

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. M.Alima, B.A., L.L.M.,
Principal District Munsif, Nagercoil.
Wednesday, on the 18th day of December, 2024.
I.A. No. 2 of 2024 in O.S. No. 47 of 2024

1. Communicant Members of the C.S.I. Church, Kariyavilai,
represented by S. Jeyachandran,
Communicant member, C.S.I. Church Kariyavilai.

2. A. Jeyachandran

... Petitioners / Plaintiffs

1. D. Sunil Prakash
2. C.S.I. Kanyakumari Diocese represented by its Bishop
3. The Bishop, C.S.I. Kanyakumari Diocese, Nagercoil
4. The Pastorate Chairman, C.S.I. Church Kariyavilai, Kariyavilai
5. The Secretary, C.S.I. Church. Kariyavilai, Kariyavilai

... Respondents / defendants

This petition came before this court on 05.12.2024 for a final hearing in the presence of Mr. Raja Ganapathi, learned Counsel for the Petitioners / Plaintiffs and Thiru. T. Dhanapaul, learned counsel for the 1st Respondent/1st Defendant and Thiru. J.J. Chandra Mohan, learned Counsel for the 2 to 5 Respondents/2 to 5 Defendants, Counter not filed, and it was set exparte and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The Petitioner had filed under Order XXXIX Rule 1 and 2 and Section 151 of Code of Civil Procedure, seeking to pass an order of ad-interim injunction restraining the 3rd respondent/defendant from taking any action against the petitioners/plaintiffs under Order XXVIII Section 64 of the constitution of the C.S.I. Kanyakumari Diocese in any manner by removing him from the Primary Membership in the rolls of the Kariyavilai Pastorate Church, in any manner till the disposal of the suit and thereby render justice.

2. Gist of Averments in the Petitioners Petition:

The petitioners are well aware of the case; the petitioners are filing this affidavit for the petition of temporary injunction as well as preventive order of injunction against the 1st respondent/1st defendant. The C.S.I. Kanyakumari Diocese is a Christian Religious Institution, a unit of C.S.I. Synod Trust, Kamnyakumari Diocese is having its own constitution which binds on all the members of the Diocese. Now Kanyakumari Diocese is having around 5 lakh people with more than 550 churches, lot of educational institutions like schools and colleges, hospitals, homes, hostels, industries etc. The Bishop is the Chairman of the Diocese. The Headquarters of the Diocese is situated at No.71 A. Dennis street, Nagercoil. Kanyakumari District. The very preamble of the C.S.I. Kanyakumari Diocese says “We affirm our acceptance of this constitution to which petitioners are fully bound” Since the Diocese has hundreds of

Churches and institutions, the administration over the same is transparent. The administration of these institutions is also by elected/appointed persons of the Diocese. All are fully governed by the constitution, including this petitioners/plaintiffs and respondents/defendants. The petitioners/plaintiffs and 1st respondent/1st defendant are members of Kariyavilai C.S.I. Church. Both are communicant members too. Since C.S.I. Kanyakumari Diocese is more democratic in its administration, as per the Acts and Rules of the constitution, elections are regularly conducted once in three years. For the administration of churches as Deacons election and for the institutions as Diocesan Council Election. In the administration at the Church level or institutional level if anyone is found doing wrong, there are specific provisions in the Diocese Constitution for disciplining them. Since we believe, “ Church is the Body of Christ”, taking action against them is mandatory. The first line of the Preamble of the Diocesan Constitution states, “The Kanyakumari Diocese of the Church of South India acknowledges that the Church is the Body of Christ”. The footnote there says “Church includes all the institutions under the diocese”. Further major institutions are being run by the offerings of the people to the Church. Hence the Institution’s money is God’s money. The persons who operate the institution money should be 100% honest, correct and transparent and answerable to the Church people. The Bishop/Chairman of the Diocese is also bound to take immediate action against the wrong doer, if it is brought to his knowledge.

