

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. 1994/E008

BETWEEN THE ETHIOPIAN ORTHODOX CHURCH CLAIMANT
 IN JAMAICA

AND LLOYD DOBSON DEFENDANT
 (Administrator AD LITEM of the Estate of
 ABUNA YESEHAQ)

Mr. Raphael Codlin, Mrs. Jacqueline Samuels-Brown and Mrs Tameka Jordan
instructed by Mrs. Jacqueline Samuels-Brown for the Claimant.

Mr. Earl Witter, Mr. Barry Frankson and Ms. Kadian Lewis for the Defendant.

HEARD: 28TH to 31ST May, 2007, 1ST June, 2007

CAV 15TH June, 2007

CORAM; D. O. MCINTOSH J.

This case concerns another schism in the church. This church is the
Ethiopian Orthodox Church .

In particular, this concerns the Ethiopian Orthodox Church in Jamaica.

This court was pleased to find that, by and large, the many witnesses,
whether for the claimant or the defendant were witnesses of truth. Any

discrepancies were minor and were no doubt attributable to the passage of time and/or lapse of memory.

Essentially the facts relied on by both parties are therefore not in dispute.

What must be lamented is the fact that these parties have had to resort to the courts to settle their differences but it is simply tragic (to put it mildly) that this action, first brought on the 26th January 1994, has only now had a hearing.

Given the particular issues involved, it is feared that neither party will feel that justice has been done, regardless of the outcome of this trial.

The Ethiopian Orthodox Tewahedo Church (hereafter called the Mother Church) is the Premier Christian Church of Ethiopia and has its headquarters in the capital of that country, Addis Ababa.

This Mother Church could be regarded as the maternal church of Ethiopia. The "Patriarch" is the head of the Mother Church and he has authority over all the administrative and ecclesiastical matters of the church with the assistance of the Council of Bishops (The Holy Synod).

There is an Administrative Board of Governors whose responsibility is to manage the church's finance and property. This administrative board is presided over by the Patriarch and any decisions by the Board is subject to the approval of the Patriarch.

The Mother Church has branches throughout the world. All these churches are subject to the authority of the Mother Church in Ethiopia whose seat is in Addis Ababa.

Each region in which there is a branch is called a Diocese. Each diocese has as its head, an Archbishop who would be a member of the Council of Bishops (The Holy Synod) of the Mother Church. The Archbishop has authority over religious and secular affairs in his diocese but is subject to the authority of the Mother Church (that is, the Patriarch and the Episcopacy).

By Act 11 of 1978, the Ethiopian Orthodox Church in Jamaica was incorporated. At the time it was a part of the diocesan area designated "The Western Hemisphere". This area included the West Indies, South America, Canada, England, Bermuda and the United States of America.

The Diocesan Archbishop was His Eminence Abuna Yesehaq. As a ruler of the diocese assigned to him he is assisted by a Bishop who is assisted by an Episcopos (the Bishop's deputy).

Each country has a board of directors appointed by the Archbishop to manage the secular administration of the church. This includes the general finance and property of the Archdiocese.

The General Council of the church in each country shall be the sole controlling body in that country, in matters pertaining to finance and property.

This General Council is comprised of:

1. The Head Priest [administration].
2. Priest-in-charge of each branch church
3. Officers of the sub-committee or Trustees.
4. Delegates of Members.

With the exception of the ordained Priests all other officers must be elected every three (3) years.

At the time of the appointment of Archbishop Abuna Yesehaq, the Patriarch was Abuna Tekle Haimanot. Upon his death, he was survived by Abune Merkorios who was enthroned on the 4th September, 1988. Abuna Merkorios is still alive and should be living somewhere in the United States of America.

On the 12th July, 1992 Abuna Paulos was elected Patriarch by the Holy Synod after the purported resignation of Merkorios.

A change was made in the region known as the Western Hemisphere. The synod decided it covered too large an area and divided it in about March of 1973. Jamaica was included in the now designated, "Caribbean and Latin America".

The first Archbishop appointed to this area was Abuna Gabriel who was succeeded by Abuna Thaddeus.

The defendant to this suit and his supporters were members of the Ethiopian Orthodox Church in Jamaica at the time that Abuna Yesehaq was Archbishop of the Western Hemisphere. Like him, they opposed the authority of the Holy Synod of the Ethiopian Orthodox Church of Addis Ababa to appoint Abuna Paulos as its Patriarch and ultimately they remain in opposition to the authority of the Patriarch and the Holy Synod in Addis Ababa over the affairs and administration of the Ethiopian Orthodox Church of Ethiopia.

They regard the former Abuna Merkorios as still being Patriarch, although the evidence indicates that he was excommunicated by the Ethiopian Orthodox Church and does not refer to himself or hold himself out as their Patriarch.

It seems to me a very simple matter. Persons who belong to any society who do not adhere to the rules of the administration would not, should not and, indeed, cannot, call themselves a part of that organization.

This, over the centuries has culminated in there being myriads of denominations within the Christian church. When there is this separation, then, those persons who have separated themselves should go their separate way and should not seek to call themselves by the name of the organization from which they have removed themselves or maintain any of their property or trappings.

The defendant however seeks to eat his cake and have it. He declares that disputes in Ecclesiastical matters must be settled by the Synod of the Ethiopian Orthodox Church while refusing to accept the authority of the Holy Synod to do so; that the church in Jamaica belongs to the people of Jamaica and has nothing to do with the Archbishop elected by the Holy Synod and that the Board of Trustees is responsible for the administration of this church.

Conveniently, the defendant forgets that this Board of Trustees must be comprised of people chosen through the relevant Archbishop whom the defendant and his followers have rejected.

Instead the defence prays in aid that the question of the church's property must be settled by the law of this country.

Act 11, of 1978 by virtue of which the Ethiopian Orthodox Church in Jamaica was incorporated does speak to a Board of Trustees in section 3. It also speaks to this Board enjoying perpetual succession and it speaks to provisions for the recording of the appointment to the board.

There is in evidence a certificate of appointment dated the 3rd May, 1993. This certificate has been duly executed and registered in accordance with section 4, of the Act. The persons named therein must be the 'Lawful Trustees' of the Ethiopian Orthodox Church in Jamaica and the persons entitled to hold property on behalf of the Ethiopian Orthodox Church.

It is a pity that the church in Jamaica is split because some want to follow Merkorios and others, Paulos. The fact which should be obvious is that Merkorios is no longer a part of the church. If they are maintaining their allegiance to him, they are also no longer members or a part of the church.

This Court will enter judgment for the claimant and orders:

1. that the defendant, his agents and/or servants hand over to the claimant all property in their possession or control belonging to the Ethiopian Orthodox Church in Jamaica, forthwith.
 2. that an injunction is hereby granted restraining the defendant, his servants and/or agents from occupying, entering or otherwise interfering with the property of the Ethiopian Orthodox Church in Jamaica.
- that the defendants, his servants and or agents do nothing to prevent or

interfere with persons who wish to worship in the Ethiopian Orthodox Church in Jamaica.

3. that costs be to the claimant to be taxed if not agreed.

On 15/6/07

Defendant's application for stay of execution refused.

