

Drake v Moulton Mem. Baptist Church of Newburgh, N.Y.
2010 NY Slip Op 32823(U)
September 22, 2010
Sup Ct, Orange County
Docket Number: 4631-2010
Judge: Lewis Jay Lubell
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Disp

To commence the 30 day statutory time period for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties

**SUPREME COURT OF THE STATE of NEW YORK
COUNTY OF ORANGE**

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DEBRA DRAKE and DAWN STEINS,
Individually and on behalf of the
MOULTON MEMORIAL BAPTIST CHURCH OF
NEWBURGH, NEW YORK,

Plaintiff(s),

-against -

MOULTON MEMORIAL BAPTIST CHURCH OF
NEWBURGH, NEW YORK, REV. DERRICK LOPEZ,
JEANNE GRAHAM, JOHN HOMAN, JAMES NELSON,
JACQUELINE HEY, DARRYL HEY, PATRICIA
GOULD, LINDA MOSES, C. JAY HASBROUCK,
BARBARA TAYLOR, OLIVIA LIEBOWITZ, and
HON. ANDREW M. CUOMO, ATTORNEY GENERAL
OF THE STATE OF NEW YORK,

Defendant(s).

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LUBELL, J.

DECISION/ORDER

Index No. 4631-2010

Motion Date: 7-30-10

The following papers were considered in connection with this motion by defendants for an Order dismissing plaintiffs' complaint pursuant to CPLR §3211(a)(2) and 3211(a)(7), upon the grounds that the Court lacks jurisdiction of the subject matter of the causes of action and that the complaint fails to state a claim upon which relief can be granted, and for such other, further and different relief as this Court may deem just and proper:

PAPERS	NUMBERED
Motion/Affirmation/Exhibit	1
Affirmation in Opposition/Affidavits/Exhibits A-C	
Memorandum of Law	2
Reply Affirmation/Affidavit	3

Plaintiffs, Debra Drake and Dawn Steins, are former trustees of Moulton Memorial Baptist Church of Newburgh, New York ("Moulton

Memorial"). They bring this action on their own behalf and on behalf of Moulton Memorial against Moulton Memorial, Moulton Memorial's Pastor, Rev. Derrick Lopez ("Rev. Lopez") and the remaining individual defendants, all of whom are trustees of Moulton Memorial, for declaratory and injunctive relief, and monetary damages based upon alleged breach of fiduciary duty, violations of various statutes, defamation and prima facie tort.

The action evolves from, among other things, plaintiffs' alleged good faith efforts to manage the financial affairs of Moulton Memorial, the disputes related to same, and their alleged illegal removal as trustee of Moulton Memorial by the defendants herein. The issues raised include whether plaintiffs were afforded procedural due process, whether or not Rev. Lopez violated church procedures and practices with respect to issues related to the hiring of personnel, whether or not plaintiffs were singled out and, if so, what may have motivated such conduct.

Defendants now move for dismissal pursuant to CPLR §§3211(a)(2) and (a)(7) on the grounds that the Court lacks jurisdiction over the subject matter of the causes of action and that the complaint fails to state a claim upon which relief can be granted.

"The First Amendment prohibits a civil court from conducting an inquiry into religious law, beliefs, or internal hierarchy . . . , resolving disputes over a religious group's membership requirements . . . , or inquiring into religious disputes . . . [citations omitted]" (Congregation Yetev Lev D'Satmar, Inc. v. Kahana, 31 A.D.3d 541, 542 [2d Dept., 2006]). As such, [i]t is settled law that the civil courts should not intervene in ecclesiastical matters such as church governance even though rights to church property may be affected incidentally" (Upstate New York Synod of Evangelical Lutheran Church in America v. Christ Evangelical Lutheran Church of Buffalo, Also Known as Christ Lutheran Church of Buffalo, Also Known as Evangelical Lutheran Church, and Also Known as Christ African American Lutheran Church, 185 A.D.2d 693, 694 [4th Dept, 1992], citing Serbian Orthodox Diocese v Milivojevich, 426 US 696, reh denied 429 US 873). "[R]eligious freedom encompasses the 'power [of religious bodies] to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine' " (Serbian Orthodox Diocese v Milivojevich, 426 U.S. 696, 721-722, quoting Kedroff v St. Nicholas Cathedral, 344 US 94, 116).

