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O.S.A.No.101 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

O.S.A. No. 101 of 2023

and

C.M.P.No.12200 of 2023

Rt.Rev.Dr.S.E.C.Devasahayam,
Bishop,
CSI Thoothukudi Nazareth Diocese
Caldwell School Campus,
100, Beach Road,
Thoothukudi 628 001.

... Appellant

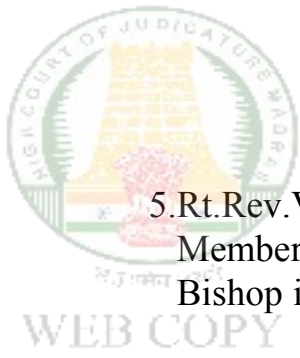
v.

1.Church of South India,
Represented by its Moderator.

2.Most Rev.A.Dharmaraj Rasalam,
Moderator,
The Church of South India.

3.Rt.Rev.Dr.K.Reuben Mark,
Deputy Moderator,
Bishop in Karimnagar.

4.Rt.Rev.Dr.D.Chandrasekaran,
Bishop in Trichy – Tanjore,
Member, Court of Synod.



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5.Rt.Rev.V.S.Francis,
Member, Court of Synod,
Bishop in East Kerala.

6.Rt.Rev.Dr.Oommen George,
Member, Court of Synod,
Bishop in Kollam - Kottarakara

7.Rt.Rev.Dr.Royce Manoj,
Member, Court of Synod,
Bishop in Malabar.

8.Rev.A.David Jebaraj,
Pastor,
Member, Court of Synod.

9.Rev.Samuel Calvin,
Pastor,
Member, Court of Synod.

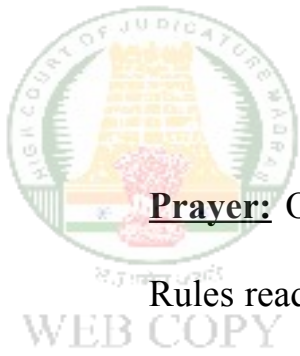
10.Mrs.G.Sumalatha,
Lay Person,
Member, Court of Synod.

11.Mr.Vinod Dasan,
Lay Person,
Member, Court of Synod.

12.Mr.C.Fernandas Rathinas Raja,
General Secretary.

13.Rt.Rev.Dr.M.Joseph,
Bishop in Madurai – Ramnad.

... Respondents



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Prayer: Original Side Appeal is filed under Order 36 Rule 1 of the Original Side Rules read with Clause 15 of the Amended Letters Patent, 1865, praying to set aside the order dated 05.06.2023 in Application No.1547 of 2023 in C.S.No.69 of 2022.

For Appellant : Mr.V.Raghavachari
Senior Counsel for
M/s Kingsly Solomon

For Respondents : Mr.V.Prakash
Senior Counsel for
M/s Adrian D. Razario

JUDGMENT

(Judgment of the Court was made by MOHAMMED SHAFFIQ,J.)

This original side appeal is filed by the appellant / plaintiff challenging the order dated 05.06.2023 passed by the learned Judge in Application No. 1547 of 2023 in C.S. No. 69 of 2022 insofar as it fails to set aside the judgment and decree dismissing the suit in C.S. No. 69 of 2022 as withdrawn and consequently order restoration of the same to file.

2. The suit in C.S. No. 69 of 2022 was filed interalia amongst other prayers to declare the suspension order dated 20.04.2022 passed by the defendants against the



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plaintiff as bad in law and *void ab initio*. Thereafter, the plaint was amended which is not relevant for the purpose of disposing of the present appeal and is thus not dealt with. Pending the suit, two memos dated 09.08.2022 and 17.08.2022 were filed withdrawing the said suit. While the 1st memo reserves liberty to re-open the suit in the event of the failure of the respondents to unanimously revoke the suspension, the 2nd memo however unconditionally withdraws the suit. On the basis of the same, the learned Judge has proceeded to dismiss the suit. Thereafter, an application in Application No.1547 of 2023 was filed by the appellant / plaintiff seeking to set aside the judgement and decree dated 22.08.2022, dismissing the suit as withdrawn and to restore the same. The said application came to be rejected *vide* impugned order dated 05.06.2023. Therefore, this appeal by the appellant / plaintiff.

3. Though contentions were raised on the side of the appellant as to the circumstances which prompted the appellant to withdraw the suit, which were refuted by the learned counsel for the respondents, we do not propose to examine the merit or otherwise of the submissions/contentions raised in the present appeal.



4. However, after submissions being made for a brief, the learned senior counsel for the appellant has drawn the attention of this court to the communication dated 07.09.2022 sent by the appellant to the Synod Court, in which, the appellant stated his reply to the show cause notice issued to him and also tendered apology to the Moderator and Bishop council, if the Synod finds any offending words in his affidavit. The learned senior counsel also submitted that the appellant is ready and willing to approach the Synod court for revocation of his suspension, but due to non-functioning of the same, he preferred the instant application seeking to restore the suit on file, which was dismissed by the learned Judge by the order impugned herein.

5. On the other hand, the learned senior counsel for the respondents submitted that the Synod Court is very much functioning and any appeal is filed by the appellant, the same would be considered by it, on merits.

6. As a riposte, the learned senior counsel for the appellant submitted that as against the suspension order, the appellant would approach the Synod court and hence, a time limit may be fixed for disposal of the same, since only a few months is left for the appellant's tenure as Bishop to expire.



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7. In view of the above submissions made by the learned senior counsel appearing for both sides, we grant liberty to the appellant to approach the Synod Court by filing appeal / petition as against the order of suspension dated 20.04.2022 passed against him, within a period of three weeks from the date of receipt of a copy of this judgment. On such filing, the Synod Court shall consider the same and pass appropriate orders, on merits and in accordance with law, within a period of two months thereafter.

8. This Original Side Appeal stands disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] [M.S.Q.,J.]

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Index: Yes/ No
Internet: Yes/No
Speaking order / Non Speaking order
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