Otherwise the Bishop/Chairman is also answerable. The case of the petitioner/plaintiff is that 1st respondent/1st defendant Sunil Prakash involved in series of violations of the constitutional provisions, appropriated lakhs and lakhs of institution's money (God's Money) and involved in criminal matters etc. These issues were brought to the knowledge of the Bishop/Chairman, Secretary and Treasurer of the Diocese then and there. But no action has been taken so far. Hence this suit is instituted. The 1st respondent/1st defendant Sunil Prakash is an influential person who got attractive posts/positions in the Church level and in the Diocesan level by shifting his stand then and there and aligned with the key persons of the Diocese and Church depending on the circumstances. His only aim is swindling money on the strength of his positions. The construction of the Church Parsonage building of the Kariyavilai C.S.I Church was made under the direct supervision/control of this Sunil Prakash. No other person was allowed to involve in that project. The then pastor of the Church was also behind him. But anyhow the building was completed in the year 2009. But so far no proper account was settled. This petitioners/plaintiffs and others raised this issue in the Church General Body meetings every year. But this respondents /defendants did not cooperate even for auditing and verification of account books, vouchers etc. This is one of the first violations of the Constitutional Provisions of the Diocese by him. Even after repeated requests/representations to the authorities of the Diocese and the Church then

and there by the petitioners/plaintiffs and others, no action has been initiated so far. Further it is submitted that during the triennium 2012-2015 the 1st respondent/1st defendant held the position of Corporate Manager of the schools of the Diocese. During that period he had collected several lakhs of rupees as Welfare fund. As per the report of the then Corporate Manager, Dr. Chellthurai, dated 08.06.2015, this 1st respondent/1st defendant took away some keys and documents from the Corporate Management office and did not hand over them till date. Here this 1st respondent/1st defendant is having dual membership both in Kariyavilai C.S.I Church and Kavericaudu Neethi Arasar Aalayam which are directly under the control of this 2nd respondent/2nd defendant, Bishop / Chairman of the Diocese. This was also brought to the knowledge of this Bishop. But no action has been initiated in this matter too. With heavy heart it is submitted that this particular 1st respondent/1st defendant, Sunil Prakash had involved in a criminal case as per Crime No.3/2018 of Colachel Police, now pending before the Eraniel Magistrate Court as C.C.No.255/2020. Copy of the FIR in Crime No.3/2018 is enclosed herewith. Apart from the earlier representations to the authorities of the Diocese and the Church, the petitioner/plaintiff strongly protested in the annual general body meetings of the Kariyavilai C.S.I. Church against this 1st respondent/1st defendant charging him with the above mentioned allegations. But the pastor and the secretary of the church ie. the 4th and 5th respondents/defendants also have not initiated any

action purely on account of political reasons. Immediately after the circular issued by the Bishop/Chairman of the Diocese to all Churches regarding the 2024-2027 triennial election of Deacons of the Church dated 22.11.2023, in this Kariyavilai Church also on 14.01.2024 election general body was convened wherein this plaintiff along with some others participated and argued by highlighting the grave irregularities committed by Sunil prakash against the constitutional provisions and misappropriation of Church money and Diocesan money and moved a resolution not to include his name in the Voter's list of the Church election. But it was not considered by the pastor and the Secretary of the Church ie, 4th and 5th respondents/defendants here. On 15.02.2024 this plaintiff made a written representation to the Bishop 3rd respondent/defendant stating all the above charges against Sunil prakash but of no use. Copy of that is enclosed herewith. Since these 4th and 5th respondents/defendants colluded with the 1st respondent/defendant Sunil Prakash, this petitioner/plaintiff sent a registered letter to the Bishop dated 20.02.2024 in this matter` for which the Bishop had not initiated any action. A copy of that registered letter along with the postal receipt is produced herewith. Followed by the letter this petitioner/plaintiff had sent a legal notice through his Advocate Mr. Arul Edwin Jegam dated 29.02.2024, wherein also very clearly stated the reasons so as to remove the name or Sunil Prakash from the Voter's list. Further it is stated that in the event of failure in taking steps by the Bishop, the Church election scheduled to be held

