

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

CLAIM NO HC-2015-000150



BEFORE Mr. Mark Cawson QC (Sitting as a Deputy High Court Judge)
Monday 26th June 2017

HC-2015-000150

B E T W E E N :

- (1) REVEREND BERHANU BISRAT
- (2) DEACON DEREJE DEBELLA
- (3) DEACON MAHADER KASSA
- (4) DEACON ENGEDAWORK GEBREEGZIABER
- (5) GENERAL HAILU BERWAK MIRGA
- (6) MRS AREGASH GEBRE KIDAN
- (7) MR GIRMA HAILE-MARIAM
- (8) MR SHUMET MENGISTIE
- (9) MR MEKU GETACHEW Claimants

- and -

- (1) ARCHIMANDRITE ABA GIRMA KEBEDE
- (2) REVEREND ABATE GOBENA
- (3) MRS BETHELEM TADESSE
- (4) REVEREND DAWIT ABEBE WORKU
- (5) MR ABENER AMENSHOWA
- (6) MR DAWIT HABTEMARIAM
- (7) MR NIGUSSIE ASRESS
- (8) ARCHDEACON DAWIT WOLDETSADIK
- (9) MR FASIEL BEKLE
- (10) MR HENOK GEBREMICHAEL
- (11) MR ASCHELEW KEBEDE
- (12) MS TIGIST TADESSE
- (13) MR TAYE HAILU ZELEKE
- (14) HER MAJESTY'S ATTORNEY GENERAL Defendants

ORDER

UPON THE TRIAL of the Preliminary Issue ordered to be tried by Order dated 18th May 2017 (“**the Preliminary Issue**”) taking place before Mr Mark Cawson QC (sitting as a Deputy High Court Judge) on 20th, 21st, 22nd and 26th June 2017 at the Business and Property Courts, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL;

AND UPON hearing Mr.Franklin Evans of Counsel for the Claimants and Mr.Matthew Smith of Counsel for the Second, Third, Fourth, Seventh, Eighth, Ninth, Tenth and Eleventh Defendants (“**the Charity Defendants**”);

AND UPON the Court hearing the evidence of the witnesses listed in the First Schedule to this Order;

AND UPON THE COURT taking time for reflection;

IT IS DECLARED THAT:-

1. On the footing that 1992 Trust Deed is effective to create a trust, and in the events that have occurred, the reference within the recital to the 1992 Trust Deed to “the Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the Patriarch thereof” of which the Church was described as a branch, means The Ethiopian Tewahedo Orthodox Church Holy Synod operating in Addis Ababa under the spiritual jurisdiction of the Patriarch elected and recognised from time to time by that Holy Synod as Patriarch;

AND IT IS ORDERED THAT:-

2. The Claimants are to pay the Charity Defendants costs of the question at paragraph 10(2) of the Part 8 Claim Form and of the Preliminary Issue to be subject to detailed assessment if not agreed;

3. Those costs which the Charity Defendants are to pay to the Claimants in respect of the committal proceedings under the Order of Arnold J. dated 26th March 2015 are to be set off against the Claimants' liability to pay the costs directed by paragraph 2 above;
4. The Charity Defendants have permission to apply (on paper if appropriate) for a payment on account of the costs directed to be paid under paragraph 2 above;

AND UPON THE PARTIES being agreed in principle and subject to the approval of the Charity Commission for England and Wales ("**the Commission**") that an administrative Scheme shall be brought forward making provision for, or otherwise facilitating, the transfer of the Charity's assets to a new Charitable Incorporated Organisation ("the proposed CIO") whose constitution is to be agreed between the parties or, in default of agreement, settled by the Court but having the same or substantially the same charitable objects as at present;

AND UPON THE PARTIES agreeing the terms of the Second Schedule hereto;

AND UPON THE CLAIMANTS agreeing to seek the consent of the Commission pursuant to section 115 of the Charities Act 2011 (in so far as required) as soon as possible to authorise the further steps within these proceedings contemplated by this Order;

AND UPON THE CHARITY DEFENDANTS agreeing to co-operate (where necessary) to procure the said consent of the Commission as soon as possible;

IT IS FURTHER ORDERED THAT :-

5. The proceedings are reserved to Mr. Mark Cawson QC (sitting as a Deputy High Court Judge);
6. The proceedings are adjourned to the first open date convenient to the parties and Mr Mark Cawson QC after 1 October 2017 with a time estimate of 1 day but the parties are to incur no costs in relation to these proceedings between now and the date of that adjourned hearing save for complying with the steps contemplated by this Order or set out in the Second Schedule hereto;
7. The parties have liberty to apply in relation to the carrying of this Order into effect;

AND IT IS FURTHER ORDERED THAT:-

8. The interim arrangements for the sharing of access to the Church Premises as ordered by HHJ Purle QC on 13th February 2015 and as modified by Order of Arnold J. dated 27th March 2015 and as continued by further Order of Arnold J. dated 17th April 2015 are to continue until the adjourned hearing directed by paragraph 6 above or further order.

FIRST SCHEDULE

The witnesses giving oral evidence on the Preliminary Issue were:

For the Claimants:-

- (1) Mr. Getachew Beshahwred;
- (2) Mr. Zelealem Tessema
- (3) Rev. Berhanu Bisrat

For the Charity Defendants:-

- (4) Rev. Dawit Worku;
- (5) Rev. Gebre-Georgis Dimtsu;
- (6) Rev. Liqe Teguhan Tekle Mariam Edwards;
- (7) Rev. Kefeyalew Aschelew.

SECOND SCHEDULE

The timetable for reaching agreement and identifying points of disagreement on the terms of the proposed CIO is agreed as follows:-

- (1) The Charity Defendants shall serve on the Claimants a substantially complete draft of the proposed form of a CIO by 4.00pm on 13 July 2017;
- (2) The Claimants shall serve on the Charity Defendants any proposed amendments thereto by 4.00pm on 10 August 2017;
- (3) The Parties have a further period of 28 days in which to discuss negotiate and reach agreement;
- (4) If agreement is not reached then each party is by 21 *September 2017* to prepare a Schedule of Clauses agreed and Clauses not agreed, and in relation to each Clause Article which is not agreed:-
 - (a) the reasons why it is not agreed;
 - (b) the provision which that party contends should replace it.

(5) The Claimants' solicitors are in any event to apply for the listing of a Directions appointment before Mr. Mark Cawson QC so soon as may be convenient to all parties and the Court after the commencement of Michaelmas Term 2017 (1st October 2017) in order that further directions may be given.

9. This order shall be served by the Claimants on the Defendants.

Dated this 26th day of June 2017

Service of the order

The court has provided a sealed copy of this order to the serving party: Wellers Law Group LLP at 65 Leadenhall Street, London EC3A 2AD

(Reference: AMA/24523/1).