(2014) 09 MAD CK 0183

In the Madras High Court

Case No : Writ Petition Nos. 13955 and 28718 of 2010

A.C. Chandrashekar APPELLANT

Vs

District Collector RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60
Criminal Procedure Code, 1973 (CrPC) — Section 145
Transfer of Property Act, 1882 — Section 6(h)

Citation : (2014) 8 MLJ 93 : (2015) WritLR 486

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Judgement

T. Raja, J.—Challenging the impugned proceedings dated 31.3.2010 passed by the Principal Secretary and Commissioner of Land

Administration, Chennai, two writ petitions have been filed. The first writ petition in W.P. No. 13955 of 2010 has been filed by Mr. A.C.

Chandrashekar, the trustee of Sri Anjaneya Swamy Temple Charitable Trust and the second writ petition in W.P. No. 28718 of 2010 has been

filed by the Executive Officer of Arulmigu Anjaneya Swamy Temple, Mathigiri Town Panchayat, Hosur Taluk challenging the above proceedings.

Mr. M. Venkatachalapathy, learned senior counsel appearing for the petitioners in both the writ petitions contended that the land in Survey No.

566 having an extent of 2.89 acres and the land in Survey No. 692 having an extent of 0.32 acres originally belonged to Sri Anjaneyaswamy

Temple, Mathigiri Village. The said village being an inam village, the above lands were taken over by the Government under the provisions of the

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act No. 30 of 1963) (for short ""the Act""). Thereafter, the Settlement Tahsildar No. 1, Salem, in his proceedings dated 30.7.68, granted ryotwari patta in the name of Mr. Venkatachari, S/o Venkata-

saiah for the above lands as a service holder of the religious institution (Anjaneyaswamy Temple) at Chinnakoothur under Section 8(2)(ii) of the

Act, subject to the condition that he performs service to the temple as per the terms of the original grant. Adding further, the learned senior counsel

submitted that after the demise of the said Mr. Venkatachari, his son Mr. Kesavamoorthy, the contesting respondent started alienating the property

by way of executing a gift settlement deed dated 20.12.2004 in favour of his daughter Kalpavalli, on the premise that the said lands belonged to

him ancestrally and the patta, which was standing in the name of his father, had been transferred to his name pursuant to the death of his father. The

said transfer of patta is illegal, for the simple reason that the earlier patta was granted to the father of the contesting respondent only as a service

holder of the temple. The contesting respondent has further wrongly settled the suit lands in the name of his family members, who in turn alienated

the lands in favour of other persons. Thereafter, fraudulent documents were created in respect of the suit lands. Specifically speaking, one

Kalpavalli had executed the sale deed dated 14.2.2006 in favour of four persons viz., Mr. K.R. Sridhar and others, who had in turn by the sale

deed dated 20.12.2006 sold the same to Ms. Sowbhagyammal, W/o Abaresai Kesavamoorthy. Again the contesting respondent had gifted the

property to one Sree Bharathi Anuman Charitable Koil Trust on 21.7.2004. Again he had cancelled the same on 25.1.2005. After cancellation,

the contesting respondent had entered into an agreement with Bhaktha Hunuman Charitable Trust. In this limited period of three years, there were

more than ten fraudulent documents created in respect of the suit lands in an effort to grab the same.

2. Continuing his arguments, the learned senior counsel stated that presently only the idol of Sri Anjaneyaswamy is standing and being worshipped

by the villagers, however, irrespective of the sanctity and fear of god, the land grabbers are attempting to demolish the statue including the temple in

order to lay house sites for sale. To achieve the said object, when they approached the lands with bulldozers, the public and the office bearers of

the temple thwarted their attempt. In the meantime, one Mr. Muthuraj, Ward Member of Mathigiri village filed a public interest petition in W.P.

No. 2317 of 2008 before this Court. This Court, by order dated 29.1.2008, directed that if the lands had been identified to be encroached by

several persons, it can be brought to the notice of the Assistant Commissioner, Hindu Religious and Charitable Endowments Department for taking

appropriate action. In this context, the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Dharmapuri, in his

proceedings dated 17.3.2008, made complaints to the Sub Collector, Hosur that the suit lands were registered in the names of six persons and in

the name of panchayat and requested the Sub-Collector to cancel the allotments and register the lands in the name of the temple. On the basis of

the complaint received from the Assistant Commissioner and on the basis of the report of the Sub Collector, Hosur dated 23.4.2008, the District

Revenue Officer, Krishnagiri passed an order on 30.9.2008 holding that the lands belonging to the temple were wrongly registered in the name of

the contesting respondent during the updating registry scheme, hence, the gifts and the sale documents executed by him and his family members

were invalid. Aggrieved by the same, the contesting respondent filed a revision petition. The Principal Secretary and Commissioner of Land

Administration, by the impugned order, wrongly setting aside the order passed by the District Revenue Officer, ordered the registration of the lands

in S. Nos. 566 and 692 of Mathigiri village as per the orders of the Settlement Tahsildar No. 1, Salem dated 30.7.68, on the ground that once the

inam lands were taken over by the Government under the provisions of the Act, the Settlement Tahsildar No. 1, Salem has rightly allowed ryotwari

patta in favour of Mr. Venkatachari, the father of the contesting respondent, as a service holder of the temple under Section 8(2)(ii) of the Act,

subject to the condition that he performs service to the temple as per the terms of the original grant, therefore, if any one is aggrieved by the grant

of ryotwari patta by the Settlement Tahsildar, an appeal against the decision made by the Settlement Tahsildar under Section 8 of the Act lies with

the Inam Abolition Tribunal. Since no one including the Hindu Religious and Charitable Endowments Department appealed against the order

passed by the Settlement Tahsildar, the said order has attained finality, hence, the District Revenue Officer had no power.