on 03.03.2024 would be challenged through court of law. For that also the Bishop/Chairman kept quiet. Now this petitioner/plaintiff submitted that apart from the series of earlier submissions of the plaintiff to the authorities of the Diocese in this matter, his legal notice can be treated as the last such remedy exhausted by this petitioner/plaintiff as per the Constitution Chapter II Sec.18.1 for filing this suit. Without considering the protest and objections of this peittiioner/plaintiff and some others the election of Church Deacons was conducted on 03.03.2024 wherein this 1st respondent/1st defendant Sunil Prakash also contested and won as one of the deacons. During the time of selecting Diocesan Council members, Sunil Prakash was also given a Diocesan Council membership. After the declaration for the Deacons Election in the Church, this petitioner/plaintiff made a representation in writing to the Bishop/2nd respondent/2nd defendant dated 14.03.2024 in person styled as Election petition as pet the Constitution along with Rs.3000/- in cash as fee for the Election petition. On reading the contents of the said petition, the Bishop shared that, it is purely a constitutional issue which should be seriously viewed, not as an Election petition and agreed to enquire this matter. Bishop immediately called all the records from the Church and the Diocesan office in the presence of the petitioner/plaintiff itself and promised to take action and hence did not receive the said fee amount of Rs.3000/-. This petitioner/plaintiff understands that the pastor of Kariyavilai C.S.I Chuch, 4th respondent/4th defendant and the

Secretary of Kariyavilai C.S.I. Church, 5th respondent/5th defendant and the Diocesan office staff had submitted all the records related to 1st respondent/1st defendant Sunil Prakash. But now also because of the influence of Sunil Prakash it is learnt that, Bishop had again put the matter in dust bin. It is the fear of the petitioner/plaintiff that since Sunil Prakash is an influential person, the 2nd respondent/2nd defendant will not initiate any action against him. On 24.03.2024 Sunday this 1st respondent/1st defendant challenged this with the petitioner/plaintiff in the presence of some other members of the Church. Moreover it is the time for the notification of the Diocesan Council meeting for the triennium 2024-2027. If this 1st respondent/1st defendant, Sunil Prakash is allowed to participate in the Diocesan Council for this triennium also, the entire case of this petitioner/plaintiff will become infructuous. Hence this suit is filed urgently by the petitioner/plaintiff with the available record. Other supportive documents are only in the custody of the Church and the Diocesan authorities which could be called for during the time of enquiry. The suit is filed for declaration that this 1st respondent/1st defendant Sunil Prakash is being attracted under the Constitutional provisions of the Diocese Chapter II Sec. 18.1, 18.4 & 18.5 along with Chapter II Sec. 13.2. 1st respondent/1st defendant Sunil Prakash has to be removed from the Kariyavilai C.S.I Church roll on the ground of forfeiture of membership. Further for permanent injunction praying not to permit him to participate in the Church Committee of the Kariyavilai C.S.I.

Church and in the ensuing Diocesan Council of the Diocese for the triennium 2024-2027 and also in the subsequent years. This petitioner/plaintiff is filing this suit for himself and for and on behalf of the other members of the Kariyavilai C.S.I Church for this common cause and for safeguarding the rights and privileges entrusted by the Diocesan Constitution. The Bishop/Chairman is representing the Diocese in all matters especially in connection with the protection of the constitution of the Diocese. A separate petition is filed under order 1 Rule 8 of the C.P.C. seeking permission of the court to file the suit by and against the respondent/defendants and the same is to be allowed in the interest of justice. Further because of urgency as the notification for the Diocesan Council may come at any time, this suit is filed urgently against the Bishop of the Diocese and the Pastor and Secretary of the Church, prior permission is not obtained. But legal notice was sent on 29.02.2024 wherein filing of this suit is mentioned. There is no disagreement from the side of the Bishop for that legal notice so far. Hence, it can be taken as permission is granted to file this suit. Anyhow a separate petition for permanent injunction against 3rd respondent/3rd defendant, the Bishop/Chairman not to invoke Chapter XXVIII Sec.64 of the Diocesan Constitution. Hence it is highly necessary to pass an order of temporary injunction restraining the 3rd respondent/3rd defendant from taking any action against the Petitioner/Plaintiff under Order XXVIII Section 64 of the constitution of the C.S.I. Kanyakumari

Diocese in any manner by removing him from the primary membership in the rolls of the Kariyavilai Pastorate Church. Hence, the petition is to be allowed.

3. The Respondents were set ex parte in this petition.

4. The point for consideration is whether the above petition has to be allowed or not?

5) Point:

Petitioner side heard. The Respondents were set ex parte in this petition.

