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A.S(MD)No.123 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.04.2025

Pronounced on : 08.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

A.S(MD)No.123 of 2024

and

C.M.P(MD)No.6576 of 2024

R.Benjamin Jayaraj
S/o.Late G.Rajerethnam,
No.968-C, TELC Church Compound
Raja Street,
Coimbatore – 641 001.

... Appellant/1st Respondent/
Plaintiff

Vs.

1.The Tamil Evangelical Lutheran Church
rep. by its Bishop/President,

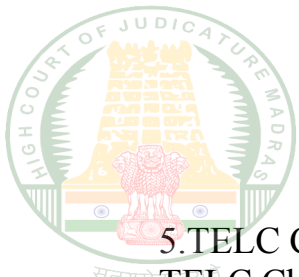
2.The Tamil Evangelical Lutheran Church Council
rep. by its Secretary

3.The Tamil Evangelical Lutheran Church Synod Continuation
Committee rep. by its President/Bishop

4.The Bishop,
The Tamil Evangelical Lutheran Church.

(Respondents 1 to 4 all are residing office at)
Post Box No.86,
Tranquebar House,
Administrative House,
Tiruchirapalli – 620 001.

...Respondents 1 to 4/Petitioners
1 to 4/Defendants 1 to 4



A.S(MD)No.123 of 2024

5.TELC Christ Church rep. by its Chairman
TELCC Christ Church,
Raja Street,
Coimbatore – 641 001.

6.TELC Christ Church Pastorate Committees
rep. by its Secretary,
TELCC Christ Church, Raja Street,
Coimbatore – 641 001.

7.Chairman,
TELCC Christ Church,
TELCC Compound, Raja Street,
Coimbatore – 641 001.

...Respondents 5 to 7/Respondents
2 to 4/Defendants 5 to 7

8.Justice N.Paul Vasanthakumar (Retd),
Administrator, TELC,
The Tamil Nadu Evangelical Lutheran Church.

9.N.Retnaraj

10.G.Jayachandran

...Respondents 8 to 10/Respondents
5 to 7 / Defendants 8 to 10

PRAYER :- This Appeal Suit is filed under Order 41 Rule 1 & Section 96 of the Civil Procedure Code, to set aside the judgment and decree, dated 11.03.2024 passed by the First Additional District Judge (PCR), Tiruchirappalli in I.A.No.4 of 2023 in O.S.No.133 of 2023.

For Appellants	: Mr.A.Immanuel
For R1 to R4	: Mr.S.Vinod Sathya Lazar
For R5 to R7	: Mr.S.Manoj Kumar
R8 to R10	: No Appearance



A.S(MD)No.123 of 2024

JUDGMENT

WEB COPY This Appeal Suit is filed against the judgment and decree, dated 11.03.2024 passed in I.A.No.4 of 2023 in O.S.No.133 of 2023 on the file of the learned First Additional District Judge (PCR), Tiruchirappalli.

2. The appellant is the plaintiff in O.S.No.133 of 2023 on the file of the learned First Additional District Court (PCR), Tiruchirappalli. The respondents are the defendants 1 to 10 in that suit.

3. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

4. The brief facts are as below:

(i) The plaintiff has filed the main suit against the 1st defendant, Tamil Evangelical Lutheran Church (herein after called as TELC), its board members and other defendants for declaration and other reliefs. The TELC is a protestant denomination and it was established in the year 1919. It consists of Pastorates. Each Pastorate is administered by a Pastorate Committee, elected by eligible voting members of the congregation for a triennium. The congregation of the pastorate elects its committee members, members to represent the pastorate in



A.S(MD)No.123 of 2024

the District Council and also members of the Synod Continuation Committee.

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The Synod Continuation Committee elects the Church Council, which is the highest administrative body of the 1st respondent Church. The plaintiff is a voting member of the 5th defendant, TELC Christ Church, Coimbatore. The plaintiff served the 1st defendant Church in various posts from the year 1979 to 2022. The Bishop of the 1st defendant retired on 14.02.2021 and the tenure of the 2nd defendant Church Council ended on 10.09.2022. Hence, the 8th defendant was appointed as administrator of TELC to conduct the election of Bishop as well as Church Council as per order, dated 08.08.2022, passed in Contempt Application(MD)No.3 to 10 of 2022 by the Division Bench of Madurai Bench of Madras High Court. The 8th defendant took over the administration of the 1st defendant's Church. The 8th defendant appointed the 9th defendant as Secretary-cum-Election Officer and the 10th defendant as Finance-cum-Property Officer of the 1st defendant/TELC. When the facts are being so, the 10th defendant has submitted a report to the 8th defendant on 27.09.2022, leveling allegations against the plaintiff & one Nelson and called for the plaintiff to explain the allegations against the plaintiff. The plaintiff has appeared before him on 01.10.2022 and made an oral explanation. The plaintiff has not submitted any written submission. The 9th defendant was also present along with the 10th defendant. Based on the report of the 9th respondent, dated



A.S(MD)No.123 of 2024

20.10.2022, the 8th respondent, vide his proceedings dated 25.10.2022,

debarred the petitioner under Rule 182(A) of the 1st respondent Church Rules.

The reports of the respondents 8 to 10 are leveling allegations of misappropriation of TELC funds and huge monetary loss to TELC against the plaintiff. The plaintiff submitted a request letter, dated 27.11.2022 to the 8th respondent to remove the debar order. There was no reply, but the 9th defendant sent a reply letter, dated 07.12.2022, informing the plaintiff that he was not eligible for the Church's privileges. The statement of the 9th defendant amounts to Ex-Communication of the plaintiff from the 1st respondent Church and he has no authority and power to pass such an extreme order. Hence, the plaintiff has filed the main suit.

(ii) On receipt of summons, the respondents, who are defendants 1 to 4 have filed a written statement and then they have filed the petition in I.A.No.4 of 2023 in O.S.No.133 of 2023 under Order 7 Rule 11(a) and (d) of CPC., to reject the plaint on the ground that there is no cause of action for the suit and the suit is barred by law. The defendants 1 to 4 have alleged for rejection of plaint on the following reasons:

(a) With reference to Church rules for the 1st defendant TELC, the secretary of the Church Council is alone authorized to sue or to be sued. The 1st defendant TELC, by its Bishop/President, is incorrect and also the



A.S(MD)No.123 of 2024

defendants 1 to 4 are all one and the same.

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(b) The plaintiff filed a petition in I.A.No.1/2023 under Order 1 Rule 8 of CPC., to sue the 1st defendant. The 1st defendant Church cannot be represented on behalf of its members/congregations. The plaintiff questioned the validity of Church Rule 182(A) and 188, so the plaintiff ought to get permission to file suit for himself.

