

In the Court of the II Additional District Munsif, Nagercoil

Present: Thiru.R.Sundara Kamesh Marthandan,M.L.,
II Additional District Munsif, Nagercoil

Saturday, on this the 3rd day of June 2023

I.A. No. 3 of 2020

in

Original Suit No.24 of 2020

CNR No.TNKK04-000036-2020

1. D.Joselin David
2. K.Francis

.. Petitioners/Plaintiffs

-VS-

1. P.Dhanapal
2. S. Azari
3. L. Rajarethinam
4. P. Vetha George Livingstone
5. D. Amirtha Joy Rajan
6. Church of South India,
Kanniyakumari Diocese, Nagercoil,
rep. by its Bishop, 71-A, Dennis Street,
Nagercoil.
7. The Bishop C.S.I. Kanniyakumari Diocese,
71-A, Denis Street,
Nagercoil.
8. The Pastor, C.S.I. Church,
Paloor.
9. V.Joseph Rajan

.. Respondents/Defendants

This Petition came up before this Court on 27.02.2023, in the presence of Thiru.N.Kanaka Raj Advocate for the Petitioner and Thiru. K. Somasundar Advocate for the Respondents 1 to 5 and Thiru. B.S. Ajay Anand Advocate for the Respondents 6 to 8 and Thiru.Maria Paul Raj Advocate for the Respondent 9, on hearing both sides

arguments and upon perusing the case records and having stood over for consideration till this day, this Court delivers the following.

ORDER

1. The Plaintiffs have filed the above Petition under Order XXVI Rule 9 and Section 151 of C.P.C. seeking an order to appoint an Advocate Commissioner to prepare and genuine voters list for the Paloor C.S.I. Church committee election on the basis of the C.S.I. Kanniyakumari Diocese constitution and the valid eligible members of the Paloor C.S. I. Church and conduct the election.

2. The Petitioners have stated that they have filed the above suit for declaration of election conducted on the basis of defective Voters list dated 26.01.2020 as null and void. The Petitioner stated that they are communicant members of C.S.I. Church, Pallor functioning under Kanyakumari C.S.I. diocese. The Kanyakumari Diocese of C.S.I. is having its own constitution and its rules since 1960. Further various amendments were made during the year 1993, 2002, 2003 and 2011. The object of Kanyakumari Diocese and other bodies are envisaged in chapter I of it's constitution. Chapter II of Kanyakumari Diocese constitution deals with local Churches and other elected bodies to administer the affairs of the Kanyakumari C.S.I. Diocese, under various categories.

3. Further the Church committee of the Church is the basic administrative body and the members of the Church committee shall be the presbyter and other Church worker and elected Deacons of the Church. The Deacons should be elected once in three years and that the Petitioners are one among the Deacons of C.S.I. Church,

Paloor. The 7th defendant Bishop is the spiritual leader, who is empowered to advise, supervise the disciples, he has authority to take disciplinary action. Further the 8th defendant pastor who has enemical terms with the Plaintiffs.

4. The defendants 1 to 5 are Church Committee members of the triennium 2005 to 2008 and that they have indulged in misappropriation and were declared as defaulters. The 8th defendant illegally included the defaulters namely, defendants 1 to 5 in the Voters list and published the tentative Voter list on 19.01.2020, the same was objected to by the Petitioners. Further without removing the defaulters name the 8th defendant published second Voter list on 26.01.2020. In the second Voter list, the name of one A.Kavitha and Christinal are included. They are not eligible members. Even for the Second Voter list, the Petitioners gave objection. However no action was taken. The 8th defendant is the route cause for all trouble and illegalities in the Church. Based on the defective Voter list, the election will be conducted on 02.02.2020, against the constitution. As such the said Voter list has to be declared as null and void. An Advocate Commissioner has to be appointed, to prepare the proper and genuine Voter list and conduct the election. Hence the Petitioners have come by way of the above Petition.

5. The 1st respondent had filed counter and pleaded that the election process was commenced as per the Hon'ble High Court, dated 11.01.2020. The then Secretary Dr. R. Christian Ebenezer filed O.S.No.134 of 2018 and Interlocutory Application to stall the General Body Meeting. Further in O.S. No. 134 of 2018, I.A. No.367 of 2018 was filed seeking to prepare Voter list, the said I.A. was allowed.

6. However the same was challenged before the Hon'ble Madras High Court, Madurai Bench by the Bishop by filing CRP (MD) No. 1412 of 2019. By order dated 23.09.2019, the said CRP was allowed. The respondents have extracted the relevant portion of the Hon'ble High Court order in his pleadings. The respondent had also pleaded that in compliance with the Order of the Hon'ble High Court, the draft Order list was prepared and published on the Church notice board on 19.01.2020. During such time, the Petitioners have not raised any objection. By giving advance notice, the Church General body was convened on 02.02.2020. Further the above suit has been designed by Dr. R. Christian Ebenezer without complying with the Hon'ble High Court order.

7. Further with identical relief an application was filed in O.S.No. 134 of 2018 on the file of Principal District Munsif, Padmanabhapuram. The order passed in I.A. appointing an Advocate Commissioner was set aside by the Hon'ble High Court. Subsequent to the publication of Voter list the Petitioners' men also contested in the election held on 31.01.2021. As such the very Petition prayer has become infructuous. Hence the respondent prayed for dismissal of the above I.A.

8. The point for consideration is whether the above I.A. has to be allowed or not?

9. The respondents contention as to the Order of the Hon'ble Madras High Court, dated 23.09.2019 made in CRP (MD) No. 1412 of 2019, with regard to the very same Church, is not denied are disputed by the Petitioners. Further the Petitioners have not opted to file any reply to the respondents' specific contention that

in pursuant to the Order of the Hon'ble Madras High Court, as stated above, eligible Voter list was published and the General Body Meeting was convened and that the Petitioners' men have contested the same. In such circumstances, for the triennium 2018-2021, the process of preparing eligible Voter list, publishing it and conduct of election were all already done.

10. In such circumstances, the Petitioners' prayer in the above Interlocutory Application had become infructuous and that at this juncture the Petitioners' prayer could not be acceded too.

In the result, the above Petition is dismissed. No cost.

This Order is dictated to the Stenographer and typed by her directly in computer and after making necessary corrections, pronounced by me in the Open Court on this the 3rd day of June 2023.

II Additional District Munsif,
Nagercoil.

Petitioner side witness and document :- Nil.

Respondents side witness and document :- Nil.

II Additional District Munsif,
Nagercoil.

I.A.No.3 of 2020
in
O.S.No.24 of 2020
Fair Order
Date : 03.06.2023