6) The original suit has been filed by the plaintiffs for declaration that this 1st defendant is well attracted under C.S.I. Kanyakumari Diocesan Constitutional provisions in Chapter II Sec.18.1, 18.4, 18.5 and in Chapter II Sec.13.2 for the purpose of forfeiture of membership from the C.S.I. Kanyakumari Diocese and for mandatory injunction directing the Bishop, 2nd defendant to remove this 1st defendant's name from the roll of the Kariyavilai C.S.I Church on the ground of forfeiture of membership and for permanent injunction restraining the 3rd defendant from taking any action against the Petitioner/Plaintiff under Order XXVII Section 64 of the constitution of the C.S.I.Kanyakumari Diocese in any manner by removing him from the Primary Membership in the rolls of the Kariyavilai Pastorate Church and for permanent injunction restraining this defendant from participating in the Church Committee meeting of the C.S.I Kariyavilai or in the ensuing Diocesan Council meeting of

the C.S.I. Kanyakumari Diocese.

7) The petitioners have filed the above petition seeking an order of ad interim injunction restraining the 3rd respondent/defendant from taking any action against the petitioners/plaintiffs under Order XXVIII Section 64 of the constitution of the C.S.I. Kanyakumari Diocese in any manner by removing the petitioner from the Primary membership in the rolls of the Kariyavilai Pastorate Church in any manner till the disposal of the suit.

8) The petitioner had sought an interim injunction against the 3rd Defendant from invoking Chapter XXVIII Section 64 CPC of the Constitution of C.S.I. Kanyakumari Diocese. The same has been filed Plaint Document No. 1. On perusal, the said section stipulates that a person. belonging to the Church, if without seeking remedies that are provided in this Constitution, files a civil case in regard to any Church matter against a Church or against the Diocese Council or any of its subordinate bodies or any of its other officers, his name will be ipso facto removed from the Church Rolls and other registers of the Church.

9) The Petitioner contended that prior to filing the above suit, the Petitioner had approached the 3rd Defendant by his letters dated 15.02.2024, 20.02.2024 and legal notice dated 29.02.2024 and another letter dated 14.03.2024 and requested the 3rd Respondent/Defendant to redress his

grievance, and that in spite of that representation made to the 3rd Respondent/Defendant, he had not acted upon it till date, and as such, having waited for over one month, the Petitioner filed the above suit.

10) In view of the fact that the Petitioner had approached this Court after approaching the 3rd Respondent/Defendant, this Court is of the considered view that the Petitioner has made out a prima facie case. If citing Chapter XXVIII Rule 64, if the Petitioner is removed from primary membership, he will be put in a possession from which he cannot retrieve back to the position enabling him to proceed further in the suit. Hence, the balance of convenience and irreparable injury are also in favor of the petitioner.

11) This petition, the respondents were ex parte. If the respondents have any objections to the petitioner's petition, it is their duty to present the case to this court. But the respondents, after knowledge of this petition, have not chosen to file a counter in this petition. The presumption is also in favor of the petitioner.

12) The suit is in its preliminary stage. If the order is not granted in favour of the petitioner, the respondent should remove the petitioner from the primary membership in the rolls of the Kariyavilai Pastorate Church, and it will cause irreparable loss to the petitioner. If the petition is allowed, no prejudice will be caused to the respondents. The respondents have to prove their case at the time

of evidence. The petitioner is entitled to the relief prayed for.

13) As a Result:

This court is inclined to grant an interim injunction restraining the 3rd respondent/defendant from taking any action against the petitioners/plaintiffs under Order XXVIII Section 64 of the constitution of the C.S.I. Kanyakumari Diocese in any manner by removing the petitioner from the primary membership in the rolls of the Kariyavilai Pastorate Church in any manner till the disposal of the suit. No costs.

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 18th day of December, 2024.

Principal District Munsif
Nagercoil.

List of witness and documents for Petitioners side : Nil

List of witness and documents for Respondent side : Nil

Principal District Munsif
Nagercoil.

PDM, Nagercoil.

Draft/Fair common Order

I.A.No. 2/2024 &

O.S.No.47/2014

Date: 18.12.2024.

