those referred to earlier on the age of retirement of bishops and presbyters, warrant consideration. Prior thereto, I examine next whether all the diocesan councils actually elected and sent diocesan representatives for the



65. Pursuant to a direction, learned counsel for the CSI placed on record communications from 20 diocesan councils providing the list of representatives of the respective diocesan council to the Synod. Such information was not made available as regards the Coimbatore, Kanyakumari, South Kerala and Karnataka Southern Dioceses. When an explanation was called for on 17.08.2023, respondents 1-5 stated, under memo dated 23.08.2023, as follows. The South Kerala Diocesan Council was dissolved on 08.12.2020 and the dissolution is the subject of challenge in O.S.No.37 of 2021 before the II Additional Munsif Court at Thiruvananthapuram. The proceedings of the Kanyakumari Diocesan Council, including the election of representatives to the Synod, was set aside on 07.04.2022. Such setting aside of proceedings was challenged in C.S.No.74 of 2022; the plaint was rejected in the suit; and the said rejection is the subject of pending appellate proceedings. The Coimbatore Diocese did not elect fresh representatives to the Synod for the meeting in January 2023. The previous term of the Karnataka Southern Diocese expired in December 2022 and the fresh election was held on 09.03.2023 and 10.03.2023, which was much later than the Synod meeting between 13.01.2023



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

and 16.01.2023. In this regard, Mr.Prakash placed reliance on the following
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proviso to Rule 3 of Chapter IX:

“Notwithstanding the provisions contained herein, if any Diocesan Council is unable to meet and elect its representatives to the Synod, or in case the elected representatives are unable to be present at the meeting of the Synod, the absence of such representatives shall not invalidate the constitution of the Synod and the actions taken by the Synod so constituted.”

66. The South Kerala Diocese could not have elected representatives to the Synod due to its dissolution. As regards the Kanyakumari Diocese, the existence of the Diocesan Council is a disputed issue, the adversaries have taken conflicting positions and legal proceedings relating thereto are pending. Therefore, the non-participation of elected representatives from these two Dioceses has been adequately explained for interlocutory purposes. In spite of being impleaded as a party to the suits, neither the Coimbatore Diocese nor the member of the Coimbatore Diocese contradicted the statement that the said Diocese did not elect representatives to the Synod. The Karnataka Southern Diocese is not a party to these proceedings and, in the absence of evidence to the contrary, for interlocutory purposes, I see no reason to reject the statement



of respondents 1-5 that the election of representatives did not take place in time for the ordinary meeting of the Synod. At this juncture, I am also inclined to tentatively accept the submission made on the basis of the proviso to Rule 3 of Chapter IX of the CSI Constitution that the election is not vitiated by the non-participation of representatives from the four dioceses discussed above.

67. In order to examine whether the amendments to the age of retirement of bishops and presbyters actually impacted the composition of the Synod/electoral college to elect the office bearers of the Synod, it is necessary to check the ages of bishops and presbyters who participated in the election of office bearers of the Synod on 13.01.2023. The ministerial roll of bishops, presbyters and deacons from each diocese with their dates of birth was placed on record. Also on record is the list of persons who participated in the Synod elections, the category they fall within and their dates of birth. In addition, the attendance registers were placed on record. By verifying the age of participating bishops and presbyters from these documents, I find *prima facie* that none of the bishops and presbyters from the above mentioned 20 Dioceses had completed the age of 67 as on 13.01.2023 because all the participants were born after 13.01.1956.



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68. Upon receipt of copies of documents filed by respondents 1-5 in response to directions issued by me, Mr. Thanka Sivan filed two memos dated 28.06.2023 and 28.08.2023. These memos contain factual assertions by counsel not made previously in pleadings or affidavits with regard to the inclusion/non-inclusion of representatives of specific dioceses. Without providing an opportunity to respondents 1-5 to respond to these assertions, it is inappropriate to attach any materiality or weight thereto. In addition, there are assertions relating to the age of presbyters or lay persons falling within the under-35 category and the failure of specific diocesan councils to send the appropriate number of representatives of each class. Because these factual assertions do not relate to the impact of the amendments on the election, which is the subject of these applications; and by taking into account the proviso to Rule 3 of Chapter IX of the CSI Constitution, I decline to attach materiality or weight thereto for purposes of deciding these applications.

69. Apart from the two amendments discussed earlier, the third amendment with an impact is the following:

63.Item no.10 : Chapter-IX-Pg.No:80



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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“2(e) The Moderator and other Officers of the Synod shall appoint to the Synod up to 15 persons as additional members of the Synod. (2022)”

This amendment enabled the four office bearers of the Synod to nominate 15 persons as additional members of the Synod. Prior to the amendment, the Moderator could nominate 10 additional members. As is evident from the list of participating persons at the ordinary meeting of the Synod, this amendment was implemented by nominating 15 members. Thus, as regards this amendment, there was an actual, albeit limited, impact.

70. By an amendment to Rule 2(d) of Chapter XI, the CSI Congregations in the North American Council and in Gulf countries were permitted to elect four members each to the Synod. If such election was done and if such elected members participated in the elections, it could have altered the electoral college to that extent. On examining the list of participants at the Synod election and the attendance registers, I conclude that the CSI Congregations in the North American Council and in the Gulf countries did not send representatives pursuant to the amendments.