[Nonetheless], courts have in limited circumstances accepted responsibility to adjudicate certain disputes involving

religious organizations where it felt comfortable that it could avoid "excessive government entanglement with religion" which truly threatens private liberty and public order alike (Walz v. Tax Comm. of City of N.Y., 397 U.S. 664, 674, 90 S.Ct. 1409, 25 L.Ed.2d 697). Specifically, where the matter to be decided does not involve questions of discipline and doctrine but is a temporal matter, the court may inquire and consider same in the light of the civil contractual rights and obligations of the parties (see Kupperman v. Congregation Nusach Sfard, 39 Misc.2d 107, 240 N.Y.S.2d 315).

(Application of Congregation Yetev Lev D'Satmar, Inc. v. Kahan (5 Misc.3d 1023(A) [Sup. Ct., Kings County, 2004]). The "neutral principles of law" analysis has been employed in contract cases touching upon religious concerns and in connection with church property disputes to allow courts to decide "such disputes if they can do so without resolving underlying controversies over religious doctrine" (Park Slope Jewish Ctr. v Congregation B'nai Jacob, 90 NY2d 517, 521 [1997]). In the end, however, the "substantial danger" that the state will become entangled in religious controversy must be avoided (Congregation Yetev Lev D'Satmar, Inc. V Kahana, 9 N.Y.3d 282 [2007]).

Therefore, in a case where a CPLR article 78 proceeding was brought to challenge the results of a special meeting at which the Antioch Baptist Church voted to disband the church's senior choir, the lower court dismissed the proceeding, noting that disputes involving questions of church discipline and ecclesiastical rule needed to be decided by the church judicatory, and not the courts (Mays v. Burrell, 123 A.D.2d 714 [2d Dept., 1986]). Upon affirming the lower court's determination, the Appellate Division stated:

The determination dismissing the proceeding was proper. It is well established that absent the invasion of civil or property rights, courts will not interfere with matters such as the instant one, concerning the internal affairs of a church (see, Rector, Churchwardens & Vestrymen of Church of Holy Trinity v. Melish, 4 A.D.2d 256, 164 N.Y.S.2d 843, *affd.* 3 N.Y.2d 476, 168 N.Y.S.2d 952, 146 N.E.2d 685; Rector, Churchwardens & Vestrymen of Christ's Church at Pelham v. Collett, 208 App.Div. 695, 204 N.Y.S. 315, *affd.* 240 N.Y.

563, 148 N.E. 706; Waller v. Howell, 20 Misc. 236, 45 N.Y.S. 790).

With all due deference to this constitutional principle and upon examination of the nature of the dispute and the totality of the circumstances of this case, the Court concludes that the issues sought to be litigated here cannot be decided upon the mere application of neutral principles of law (see Jones v. Wolf, 443 U.S. 595, 99 S.Ct. 3020, 61 L.Ed.2d 775, cert. denied 444 U.S. 1080, 100 S.Ct. 1031, 62 L.Ed.2d 763; Avitzur v. Avitzur, 58 N.Y.2d 108, 459 N.Y.S.2d 572, 446 N.E.2d 136, cert. denied 464 U.S. 817, 104 S.Ct. 76, 78 L.Ed.2d 88). Instead, resolution of such matters would necessarily require the Court to impermissibly delve into issues such as church leadership, direction, doctrine, discipline and control (see, also, Congregation Yetev Lev D'Satmar, Inc. v. Kahana (31 A.D.3d 541 [2d Dept., 2006] ["dispute over the rightful Board of the Congregation Yetev Lev D'Satmar, Inc. . . . and whether the respondents' election violated the Religious Corporations Law cannot be decided by application of neutral principles of law"])).

Based upon the foregoing, it is hereby

ORDERED, that the complaint be and is hereby dismissed in all respects.

The foregoing constitutes the Opinion, Decision, and Order of the Court.

Dated: Goshen, New York
September 22, 2010

S/ _____
HON. LEWIS J. LUBELL, J.S.C.

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