



WEB COPY

A.No.1254 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 13.03.2025	PRONOUNCED ON 23.04.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.1254 of 2025

in

C.S.No.35 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.

... Applicant/6 & 7th Defendants

vs.

1.D.Mohanraj Arumainayagam ... 1st Respondent/Plaintiff

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

3.The Moderator, Church of South India,
CSI Synod Secretariat, CSI Centre,



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NO.5, Whites Road, Royapettah,
Chennai – 600 014.
4.K.Reuban Mark,
Deputy Moderator, Church of South India,
CSI Synod Secretariat, CSI Centre,
NO.5, Whites Road, Royapettah,
Chennai – 600 014.

5.C.Fernandas 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 2-6/Defendants 1 to 5

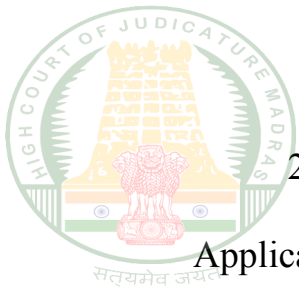
For Applicant : Mr.A.M.Palkianathan Easer

For Respondent : Mr.Thanka Sivan for R1

Mr.Adrian D. Rozario for RR2-6

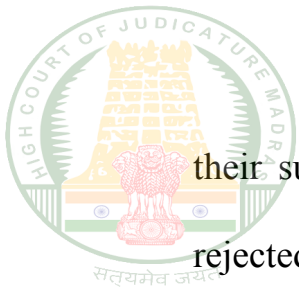
ORDER

This instant application has been filed to reject the plaint filed in
C.S.No.35 of 2024.



2) Heard Mr.A.M.Palkianathan Easer, learned counsel appearing for the Applicant and Mr.Thanka Sivan learned counsel appearing for the first respondent and Mr.Adrian D.Rozario, learned counsel appearing for the respondents 2 to 6.

3) The learned counsel appearing for the applicants, who are the 6th & 7th defendants in the Suit would submit that the entire cause of action arose in Thoothukudi and therefore, by impleading the parties at Chennai, the Suit as framed cannot be maintained before this Court, as this Court do not have territorial jurisdiction to deal with the issue. He would submit that the entire pleadings in the plaint particularly paragraphs 9, 10, 22 & 23 would only disclose that all the factual aspects, which have been averred in the plaint all relates to only with regard to CSI Thoothukudi – Nazareth Diocese, in support of his contention that this Court do not have territorial jurisdiction to adjudicate this case. That apart, he would submit that the Executive Committee Meeting of the CSI Thoothukudi – Nazareth Diocese, had not been challenged. He would further submit that the Suit is also hit by non-joinder of parties. He would submit that two Suits have been filed before the District Munsif Court by similarly placed persons like that of the plaintiff, who have also challenged



their suspensions. Therefore, he would submit that the Suit is liable to be rejected as no part of cause of action had arisen before the jurisdiction of this Court.

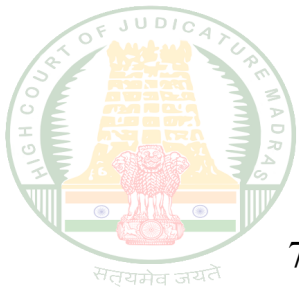
4) The learned counsel appearing for the first respondent/plaintiff would submit that it is the third defendant in the Suit, who had passed the order of suspension, who holds the post of Moderate incharge of the CSI and also Bishop incharge of the Thoothukudi – Nazareth Diocese. The said order had been passed based on the report of Moderate Commissionery along with other reports of the CSI Thoothukudi – Nazareth Diocese. He would further submit that if the same had been passed based on the Bishop's Commissionery, the cause of action would have arisen within the jurisdiction of the Courts at Thoothukudi and when the order is based upon the Moderate Commissionery, then this Hon'ble Court has jurisdiction to entertain the suit. The order had been passed only by the third defendant as a Moderate incharge and not as a Bishop incharge. He would rely upon a judgment of this Court in the case of ***P.Govindasamy vs.Manickam & Ors.***, reported in ***2016-1-LW.59***, to contend that the non-joinder parties cannot be a ground for rejection of a plaint under Order VII Rule 11. He would further submit that the filing of suits by third party before a different Court will not preclude the first respondent/plaintiff to