(c) The TELC is an unincorporated body and it has several hundred members in Tamil Nadu, Karnataka, Kerala and Pudhucherry. The reliefs (a) & (b) relate to the rules set out in Church Rules 1991 and so opportunity has to be given to all the members of the 1st defendant.

(d) The Synod Continuation Committee alone is responsible to make alterations and modifications in the by-laws of the Church. The plaintiff has to submit representation to the Church Council relating to church rules, without doing so, the plaintiff directly approached the Court.

(e) As per the order of the Hon'ble Division Bench of Madras High Court passed in L.P.A.Nos.3 and 5 of 2015, dated 07.12.2016, the Judge-Administrator was appointed and directed to convene the Extraordinary General Body meeting in accordance with new Rules/amended Bylaws and the



A.S(MD)No.123 of 2024

WEB COPY

General Body decided to adopt the Church Rules 1991 and the same came into force. If the plaintiff has any grievance, he has to approach the Hon'ble Division Bench of the Madras High Court. Hence, the reliefs (a) and (b) in respect of Church Rules 182(A) and 188 are abuse of process of law and abuse of process of the Court.

(f) The reliefs (c), (d), (e) & (f) relates to the administration of the 8th defendant, who was retired Justice, was appointed by the Division Bench of Madras High Court in Cont.A.(MD)No.3 to 10 of 2022 on 08.08.2022 to act as administrator of TELC and to conduct elections of Bishop and the 8th defendant was vested all powers till election of Bishop. On that basis, the 8th defendant held enquiries and debarred the plaintiff and his decision shall be binding on the TELC. The 8th defendant has filed a report, dated 23.08.2023, in compliance of the direction of the Hon'ble High Court and the said report was accepted by the High Court. So, the plaintiff cannot question the activities of the 8th defendant. Hence, the suit is barred by law.

(g) The 9th defendant highlighted the illegal activities of the plaintiff and the same was stated in the report of the 8th defendant. The defendants 9 and 10 have carried out their duties assigned by the 8th defendant. So the relief (g)



A.S(MD)No.123 of 2024

against the defendants 9 and 10 has no cause of action. Once the report of the 8th defendant was accepted by the Hon'ble Division Bench of the Madras High Court, the plaintiff was stopped to pursue the suit against the 8th defendant. The plaintiff has to get permission from the High Court to sue the defendants 8 to 10.

(iii) The plaintiff denied the allegations made in the petition for rejection of the plaint. It is stated by the plaintiff that the 2nd petitioner is the secretary of the Church council and not the church. The application is replica of written statement, which should not be taken into consideration. The plaint averments have to be taken into consideration for the petition. The plaintiff sought relief for infringement of his individual rights and hence, he need not seek permission under Order 1 Rule 8 of CPC, since the 1st defendant TELC is an unincorporated body, the plaintiff filed I.A.No.1 of 2023 under Order 1 Rule 8 of CPC, for permission. All the members of TELC are represented by the Bishop and the Synod Continuation Committee is represented by its President/Bishop. When an individual's fundamental right is infringed, it is not necessary to issue notice to members. The alleged amendments made by the General Body were not upheld as legally sustainable by any Court of law. Hence, the plaintiff's fundamental right has been infringed, he has the right to



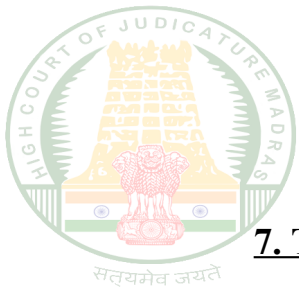
A.S(MD)No.123 of 2024

WEB

challenge before the competent civil Court. The 8th defendant was appointed to administer the TELC and not to maladminister according to his whims and fancies. The 8th defendant was not authorized to remove a member from the voters' list without following the principles of natural justice. The 8th defendant has passed the impugned order as administrator of TELC and not as a Judge of the High Court. So the suit is maintainable. The plaintiff pleaded that Rule 182A is illegal. The defendants 1 to 4 cannot hold vakalatnama for the defendants 8 to 10 and moreover, the impugned order is without evidence. The plaintiff's fundamental right was infringed by the action of the 8th defendant along with defendants 9 and 10. The defendants 8 to 10 have to defend the reliefs sought against them, the defendants 1 to 4 cannot have any right to do so. There is a cause of action for the suit and there is no statutory bar for the suit.

5. After hearing both and after perusal of material records, the trial Court has allowed the petition on 11.03.2024 and thereby rejected the plaint.

6. Aggrieved by the judgment and decree of the trial Court, dated 11.03.2024, the plaintiff has preferred this appeal suit.



A.S(MD)No.123 of 2024

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7. The point for consideration in this appeal is:

(1) Whether the plaintiff has cause of action for the suit and whether the suit is not barred by any law?

(2) Whether the trial Court has rightly allowed the petition for rejection of plaint filed by the defendants 1 to 4 under Order 7 Rule 11(a) and (d) of CPC?

8.1. The Appellant/Plaintiff's side arguments and submissions:

The learned counsel for the appellant/plaintiff has argued that the plaintiff was a member of the 1st defendant, TELC and served in various posts in it. The 8th defendant was appointed as administrator of TELC to conduct the election of the Bishop as well as the Church Council by the Hon'ble High Court. The 8th defendant has expelled the plaintiff from membership by his proceedings, dated 25.10.2022, under Rule 182(A) of the 1st respondent TELC Rules based on the false report of the defendants 9 and 10 alleging untrue allegations upon the plaintiff, including misappropriation of huge Church fund. As per Rule 182(A), Church Council can alone take action, the 8th defendant has no power to pass proceedings. Without having any authority or power, the 9th defendant also made statement excommunicating the plaintiff from the 1st respondent Church. Since the acts of the defendants directly affect the fundamental rights of the plaintiff guaranteed under Constitution of India, the plaintiff has filed the main suit seeking reliefs along with petition in I.A.No.1



