



O.S.A.No.219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE P.DHANABAL

O.S.A.No.219 of 2024
AND
C.M.P.No.24658 of 2024

1.D.Neegar Prince Giftson
Lay-Secretary
The CSI Thoothukudi-Nazareth Diocese
100, Beach Road
Caldwell School Campus
Thoothukudi 628 001

2.Rev.V.M.S.Tamil Selvan
Vice Chairman
The CSI Thoothukudi-Nazareth Diocese
100, Beach Road
Caldwell School Campus
Thoothukudi 628 001

.. Appellants

Vs.

1.D.Mohanraj Arumainayagam

2.The Church of South India
Rep. by its Officer Bearers
CSI Synod Secretariat, CSI Centre
No.5, Whites Road, Royapettah
Chennai 600 014



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3.The Moderator

Church of South India

CSI Synod Secretariat, CSI Centre

No.5, Whites Road, Royapettah

Chennai 600 014

4.K.Reuben Mark

Deputy Moderator

Church of South India

CSI Synod Secretariat, CSI Centre

No.5, Whites Road, Royapettah

Chennai 600 014

5.C.Fernandes Rathina Raja

General Secretary

Church of South India

CSI Synod Secretariat, CSI Centre

No.5, Whites Road, Royapettah

Chennai 600 014

6.B.Vimal Kumar

Treasurer

Church of South India

CSI Synod Secretariat, CSI Centre

No.5, Whites Road, Royapettah

Chennai 600 014

.. Respondents

Original Side Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of Letters Patent, against the order dated 22.10.2024 passed in A.No.832 of 2024 in C.S.No.35 of 2024.

For Appellants : Mr.P.S.Raman
Senior Counsel
for Mr.A.M.Packianathan Easter

For 1st Respondent : Mr.S.Thanka Sivan



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JUDGMENT

(Delivered by S.S.SUNDAR, J.)

This original side appeal is directed against the order of the learned Single Judge dated 22.10.2024 passed in A.No.832 of 2024 in C.S.No.35 of 2024.

2. The 1st respondent in this appeal as plaintiff filed a suit in C.S.No.35 of 2024 for the following reliefs :

- (a) Declare as invalid and consequently set aside the order of suspension dated 21.12.2023 issued by defendants 3 against plaintiff;
- (b) Permanent injunction restraining defendants 3-5 from participating in the governance of the 1st defendant and its Dioceses, Church Councils and Pastorates;
- (c) Appoint an Administrator to investigate, take over, and manage, the affairs, and particularly the finances, of the TND;
- (d) Costs and legal fees incurred by plaintiff.”

3. It is seen that the 1st defendant is the Church of South India (CSI) represented by its office bearers; the 2nd defendant is the Moderator of the CSI



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Synod Secretariat; the 3rd defendant is the Deputy Moderator of the CSI Synod Secretariat; the 4th defendant is the General Secretary of the CSI Synod Secretariat; and the 5th defendant is the Treasurer of the CSI Synod Secretariat.

4. All the prayers in the civil suit relates to the affairs of Thoothukudi Nazareth Diocese, Tuticorin, which is an independent body, governed by separate bye-laws. The 1st respondent was elected as Treasurer of Thoothukudi Nazareth Diocese which is one among the 24 Dioceses of CSI, CSI Synod Secretariat. The defendants 1 and 2 in the suit are the Secretary and Administrator of CSI, CSI Synod Secretariat, which is an authority to oversee the affairs of all the Dioceses, including Thoothukudi Nazareth Diocese. The plaintiff filed a suit challenging the order of suspension issued by the 3rd defendant in the suit. The 3rd defendant is the bishop in-charge of Thoothukudi Nazareth Diocese.

5. It is not in dispute that the order of suspension was by the Moderator in-charge of CSI, who was also in-charge as Bishop, Thoothukudi Nazareth Diocese. So the order of suspension is not by the Synod. CSI consists of 24 Dioceses throughout South India and Sri Lanka. Thoothukudi Nazareth Diocese is one of the Dioceses. The CSI Synod Secretariat is the body to oversee the



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affairs of all the Dioceses. Even though the order that was challenged in the suit is an order passed by a person, who was acting as Bishop of Thoothukudi Nazareth Diocese, none of the office bearers of Thoothukudi Nazareth Diocese are made as parties. As a matter of fact, the order of suspension challenged in the suit is pursuant to the initiatives by the Executive Committee of the Diocese.

6. During the pendency of the suit, an application in A.No.832 of 2024 was filed to suspend the operation of the order of suspension dated 21.12.2023 issued by the 3rd respondent as against the applicant/plaintiff. The said application was taken up along with other applications and ultimately, the learned Single Judge has passed an order in A.No.832 of 2024, after referring to the details of other applications.

7. This appeal is filed by the Lay-Secretary and Vice Chairman, who are the office bearers of the Diocese, after getting leave from this Court. The grievance of the appellants is that the order is passed by the learned Single Judge, without knowing that necessary and proper parties are not made as parties. It is further stated that the tenure of Secretary was only up to 20.10.2024 and therefore, the order that was passed by the learned Single Judge



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has conferred right to the 1st respondent to continue, beyond the tenure up to which he was to act as Secretary.

8. This Court is of the *prima facie* view that the order impugned is a cryptic order, ignoring that the order of suspension was passed only on the basis of the decision of the Executive Committee. It is relevant to mention that the order dated 21.12.2023, referred to serious allegations of conniving in the demolition of new and the old Tooveypuram Pastorate parsonage buildings and reconstruction of such buildings by fabricating records and by transferring funds from the Diocese, among other misconducts. However, the learned Single Judge relying upon the resolution produced before him, has accepted the contention that the order of suspension is invalid, by assuming that there was valid permission for demolition and reconstruction of buildings. From the nature of the order passed by the 3rd defendant, it is seen that the order of suspension is based on serious allegations. It is seen that the resolution produced before the Court does not authorise demolition of new buildings. Further allegation of misappropriation is not even noticed by the learned Single Judge. When the entire cause of action arose within the jurisdiction of Tuticorin, the suit was filed before this Court without impleading the appellants. It is stated that in order to avoid an objection questioning territorial jurisdiction, the appellants are not made as parties.



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9. The learned counsel appearing for the 1st respondent/plaintiff submitted that the suit is filed in a representative capacity by the 1st respondent following Order I Rule 8A of CPC. However, the fact that the suit is filed in a representative capacity is not an answer for not impleading the appellants who are necessary and proper parties.

10. Be that as it may, the order suspending the order of suspension is not based on other material documents, except the resolution. The learned counsel appearing for the 1st respondent/plaintiff in the course of arguments relied upon several documents, including the show cause notice and other minutes of the Executive Committee. Since the order is not based on relevant documents but on the submissions of the learned counsel appearing for the 1st respondent/plaintiff before this Court, this Court is unable to sustain the order on merits.

11. Therefore, the order passed by the learned Single Judge is set aside. However, the matter is remitted to the learned Single Judge for passing appropriate orders, after hearing the appellants as well as the 1st respondent. Since the 1st respondent has no objection for impleading the appellants as parties, the application will be heard and disposed of, after impleading the



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appellants as parties. The learned Single Judge is directed to dispose of A.No.832 of 2024, within a period of four weeks from the date of receipt of a copy of this judgment.

With the above direction, this Original Side Appeal stands allowed.

No costs. Connected C.M.P. is closed.

[S.S.S.R.,J.] [P.D.B.,J.]
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Index : Yes/No
Neutral Citation : Yes/No
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