



WEB COPY

S.A(MD)No.138 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**S.A(MD)No.138 of 2004
and
C.M.P(MD)No.620 of 2004**

1.Robinson

2.Henry

... Appellants/Respondents/Plaintiffs

Vs.

1.The Bishop of the Kanyakumari Diocese
of the Church of South India, Rt.Rev.M.I.,
Kesari,
Nagercoil,
Kanyakumari District.

2.Presbyter (Paster) of Tharavi Ial C.S.I.
Church Rev.D.Yesudhasan

... Respondents/Appellants/Defendants

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree, dated 09.06.2003 made in A.S.No.88 of 1999 on the file of the Sub Court, Padmanabhapuram, reversing the judgment and decree dated 13.04.1999 made in O.S.No.232 of 1997 on the file of the Additional District Munsif, Padmanabhapuram.

For Appellants : Mr.K.Sreekumaran Nair

For R – 1 : Mr.G.Ramanathan



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JUDGMENT

This second appeal has been directed against the Judgment and decree, dated 09.06.2003 made in A.S.No.88 of 1999 on the file of the Sub Court, Padmanabhapuram and the judgment and decree, dated 13.04.1999 made in O.S.No.232 of 1997 on the file of the Additional District Munsif, Padmanabhapuram., are reversed.

2.The appellants/plaintiffs filed a suit in O.S.No.232 of 1997 on the file of the trial Court seeking for the relief of permanent injunction restraining the defendants/respondents or their delegates from initiating any ex-communication proceedings to the plaintiffs to have their names removed from the Church register depriving them of the right of the privileges of eligible communicant of Tharavilai C.S.I Church by reason of their filing the civil suit O.S.No.512 of 1996 on the file of the Additional District Munsif Court, Padmanabhapuram, which was transferred and renumbered as O.S.No.62 of 1997 on the file of the Additional District Munsif, Eraniel. On the basis of the rival pleadings made on either side, the trial Court, after framing necessary issues and after evaluating both the oral and documentary evidence, decreed the suit as prayed for. Aggrieved by the Judgment and decree passed by the trial Court, the defendants herein as appellants, had filed



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an Appeal Suit in A.S.No.88 of 1999 on the file of the first Appellate Court. The first Appellate Court, after hearing both sides and upon reappraising the evidence available on record, set aside the Judgment and decree of the trial Court and allowed the appeal on the ground that the civil Court had no jurisdiction to go into the correctness or otherwise of the constitution of the Church of South India. Challenging the same, the present Second Appeal has been preferred at the instance of the plaintiffs as appellants.

3.When the matter is taken up for hearing today, the learned counsel appearing for the appellants would submit that the relief sought for in the Second Appeal has become infructuous.

4.In view of the above, this Second Appeal is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is closed.

23.08.2024

Index : Yes/No
Internet : Yes/No
ps



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To

- 1.The Sub Court,
Padmanabhapuram.
- 2.The Additional District Munsif,
Padmanabhapuram.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

ps

Judgment made in
S.A(MD)No.138 of 2004

23.08.2024