A.S(MD)No.123 of 2024

of 2023 for permission under Order 1 Rule 8 of CPC., and in I.A.No.2 of 2023 seeking for interim injunction. As the trial Court dismissed the interim injunction petition on 01.06.2023, the plaintiff has preferred C.M.A(MD)No.730 of 2023 before this Court. Though this Court dismissed C.M.A(MD)No.730 of 2023 on 29.09.2023, this Court directed the trial Court to dispose of the suit on merits within the stipulated time. Thereafter, the defendants 1 to 4 have filed the petition for rejection of the plaint under Order 7 Rule 11(a) & (d) of CPC. The trial Court has failed to consider the plaint averments instead, the trial Court took into consideration of pleading of the petition, which replica of written statement and rejected the plaint. It is well settled principle of law while considering the petition filed under Order 7 Rule 11 of CPC., the trial Court has to consider the plaint averments and the plaint document alone and relied on the citation reported in **2023- SCC Online SC 1270 and 2023 SCC Online SC 1407.**

(i) 2023-SCC Online SC 1270 in the case of G.Nagaraj and Another – v- B.P.Mruthunjayanna and Others, wherein it is held in paragraph No.6 as follows:

“6.The law is well settled. For dealing with an application under Rule 11 of Order VII of CPC, only the averments made in the plaint and the documents produced along with



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A.S(MD)No.123 of 2024

the plaint are required to be seen. The defence of the defendants cannot be even looked into. When the ground pleaded for rejection of the plaint is the absence of cause of action, the Court has to examine the plaint and see whether any cause of action has been disclosed in the plaint.”

(ii) 2023 SCC Online SC 1407 – Geetha and Others /v/ Nanjunda Swammy and Others, wherein it is held in paragraph Nos.6, 7 and 12 as follows:

"6. Before considering the legality of the approach adopted by the High Court, it is necessary to consider Order VII Rule 11 CPC and the precedents on the subject. The relevant principles have been succinctly explained in a recent decision of this Court in Dahiben v. Arvindbhal Kalyanji Bhanusall, as follows;

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken in consideration. (Sopan Sukhdeo v. Charity Commr., (2004) 3 SCC 137)

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction



WEB COPY



A.S(MD)No.123 of 2024

with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P & I Assn. Ltd. –v- M.V.Sea Success I (2004) 9 SCC 512, which reads as (SCC p. 562 para 139)

"139. Whether a complaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the complaint itself. For the said purpose, the averments made in the complaint in their entirety must be held to be correct. The test is as to whether if the averments made in the complaint are taken to be correct in their entirety, a decree would be passed."

23.12 In Hardesh Ores (P) Ltd., .v. Hede & Co., (2007) 5 SCC 614, the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The complaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the complaint prima facie show a cause of action, the court cannot be embark upon an enquiry whether the allegations are true in fact,. D.Ramachandran v. R.V.Janakiraman (1999) 3 SCC 267; see also Vijay Pratab Singh .v. Dukh Haran Nath Singh, AIR 1962 SC 941)



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A.S(MD)No.123 of 2024

23.15 The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint 'shall' be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint;

7.In simple terms, the true test is first to read the plaint meaningfully and as a whole, taking it to be true. Upon such reading, if the plaint discloses a cause of action, then the application under Order VII Rule 11 of the CPC must fail. To put negatively, where it does not disclose a cause of action, the plaint shall be rejected.

12.There is yet another reason why the judgment of the High Court is not sustainable. In application under Order VII Rule 11, CPC a plaint cannot be rejected in part. This principle is well established and has been continuously followed since 1936 decision in Maqsud Ahmad v. Mathra Datt & Co. This principle is also explained in a recent decision of this Court in Sejal Glass Ltd. v. Navilan Merchants (P) Ltd., which was again followed in Madhav Prasad Aggarwal v. Axis Bank Ltd., The relevant portion of Madhav Prasad (Supra) is extracted hereunder;

10.The Court held that it is not permissible to reject plaint qua any particular



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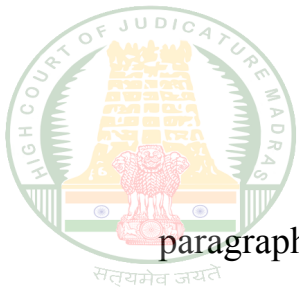


A.S(MD)No.123 of 2024

portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties, Order 7 Rule 11 (d) CPC will have no application at all, and the suit as a whole must then proceed to trial."

8.2. The learned counsel for the plaintiff has further argued that the defendant Church is not a registered body and no church can be registered under the Societies Act. If the 1st defendant is registered one, the plaintiff can add the Secretary only, but the 1st defendant is not registered one and hence, the plaintiff added the defendants and filed a petition under Order 1 Rule 8 of CPC. There is difference in obtaining leave under Section 92 of CPC and prior permission under Order 1 Rule 8 of CPC for suing for the benefits of self and other members. Even after filing the suit, the plaintiff can file the petition under Order 1 Rule 8 of CPC. The plaintiff has also effected paper publication and tom tom. The plaintiff's counsel has relied on rulings reported on **(2015) 2 SCC 121 and 1999-1 MLJ 392.**

(i) (2015) 2 Supreme Court Cases 121 – H.A.Martin and Others –v- Moses Thambi Pillai and Others, the Hon'ble Supreme Court held in



paragraph No.20 as follows:

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20.*We have already noticed that Section 4(3) expressly excludes the operation of Sections 4(1) and 4(2) thereby relieving both the classes of societies –the societies formed after coming into existence of the 1975 Act and the societies which were in existence but not registered under any law prior to the Commencement of the 1975 Act – covered by Sections 4(1) and 4(2) which have for their object the promotion of religion. In our opinion, the expression “societies” (registered under 1860 Act) occurring in Section 53 must be understood to mean only those societies which do not fall under the exemption granted under Section 4(3) of the Act..... Unless the expression “societies” occurring under Section 53 of the Act is understood to mean societies other than those whose object is promotion of religion, athletics or sports, the Act would result in creation of two classes of societies having the same object, but one class is subjected to the discipline of the Act and the other class exempted from it – all other things being equal except the accident of an existing society on the date of the Act also happens to be a society registered under the 1860 Act. Such an interpretation which would be in violation of Article 14 is certainly required to be avoided.*



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A.S(MD)No.123 of 2024

There can neither be any reasonable basis for such classification nor any purpose to be achieved by such classification. Therefore, the Act is not applicable to TELC at all.”

(ii)1999 -1 MLJ 392 in the case of Rev.Noble Gambeeran v. Peter

P.Ponnan this Court held in paragraph No.21 as follows:

“21.From the cause title of the plaint, it is seen that the third defendant is impleaded only in his official capacity. Second defendant is the Ex-ecutive Committee of the C.S.I. Vellore Diocese represented by its Honorary Secretary, and it is said that even though third defendant is named, he is the Bishop and he is carrying out his business in his office at Vellore. Though the plaintiff has filed an application under O.1 Rule 8, C.P.C. to permit him to institute the suit as representative of the Christian community, as against the second defendant, no such application is filed. Admittedly, second defendant is an unincorporated body. A church is also an unincorporated body, and a suit against them is not maintainable without getting permission under O.1 Rule 8, C.P.C. Sec.26 of the Code of Civil Procedure says thus;



WEB COPY



A.S(MD)No.123 of 2024

“Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

For instituting a suit in a representative capacity or for filing a suit against a representative body, the procedure under O.1, Rule 8, C.P.C. has to be complied with.”