initiate proceedings before this Court as this Court also has territorial jurisdiction to deal with the issue. That apart, he would submit that Administrators have been appointed by the Court in another proceedings, which is subjudice before the Hon'ble Apex Court. He would further submit that no prejudice would be caused to the applicants, when the order under challenge is made by the third respondent, who is situate within the jurisdiction of this Court. Therefore, he would seek this Court to dismiss the Application.

5) I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6) Three issues have been raised by the learned counsel appearing for the applicant. Before dealing with the primary issue of jurisdiction, this Court is of the view that as rightly pointed out by the learned counsel appearing for the respondents that non-joinder party cannot be a ground to reject a plaint, as held by this Court on that aspect. Similarly the filing of a Suit by third parties before a different Court cannot disentitle the first respondent/plaintiff to initiate the proceedings in a different Court, as he is the *dominus litis* who has got his prerogative to choose either of the Court which has jurisdiction.



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7) The applicant had vehemently contended that this Court do not have territorial jurisdiction to deal with the present Suit. The Suit had been instituted to declare the order of suspension as invalid and for a permanent injunction restraining the respondents 3 to 5 from participating in the governance of the first defendant and its Diocese, Church Council and Pastorate and also to appoint an Administrator. According to the applicant, even though the order of suspension had been made by the third defendant, who is the Deputy Moderator, the said third defendant holds the office of the Moderator as well as the Bishop incharge of the CSI Thoothukudi – Nazareth Diocese. The third defendant's office of Bishop incharge comes in the wake of the vacancy that had arisen in the post of Bishop of the Diocese and incidentally, the Moderator would be the Bishop incharge till the new Bishop is appointed. Since the office of the Moderator also fell vacant, by the implication of the bye-law, the Deputy Moderator holds the post of Moderator incharge vis-a-vis of which he also holds the office of the Bishop incharge.

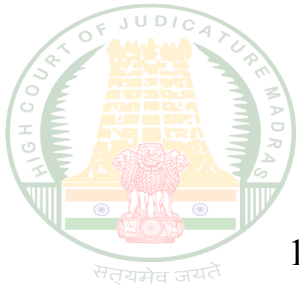
8) A perusal of the order impugned would show that the said order of suspension had come to be passed based on the reports of the Moderator Commissionery. The bye-laws provides for appointment of Moderate



Commissionary as well as Bishop Commissionery by the respective persons holding the office of the Bishop or the Moderator. When an order is based upon the Moderator Commissionery, it is deemed to such an order invoking the powers of the Bishop is passed by the Moderator who is incharge-Bishop as a Moderator only.

9) It is also to be noted that in a parallel proceedings, the Administrators have been appointed and the same is subjudice before the Hon'ble Apex Court. Pending the said proceedings, the Administrators have been directed to, not to take any decision either with regard to the holding election or Administration of the Church of South India and CSI Trust Association. It is also brought on record that the said SLPs were heard and orders have been reserved by the Hon'ble Apex Court.

10) As already indicated, this Court is of the view that the order of suspension had been passed by the third respondent as the Moderate incharge in addition to the powers of the Bishop of the Thoothukudi – Nazareth Diocese. Further, the said issue can also be raised, as an issue to be framed during the trial of the Suit and disposed of accordingly.



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11) For the aforesaid reasons, I do not find any merits in the present Application and accordingly the same stands dismissed. However, there shall be no order as to costs.

23.04.2025

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU.J.,

Pbn

Pre-Delivery Order in
A.No.1254 of 2025
in
C.S.No.35 of 2024

23.04.2025