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71. Hence, on an analysis of the four amendments discussed above, I conclude *prima facie* that the composition of the electorate was actually impacted to a very limited extent by the nomination of 15, instead of 10, members to the Synod by the incumbent officers of the Synod, and that the other three amendments did not have an impact. Therefore, the follow-on question is whether the election of the Deputy Moderator, General Secretary and Treasurer should be interfered with because five additional members were nominated by the Moderator and other officers of the Synod. The report of the election officer for the ordinary meeting of the Synod discloses that 345 delegates participated in the meeting and that 343 participated in the voting. The video recording of the election and the report are in conformity. As per the report, the number of votes polled in favour of and against the elected officers is as under:

Deputy Moderator

Total number of ballot sheets issued	: 337
Total number of votes polled	: 337
Affirmative votes for Dr.K.Reuben Mark	: 222
Negative votes	: 112
Invalid votes	: 3



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

WEB COPY

General Secretary

Total number of ballot sheets issued	: 336
Total number of votes polled	: 336
Affirmative votes for Adv.C.Fernandas	
Rathina Raj	: 225
Negative votes	: 110
Invalid vote	: 1

Treasurer

Total number of ballot sheets issued	: 334
Total number of votes polled	: 334
Affirmative votes for Prof.Dr.B.Vimal	
Sukumar	: 231
Negative votes	: 100
Invalid vote	: 3

72. From the above, it appears that the margin of victory of each of the three office bearers is significant and that the votes of the five additional members, who were nominated by the Moderator and the other officers of the Synod, did not impact the result. Even the assertion by Mr. Thanka Sivan in the memo dated 28.08.2023, as regards the age of some under-35 category voters, would not have impacted the result. In these circumstances, the balance of convenience and hardship should be weighed in the scales. About 345 persons



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

WEB COPY

attended the ordinary meeting pursuant to notice dated 27.12.2022 and elected these office bearers for a three year term by a large majority. Therefore, I am of the view that interference with the election of the Deputy Moderator, General Secretary and Treasurer at the instance of the plaintiffs would cause far greater hardship to the 4.5 million members of the CSI and, consequently, to the institution than non-interference.

73. By earlier order dated 12.01.2023, I held that the elections may take place but that the results should not be declared until further orders. I also held that no equities may be claimed by persons who would have been ineligible to contest but for the amendments, and this condition applies as regards the election of the Moderator. For reasons set out earlier, I conclude that the election of the Moderator was not valid but that the election of the other office bearers may be declared but would be subject to the outcome of the suits.

74. In light of the above conclusion, the question that follows is whether any further directions are necessary. The respective plaintiffs prayed for the appointment of an interim administrator to take charge of the affairs of



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CSI, including to conduct the election. This request was based on the allegedly unlawful manner in which the amendments were carried and the pending cases, including criminal cases, against the incumbent Moderator. As on date, none of the cases have resulted in the conviction of the Moderator. The governance of the CSI is regulated by an elaborate written Constitution. *Prima facie*, the CSI Constitution is democratic and provides for the accountability of office bearers. Each diocesan council also appears to be governed by a written constitution with like provisions. In these facts and circumstances, I am not inclined to entertain the request for the appointment of an interim administrator. Whether an election officer or commissioner should be appointed is a distinct matter which falls for consideration next.

75. The incumbent Moderator was permitted to continue by order dated 12.01.2023 until further orders. The Moderator is elected for a three year term and is the head of the CSI. Therefore, it is not in the interest of the 4.5 million members of the CSI that the institution functions without a Moderator until final disposal. Therefore, I am of the view that the balance of convenience is in favour of directing re-election and that irreparable hardship would be caused to the plaintiffs and all the members of the CSI unless the Moderator is



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electd afresh. The documents on record indicate *prima facie* that the office bearers endeavoured to push through the amendments in great haste. Although the bye-law relating to the entry into force of amendments provides for a two year period within which the amendments must be ratified by the respective diocesan councils, the office bearers of the Synod proceeded with undue haste. From the above, a tentative conclusion may be drawn that the office bearers intended to ensure the passage of the amendments before the elections for the 2023-2026 triennium were held. These facts justify the appointment of an election officer to conduct the election of the Moderator of the Synod for the triennium 2023-2026.

76. For such purpose, Mr. Justice V.Bharathidasan, a retired Judge of this Court, is appointed as the election officer. It is needless to say that the election officer may take all necessary steps to ensure that the composition of the Synod (i.e. the electoral college) is in accordance with the CSI Constitution. The election officer may engage the services of advocates or other appropriate persons to assist in the process of conducting the election. An initial fee of Rs.5,00,000 shall be paid to the election officer by the CSI. Further fees and expenses of the election officer and the persons assisting him



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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may be fixed by the election officer in consultation with the CSI. Such fees shall be borne by the CSI. The election officer is requested to endeavour to complete the election process preferably within a period of four months from the date of receipt of a copy of this order. Rule 10 of Chapter IX of the CSI Constitution prescribes that the Deputy Moderator shall perform the duties of the Moderator if he is under any incapacity. In line with the said prescription, the Deputy Moderator shall perform the duties of the Moderator until this process is completed but he and the other office bearers shall not interfere with the conduct of the election by the election officer and persons co-opted by him for such purpose. They shall, however, extend all necessary assistance and support to the election officer and persons co-opted by him for the conduct of the election.

77. All the applications in C.S.No.86 of 2022 are disposed of with the above directions and the applications in the other two suits are closed by granting leave to apply for interim relief, if required, after obtaining leave under Order I Rule 8 CPC.

.09.2023



A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

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Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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A.Nos.54 to 57 of 2023, A.No.2584 of 2023 in C.S.No.86 of 2022

SENTHILKUMAR RAMAMOORTHY, J.

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Pre-delivery order made in
A.Nos.54 to 57 & 2584 of 2023 in C.S.No.86 of 2022,
O.A. Nos.818 & 819 of 2022 &
A.No.5961 of 2022 in C.S.No.274 of 2022 &
O.A.Nos.21 & 22 of 2023 &
A.No.190 of 2023 in C.S.No.7 of 2023

.09.2023