8.3. The learned counsel for the plaintiff has further submitted that there is no separate Law to govern Churches like HR & CE and the Trust Act to govern temples and trusts. By the acts of the defendants, the plaintiff's fundamental rights guaranteed under Article 25 of Constitution of India have been affected and if so, the jurisdictional civil Court alone has power to grant relief for the affected litigant and civil Court alone has to take cognizance, by relying citations reported in **1995 Supp (4) Supreme Court Cases 286**. The learned counsel for the plaintiff has further submitted that all matters related to TELC should be filed before the Principal District Court, Tiruchirappalli, alone as already decided by the Principal Seat of Madras High Court as reported in **2011 (1) CTC 395**. This Court has already held in C.S.No.562 of 1990, dated 08.06.1994 that the Articles 57, 58 and 59 of the Constitution of the Church of South India, Diocese of Madras held as illegal and opposed to the fundamental rights of the member of CSI, and this was not



A.S(MD)No.123 of 2024

challenged by anybody. Hence, the plaintiff has approached the civil Court

seeking for protection of his rights and filed the main suit before the Principal

District Court, Tiruchirappalli.

(i)1995 Supp (4) Supreme Court Cases 286–Most.Rev.P.M.

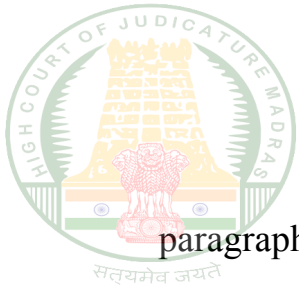
A.Metropolitan & Ors. v. Moran Mar Marthoma & Anr., the Hon'ble

Supreme Court held in paragraph Nos.42 and 45 as follows:

“42. ...Admittedly no law in respect of Christian churches has been framed, therefore, there is no statutory law. Consequently any dispute in respect of religious office in respect of Christian is also cognizable by the civil court....

45. ...The law has been explained in paras 315, 32 and 337 of Halsbury's Laws of England, Vol.14. A church is formed by the voluntary association of individuals. And the churches in the commonwealth are voluntary body organized on a consensual basis – their rights apart from statutes will be protected by the courts and their discipline enforced exactly as in the case of any other voluntary body whose existence is legally recognized.”

(ii) 2011(1) CTC 395 – in the case of Rt. Rev. Dr.H.A.Martin v. The Tamil Evangelical Lutheran Church, wherein this Court has held in



A.S(MD)No.123 of 2024

paragraph No.53(m) as follows:

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“53.(m). No suit or other original proceedings, touching upon (i) the elections to the Synod, the Church Council and Bishop/President; and(ii) the management and administration of TELC, shall henceforth be entertained by any Court other than the Principal District Court, Tiruchirappalli, within whose jurisdiction the registered office of TELC is situate.”

8.4. The learned counsel further contended that as far as Rule 182(A) and 188 of 1st defendant, the Rule 188 has already been deleted on 15.08.2003 and relied on the judgment of this Court, dated 04.03.2008 passed in O.S.A.No.388 of 2007 as stated in paragraph No.7 which is as follows:

“7.Though under Rule 188 there is provision for taking against those who go to Court on church matters, in the course of hearing of these appeals, the learned Senior Counsel for both the parties submitted the said rule was subsequently deleted on 15.08.2003.”

8.5. Further, the 8th defendant was appointed as administrator to conduct the election of the Bishop and Church Council and he is not empowered to



A.S(MD)No.123 of 2024

WEB

remove or debar the plaintiff. The 8th defendant submitted a report after the election and not as a Judge of the High Court. Since the plaintiff has suffered and is aggrieved by the order of the 8th defendant, the plaintiff has added the defendants 8 to 10. It is for the defendants 8 to 10 to defend the case, but the defendants 1 to 4 have filed the petition for rejection of plaint as there is no cause of action and the case is barred by law against the defendants 8 to 10, which is not entertainable. The plaintiff has made averments about date wise cause of action and the relief sought is according to law. The trial Court has failed to consider all these facts and simply allowed the petition for rejection without taking into consideration of plaint averments and the plaint documents. Moreover, this Court has already directed the trial Court to dispose of the suit on merits while passing an order in C.M.A(MD)No.730 of 2023, but the trial Court failed to do so. Therefore, the appeal may be allowed.

9.The Respondents/Defendants 1 to 4 side arguments:

Per contra, the learned counsel for defendants 1 to 4 has put forth arguments that the plaint does not have any cause of action. The defendants 1 to 4 have marked the plaint documents as Ex.R.1 to Ex.R.7, the trial Court has considered the plaint averments and plaintiff side documents alone and the trial Court has not gone beyond the plaint averments. As per the plaint



A.S(MD)No.123 of 2024

WEB

averments, the 8th defendant, who was retired Lordship, was appointed as administrator to administer the 1st defendant TELC. The 8th defendant appointed the 9th defendant, who is retired District Judge, as Secretary and the 10th defendant was appointed as finance cum property officer of TELC. They conducted an enquiry upon the plaintiff's malpractice and misappropriation of church fund of several crores and based on enquiry, the 8th defendant passed proceeding, dated 25.10.2022 debarring the plaintiff from any post and not to continue as a voter. As per Rule 188 of TELC, the plaintiff must approach the appellate authority before going to Court. The Division Bench of this Court has passed Order in LPA.No.3 of 2015, dated 07.12.2016, gave option to church members when the old Rules were in force and so on previous occasions, the suit was filed before the District Court, Trichy. But, the 8th defendant was appointed as administrator of 1st defendant TELC to administer the office, who convened the general body meeting and old church rules were amended. For the same misappropriation and misuse of Church funds, one member, Mr.E.A.Chanrtasekaran was earlier debarred. So, debarring is not a new one. The 8th defendant submitted a report and the same was accepted by the Hon'ble High Court and the plaintiff has not challenged the proceedings of the defendants 8 to 10. Therefore, there is no cause of action for the suit and the suit is barred by law. The trial Court has well considered all the plaint



averments and allowed the petition for rejection. In support of their arguments,

the learned counsel for the defendants 1 to 4 has relied on the following citations:

(1) The TELC Rules 1991 – Rules 175 to 193

Rule 182. A: Action to be taken against Office-Bearers and Others involved in financial and other irregularities:

“If an office-bearer or a member of any committee or council is found to have acted in such a manner as to put the church to a loss, or to have done anything in violation of the church rules, the CC shall remove him/her from his/her position, and debar him/her for appointment to any responsible position in the TELC in future, till such time as may be decided by them.”

Rule 188: Action to be taken against those who go to Court on church matters.

“If any member of the Church goes to the Civil Court in regard to any question or dispute involving the work of the Church, or regarding personal differences arising out of the work of the Church without asking for an appeal under the rule given above, he/she shall ipso- facto from the date of institution of the case, be removed from any of the committees of the Church of which he/she may be a member and be



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A.S(MD)No.123 of 2024

debarred from voting rights he/she may have as a member of the Church. Any vacancy thus caused shall be filled as per rules. Any member thus penalized may be restored to his voting right, only after one year from the date of the final disposal of the suit and then at the discretion of the Bishop of Tranquebar/president.”

(2) Judgment of Madras High Court in LPA.No.3 of 2015, dated 07.12.2016 in paragraph No.112.(x) as follows:

“Insofar as the Contempt Petition is concerned, since the administration and affairs of the TELC are vested with the Judge-Administrator and this Court has also issued the above directions for convening the Extraordinary General Body meeting with the sole agenda as to the continuance of old Rules/Bye-laws or for adopting new Rules/amended Bye-laws, no orders are necessary in the Contempt Petition and hence, Contempt Petition No.1531 of 2015 is closed.....”

(3) Order of the Madurai Bench of Madras High Court in Cont.A. (MD) Nos.3 to 10 of 2022, dated 08.09.2023, wherein it is held in paragraph



A.S(MD)No.123 of 2024

No.6 and paragraph No.10 of report formed part thereon as follows:

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"6. Leaving it open to the Administrator, namely, the Hon'ble Mr.Justice N.Paul Vasanthakuamr (Retd), to get remuneration @ Rs.2,50,000/- per month, at his option, this Court accepts the report of the learned Administrator. The report of the Administrator dated 23.08.2023 shall form part of this proceedings."

(4) 1977 AIR (SC) 2421 in paragraph No.5, it is held as follows:

"5.We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court it is perfectly plain that the suit now pending before the first Munsifs court Bangalore, is a flagrant misuse of the merices of the law in receiving complaints. The learned Munsif must remember that if on a meaningful – not formal – reading of the complaint it is manifestly vexatious and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under O. VII R. 11, CPC taking care to see that the ground mentioned therein is fulfilled. And, if clear drafting has created the illusion of a cause of action, nip it in



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A.S(MD)No.123 of 2024

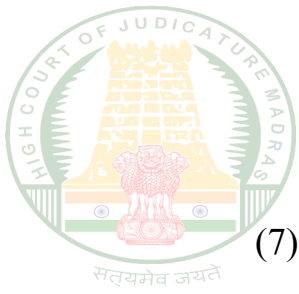
the bud at the first hearing by examining the party searchingly under O.X. CPC.”

(5) 1986 0 AIR (SC) 1253, it is held as follows:

“Where material facts are not disclosed in the election petition and pleadings does not spell out the cause of action, the Court could not have permitted the election petitioner to adduce evidence on such points. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact, it was held that an election petition therefore can be and must be dismissed if it suffers from such.”

(6) 2015 (5) LW 27, wherein it is held in paragraph No.40 as follows:

“40...To put it precisely, for the purpose of deciding an application under Order 7 Rule 11 (a) and (d) of the Civil Procedure Code, the averments in the plaint are only germane. If an illusory cause of action has been created by a clever drafting of plaint, undoubtedly, a Court of Law is empowered to reject the plaint under Order 7 Rule 11 of the Civil Procedure Code.”



A.S(MD)No.123 of 2024

(7) 1999(4) GCD 3272, wherein it is held in paragraph Nos.16 and 18 as

WEB follows:

“16.The learned Advocate General submitted that application Exh.191 filed by the respondent under Order 7 Rule 11(a) of the CPC is decided by the trial court as if a suit were being tried and as the learned Judge has gone into merits of the pleas raised by the plaintiff, which he was not entitled to, the impugned order should be set aside, more particularly an attempt is made to dispose of the whole suit by resorting to a short-cut. In our view, a fair reading of the impugned judgment indicates that he learned trial Judge has not resorted to any short-cut at all. The learned Judge has taken into consideration the provisions of Constitution of India, the Hindu Succession Act and the case-law decided by the Supreme Court and has applied the same to the facts pleaded in the plaint. Application filed by the respondent under Order 7 Rule 11(a) of the CPC is not tried by the learned Judge as if a suit were tried. What is taken into consideration by the learned Judge is the averments made in the plaint and nothing else. However, the learned Judge was not precluded from applying the statutory provisions and case-law to the facts pleaded in the plaint. The exercise undertaken by the learned Judge cannot be construed as deciding application



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A.S(MD)No.123 of 2024

Exh.191 as trial of the suit. Therefore, we do not find any substance in this contention.

18.As observed earlier, while deciding application filed under Order 7, Rule 11(a) of the CPC, the Court has to apply the statutory law as well as case-law to the facts pleaded in the plaint and find out whether any cause of action is disclosed or not. If such an attempt is made, it can hardly be said that merits of the case are taken into consideration while deciding application for rejection of the plaint as not disclosing any cause of action.”

10. In reply, the learned counsel for the plaintiff submitted that upto 2016 the TELC was a registered society as per TN Societies Registration Act, but according to the judgment of the Division Bench of this Court held in LPA.No.3 of 2015 that the provisions of TN Societies Registration Act have no application to TELC and hence the equity based upon Societies Act is not maintainable and also the suit is maintainable against the proceeding of the 8th defendant. Moreover, the administrator was appointed to follow new Rules/amended bye-laws insofar as the convening of Extraordinary General Meeting, as the old rules do not approve for the same, and the Division Bench further held that



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A.S(MD)No.123 of 2024

“it cannot be taken as if this court has approved the new Rules/amended bye laws, especially of the fact that no material has been placed to show that subsequent to the communication of the Judge-Administrator dated 03.05.2013, the District Registrar of Societies Tiruchirappalli had approved the same or not?”

11. Hence, the old rules/bye-laws were restored. Therefore, the plaintiff filed the suit, which is not barred by any law. The 10th defendant is an accused in criminal case. The plaintiff was respectable person and he never accepted any allegation and filed dates and events.

12. Discussion on Points 1 and 2:-

I have carefully perused the material records of the case. The arguments along with citations put forth by either side are also considered. From the perusal of records and from the arguments, it is clear that the plaintiff was a member of the 1st defendant TELC and he has served in various posts under the control of the 1st defendant from 1979 to 2022. There is no dispute in it on both sides. It is the case of the plaintiff that since the Bishop of the 1st defendant, retired and the tenure of the Church Council ended, the 8th defendant was appointed as administrator of the 1st defendant, who debarred the plaintiff based



on false report of defendants 9 and 10. It is also further case of the plaintiff

that the 9th defendant has been giving out excommunication of the plaintiff.

The acts of the defendants affected the fundamental rights of the plaintiff, who is aged above 70 years and also had long service with the 1st defendant. So, the plaintiff has filed the suit for the reliefs of:

(a) For a declaration to declare that the Rule 182(A) of first defendant church that “If an office-bearer or a member of any committee or council is found to have acted in such a manner as to put the church to a loss, or to have done anything in violation of the Church Rules, the Church Council shall remove him / her from his/her position, and debar him / her for appointment to any responsible position in the TELC, in future, till such time as may be decided by them” is illegal, unconstitutional, violation of Article 21 of Constitution of India and null void.’

(b) For a declaration to declare that Rule 188 of first defendant church that “if any member of the Church goes to the civil court in regard to any question or dispute involving the work of church, or regarding personal differences arising out of the work of the church without asking for an appeal under the rule given above, he / she shall ipso facto from the date of institution of the case, be removed from any of the Committees of the Church of which he / she may a member, and be debarred from voting rights he / she may have as a member of the Church. Any vacancy thus caused shall be filled as per rules. Any member thus penalized may be restored to his voting right, only after one year from the date of final disposal of the suit and then



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A.S(MD)No.123 of 2024

at the discretion of the Bishop of Tranquebar/President” is illegal, unconstitutional, violation of Article 21 of the Constitution of India and null and void.

(c) For a declaration to declare that the 8th defendants’s proceedings dated 25.10.2022 debarring the plaintiff from holding any post in first defendant church, debarring the plaintiff from continuing as a voter in first defendant church and debarring the plaintiff from contesting for any of the elections of TELC Christ Church, Coimbatore or first defendant is null and void.

(d) For a declaration to declare that the 9th defendant letter dated 07.12.2022 informing the plaintiff that the plaintiff is not entitled to any privileges enshrined in first defendant church rules is null and void.

(e) For permanent injunction restraining the defendants, their agents, their servants, their successors in office, or anybody acting on their behalf from implementing the order of the 8th defendant dated 25.10.2022 debarring the plaintiff from holding any post in first defendant church, debarring the plaintiff from continuing as a voter in first defendant church and debarring the plaintiff from contesting for any of the elections of TELC Christ Church, Coimbatore or first defendant church.

(f) For permanent injunction restraining the defendants or their successors in office or anybody acting on their behalf from taking action against the plaintiff under Rule 188 of first defendant church rules for having approached this Honourable Court by filing this suit;



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A.S(MD)No.123 of 2024

(g) For direction directing the 9th and 10th defendants together to pay Rs.10,00,000 (Rupees Ten Laksh) to the plaintiff as damages for having prepared false reports against the plaintiff and for defaming the plaintiff before the members of the first defendant church;

(h) and pass such other further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice;

(i) to award the cost of the suit."

The defendants 1 to 4 entered appearance and filed their written statements. Thereafter, they filed the petition under Order 7 Rule 11(a) & (d) and Section 151 of C.P.C., for rejection of the plaint on the grounds that there is no cause of action for the suit and the suit is barred by law. The trial Court has allowed the petition. So, challenging the rejection order the present appeal is filed.

13. The provisions of the Order 7 Rule 11 of CPC., is as follows:

11.Rejection of plaint:- The plaint shall be rejected in the following cases:-

(a) where it does not disclose a cause of action;

(b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is property valued, but the plaint is written upon paper



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A.S(MD)No.123 of 2024

insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

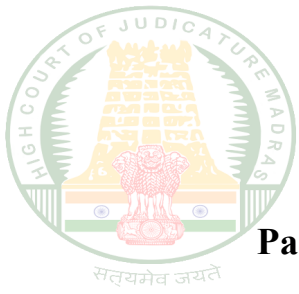
(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

14. It is well settled principle of law by the Hon'ble Supreme Court in a catena of verdicts that for deciding a petition filed under Order 7 Rule 11 of CPC., the plaint averments and the documents filed therewith have alone to be taken into consideration. That is accepted by both parties. On perusal of the averments made in the plaint, the plaintiff has clearly averred as follows:

“Para.4. The plaintiff submits that the plaintiff was a born baptized, confirmed communicant and voting member of 5th defendant TELC Christ Church, Coimbatore. On 07.08.1972, the plaintiff was appointed as Assistant Manager in Arulpuram TELC Rural Centre. ...



A.S(MD)No.123 of 2024

Para.5. The plaintiff submits that the plaintiff served first defendant

WEB COIN Tamil Evangelical Lutheran Church in various capacities as shown below:

- 1979 - 1980 - Regional Secretary, Youth Department
- 1980 - 1981 - Chairman, TELC Youth Board
- 1982 - 1988 - Member of Coimbatore Church Pastorate Committee
- 1989 - 1992 - Secretary of Coimbatore Church Pastorate Committee
- 1992 - 1995 - Secretary of Coimbatore Church Pastorate Committee and Synod Continuation Committee
- 1995 - 1996 - Secretary of Coimbatore Church Pastorate Committee and Synod Delegate
- 1997 -1998 - Childcare Ministry Regional Secretary
- 1999 - 2002 - Member of Church Council
- 2007 - 2010 - Member of Church Council
- 2011 ... - Synod Delegate
- 2011 - 2014 - Member of Church Council
- 2019 – 2022 - Member of Church Council

Para.6. The plaintiff submits that the Bishop of 1st defendant Church retired on 14.02.2021 and the tenure of 2nd defendant Church Council ended on 10.09.2022. Hence, the Division Bench of Madurai Bench of Madras High Court, vide its Order, dated 08.08.2022 passed in Contempt Application(MD)Nos.3-10 of 2022 appointed the 8th defendant Retired Judge Mr.N.Paul Vasanthakumar as administrator to act as an administrator of TELC



A.S(MD)No.123 of 2024

to conduct the election of Bishop as well as Church Council. The plaintiff

submits that the 8th defendant took over the administration of 1st defendant Church. The 9th defendant was appointed as Secretary-cum-Election Officer and the 10th defendant was appointed as Finance -cum-Property Officer of the 1st defendant Church.

Para.7. The plaintiff submits that the 10th defendant submitted a report to the 8th defendant on 27.09.2022 in respect of the plaintiff and another. The 8th defendant vide his letter, dated 29.09.2022 directed the plaintiff and Dr.Nelson to appear before the 8th defendant on 29.10.2022 at Tranquebar House, Trichy in respect of 10th defendant report, dated 27.09.2022. The plaintiff called on the 8th defendant Administrator at Tranquebar House, Trichy on 30.09.2022. The 8th defendant asked the plaintiff to meet on 01.10.2022. The plaintiff appeared before the 8th defendant on 01.10.2022 at Tranquebar House, Trichy and orally explained in detail for all the allegations made by the 10th defendant in his report, dated 27.09.2022. The plaintiff did not submit any written submission. The 8th defendant perused all the relevant documents produced by the plaintiff and returned the same to the plaintiff.



A.S(MD)No.123 of 2024

The 9th and 10th defendants were present in the hall. But, they did not ask the plaintiff any question and they did not peruse any documents of the plaintiff.

But, the 9th defendant submitted another report to the Administrator on 20.10.2022 and the 8th defendant vide his proceedings, dated 25.10.2022 debarred the plaintiff under Rule 182(A) of 1st defendant Church Rules. Hence, the plaintiff vide his letter, dated 27.11.2022 requested the 8th defendant to remove the debar order as the order was passed without following established procedure of law. The 8th defendant did not reply to the plaintiff. Whereas the 9th defendant vide his letter, dated 07.12.2022 informed the plaintiff that the plaintiff was not eligible for the church privileges. Hence, the plaintiff is filing this suit for declaration, injunction, damages and ...”.

Para 10. The 8th defendant Administrator has stated in his order, dated 24.10.2022 that the debar order, in respect of the plaintiff, would continue until the sale agreement executed in respect of Podanur property and also the loss committed by the plaintiff to the TELC remitted to TELC. This order is unsustainable and illegal for the following reasons:

(1) This order has been passed without application of mind. This order has been passed on the basis of the unverified reports submitted by 9th



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A.S(MD)No.123 of 2024

and 10th defendants.

(2) *Proper enquiry was not conducted against the plaintiff. The details of the complaints against the plaintiff, the details of complainants, details and copies of the documents relied on by the 8th, 9th and 10th defendants were not furnished to the plaintiff.*

(3) *There is no proof that plaintiff misappropriated church funds.*

(4) *The 10th defendant Mr.G.Jayachandran's report dated 27.09.2022 doesn't disclose the details of compliance, complianance details of documents witnessed and the details of evidence both the documentary any oral.*

(5)*The 9th defendant Mr.N.Retnaraj's Report dated 20.10.2022 has been prepared without enquiring the plaintiff and without giving an opportunity to the plaintiff to refute the allegations.*

(6)*The 9th defendant Mr.N.Retnaraj himself has stated in para 12 of his report dated 20.10.2022 that plaintiff was so clever enough to hide himself and project others as persons doing illegal activities. The shows that there is no evidence to prove that the plaintiff didn't cause loss to the 1st defendant Church. All the reports are without evidence or no evidence.*

(7) *Under Rule182(A)Church Council alone can take action.*

Para.12 The first defendant the TELC is an unregistered and unincorporated body, which has no legal force to enforce the order dated 25.10.2022 passed by the 8th defendant debarring the plaintiff and the order dated 07.12.2022 passed by the 9th defendant withdrawing the church

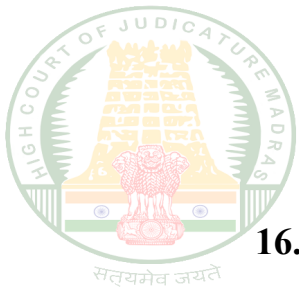


A.S(MD)No.123 of 2024

privileges of the plaintiff without sanction of the civil Court. It means that both these orders are not enforceable and cannot be enforced on the plaintiff by the defendants. Hence, the defendants should be restrained by way of injunction.

Para.13. The plaintiff further states that the 8th defendant's order, dated 25.10.2022 and ninth defendant's order, dated 07.12.2022 amount to virtually ex-communicating the plaintiff from 1st defendant church which is in violation of Constitutional Morality and Articles 14, 19 & 21 of the Constitution of India.

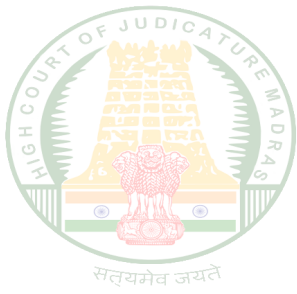
15. Therefore, from the above averments, the plaintiff has prima facie clearly disclosed causes of action for the suit. On perusal of records, the plaintiff has also filed documents along with the plaint. The defendants have also marked some of the documents as Ex.R.1 to Ex.R.7. The plaintiff has clearly pleaded that the Church Council alone can take action against the plaintiff, but the 8th defendant, who was appointed as Administrator, cannot pass the impugned order. These facts are to be decided only after full-fledged trial.



A.S(MD)No.123 of 2024

16. On the defendant's side, it is argued that the relief (a) and (b) cannot be decided by the trial Court as the same can be adjudicated only by the constitutional court. This Court has already observed in paragraph No.18 in C.M.A(MD) No.730 of 2023 as follows:

“18. It is the main case of the appellant that since the 9th respondent passed statement that the appellant is not at all entitled to any privilege enshrined in TELC Church Rules, which amounts to excommunication according to appellant. So, he has filed the suit contending that his fundamental right is affected. As per citation relied on by the appellant he is entitled to struggle for his fundamental right before the Civil Court, that too, it can be decided only after full fledged trial after hearing both sides. At the same time, the contention of the respondents that the relief (a) and (b) declaring the Rules 182 (A) and 188 as null and void, can be decided only before the constitutional Court i.e., High Court or Supreme Court and the same cannot be sought before the Civil Court is also to be taken into consideration. However, the above rival contentions raised by both side cannot be decided in this Civil Miscellaneous Appeal which is arisen out of the order passed in petition in I.A.No.2 of 2023 in O.S.No.133 of



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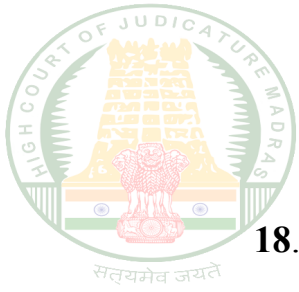


A.S(MD)No.123 of 2024

2023 filed under Order 39 Rule 1 of the Civil Procedure Code, for ad-interim injunction. That can be done only after full fledged trial.

At this juncture, the learned counsel for the plaintiff has contended that even for the sake of argument, the relief (a) and (b) can be decided by the constitutional Court, it is settled by the Hon'ble Supreme Court that the plaint cannot be rejected in part as held in **2023 SCC Online SC 1407** (supra) in view of the citation relied on by the plaintiff's side supra. This argument has some substance.

17. On perusal of the affidavit filed along with the petition for rejection, the defendants have mentioned about the appointment of the 8th defendant as administrator for conducting the election of Bishop and Church Council, and also narrated about the previous litigation proceedings. The defendants mainly argued that the order of debar passed by the 8th defendant is the final one as per Rule 182(A) and 188 of the Church Rules and if the plaintiff aggrieves for the same, he has to approach the appellate Forum and he shall not approach the Civil Court. This Court has already observed while passing the order in C.M.A(MD)No.730 of 2023 that this Court holds that the proceeding of the 8th respondent is, though prima facie, enforceable one and it can be decided whether it is valid or not in the eye of law only after elaborate trial.

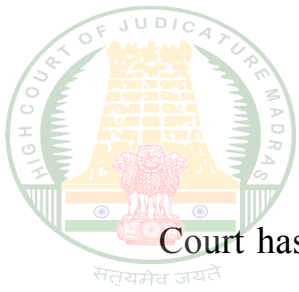


A.S(MD)No.123 of 2024

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18. At this juncture, it is the arguments of the defendants that some other members have already been debarred by the 1st defendant TELC and the aggrieved other members have not approached the civil Court. This argument is not a valid one. One litigant has not approached the civil Court, the same could not be expected from another member. The way of approaching the Forum to get relief is upto the intention of the litigant. The plaintiff vehemently contended that the Rule 188 has been deleted and in respect of 1st defendant TELC matters the suit has to be filed only before the Principal District Court, Tiruchirappalli, as per Order passed by this Court and the same is reported in **2011(1) CTC 395** – in the case of **Rt.Rev.Dr.H.A.Martin v. The Tamil Evangelical Lutheran Church**. This was not denied by the defendants and they have not filed any order by the Appellate Court reversing the above decision. So the plaint has been filed before the jurisdictional Court as per the above ruling.

19. From the plaint averments and plaint documents, it is clearly averred that the plaintiff was debarred by the 8th defendant from membership of the 1st defendant TELC and he is apprehended of excommunication by the statement of the 9th defendant, so he has filed the suit as his fundamental rights are affected. As per rulings relied on by the plaintiff side, the Hon'ble Supreme



A.S(MD)No.123 of 2024

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Court has clearly held in various cases that the litigant can file the suit before the civil Court while his fundamental right is affected. So there is cause of action for the suit.

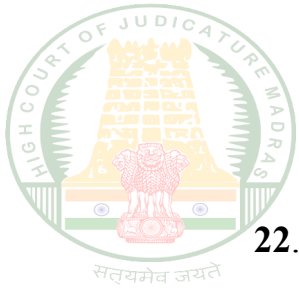
20. Moreover, the defendants leveled allegations of misappropriation of church funds and also malpractice against the plaintiff. The plaintiff averred that he has rendered good service in the 1st defendant TELC for more than 40 years and he is now aged more than 70 years and by the acts of the defendants, his reputation becomes meaningless. So, to establish his reputation earned all along by putting in service in TELC, he has filed the suit. The contentions raised by the defendants can be adjudicated only after thorough trial on letting in oral and documentary evidences, since the plaintiff pleaded that he was not given the opportunity of hearing and the 8th defendant passed order based on reports of the defendants 9 and 10, debarring the plaintiff from church privileges. The petition for rejection of plaint is filed by the defendants 1 to 4. Therefore, the argument of the plaintiff that it is for the defendants 8 to 10 to defend the suit would not be brushed aside as there is no substance.

21. On perusal of the impugned order of the trial Court, it is clear that the trial court has not discussed about the plaint averments and it is only repetition



A.S(MD)No.123 of 2024

of petition's averments by quoting the judgments of this Court on appointment of 8th defendant as administrator and also judgments rendered by this Court in some other cases. The trial Court has committed an error in allowing the petition for rejection of plaint that too without taking into consideration of plaint averments and plaint mentioned documents. Apart from the above facts, on earlier proceedings, the plaintiff has filed a petition in I.A.No.2 of 2023 in O.S.No.133 of 2023 seeking for temporary injunction and the same was dismissed by the trial Court by its order, dated 01.06.2023. Aggrieved by the dismissal order, the plaintiff preferred CMA(MD)No.730 of 2023 before this Court. This Court, while passing an order in CMA(MD)No.730 of 2023, dated 29.09.2023, has directed the trial Court to dispose of the suit on merits within 5 months. This was not denied by the defendants 1 to 4. The trial Court has not considered the direction of this Court. There is no material filed by the defendants 1 to 4 that the above direction was challenged and reversed. Therefore, this Court is of the considered view that the points are answered in favour of the plaintiff and against the defendants 1 to 4. From the above facts and circumstances, the judgment and decree of the trial Court is not sustainable in law. Thus, the appeal suit succeeds.



A.S(MD)No.123 of 2024

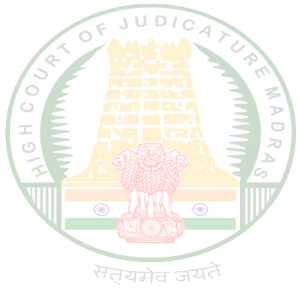
22. In the result, this Appeal Suit is allowed. The judgment and decree, dated 11.03.2024 passed in I.A.No.4 of 2023 in O.S.No.133 of 2023 on the file of the learned First Additional District Judge (PCR), Tiruchirappalli, are set aside. The trial Court is directed to dispose of the case on merit, after giving sufficient opportunities to both sides. The trial Court is further directed to dispose of the said suit on merit without being influenced in any way by any observation made in this judgment touching upon the merit of the case. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

08.07.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
VSD

To

- 1.The I Additional District Judge (PCR),
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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A.S(MD)No.123 of 2024

P.VADAMALAI, J.

VSD

Pre-Delivery Judgment made in
A.S(MD)No.123 of 2024
and
C.M.P(MD)No.6576 of 2024

08.07.2025