3. Concluding his arguments, the learned senior counsel further submitted that when the lands in S. Nos. 566 and 692 are inam lands belonging to

the Chinnakothur Anjaneyaswamy Temple, no one has any alienable right and title on the said properties. While so, the Settlement Tahsildar,

before granting patta, ought to have given notice to the temple authorities under Section 11(2)(a)(ii) of the Act. But without doing so, the

Settlement Tahsildar No. 1, Salem wrongly conducted an enquiry, which nullify the proceedings on the ground of violation of the principles of audi

alteram partem. Since the entire proceedings were conducted without notice to the temple authorities, they were not having any knowledge,

therefore, no one including the petitioners had a chance to appeal against the order passed by the Settlement Tahsildar, hence, the approach

adopted by the Principal Secretary and Commissioner of Land Administration that the order passed by the Settlement Tahsildar has attained

finality, cannot stand to reason. When admittedly the lands belonging to the temple have been sold away indiscriminately by the contesting

respondent and moreover the alienation of the property has been admitted by the contesting respondent, in paragraph-12 of the impugned order,

that he has sold the suit lands to other persons, the Principal Secretary and Commissioner of Land Administration ironically and deliberately,

holding that there was no proof that he failed to render service to the temple, erroneously set aside the order passed by the District Revenue

Officer, Krishnagiri in his proceedings Rc. No. 6179/2008/J2 dated 30.9.2008, granting liberty to the Hindu Religious and Charitable

Endowments Department to take necessary action as per the H.R.& C.E., Act and the Rules to prevent alienations and recovery of possession of

suit lands before the competent forum. In support of his submissions, the learned senior counsel has also pressed into service the judgment of this

Court in the case of C. Muthu Bhattar Vs. The Authorised Officer (Land Reforms), for the proposition that the inam lands are inalienable in nature,

as they were granted only for rendering service and that even a mortgage of a temple service inam is opposed to public policy and is therefore

invalid, resultantly, any person who claims to have acquired title as an alienee from the descendants of the original grantee, has no valid title to the

acquired property and is therefore not entitled to claim any right therein.

4. Taking support from the judgment of the Apex Court in the case of Joint Commnissioner, Hindu Religious and Charitable Endowments,

Administration Department Vs. Jayaraman and Others, the learned senior counsel submitted that even if an endowment is made to a religious

institution, the endowment is certainly not a private endowment, since the temple is not a private one. Therefore, if the endowment is for a religious

purpose, conduct of poojas in the temple and the maintenance of the temple are surely for public purpose for the better administration of the

temple and the poojaris cannot alienate the property, for the simple reason that while managing the properties dedicated for the purposes of the

temple, the properties granted and managed by them in their capacity as poojaries for the maintenance of the temple ought to be protected from

being alienated. In the present case, when the inam lands were given to the father of the contesting respondent with an obligation to utilise the

income from the properties for the poojas and upkeep of the temple, the admitted alienation of the lands is to be deprecated. This vital aspect has

been completely lost sight of by the Principal Secretary and Commissioner of Land Administration, hence, the present writ petitions challenging the

impugned order deserve to be allowed by setting aside the impugned order, he pleaded.

5. Mr. S. Kandasamy, learned Special Government Pleader appearing for the Hindu Religious and Charitable Endowments Department, adopting

the arguments of the learned senior counsel for the petitioners, also submitted that the impugned order passed by the Principal Secretary and

Commissioner of Land Administration cannot be sustained for yet another reason that it is the paramount duty of the Department to protect and

safeguard the properties of deities, temples and Devaswom Boards from being usurped or encroached by setting up false claims of ownership or

tenancy or adverse possession. When admittedly, the devadhaya inam lands of Sri Anjaneyaswamy Temple were alienated by the contesting

respondent and his family members contrary to the terms of grant of patta to the father of the contesting respondent as a service holder of the

religious institution by creating various fraudulent documents in the names of private persons, on the basis of the report made by the Sub Collector,

Hosur, the District Revenue Officer, Krishnagiri, in his proceedings dated 30.9.2008, had rightly cancelled the patta in respect of the six persons

and directed restoration of the patta in favour of the temple in question. The said order has been wrongly interfered with by the Principal Secretary and Commissioner of Land Administration only on the ground that there was no proof that the contesting respondent failed to render service to the

temple. In this context, the learned Special Government Pleader for the Department relied upon a judgment of the Apex Court in the case of A.A.

Gopalakrishnan Vs. Cochin Devaswom Board and Others, for the proposition that when it is the duty of the Courts to protect and safeguard the

properties of religious and charitable institutions from wrongful claims or misappropriation, the impugned order is liable to be set aside on that

score.

6. Mr. AR.L. Sundaresan, learned senior counsel appearing for the contesting respondent in both the writ petitions vehemently urged this Court to

dismiss the writ petitions, for the reason that the temple was a private temple and the Hindu Religious and Charitable Endowments Department had

no control over the temple and lands only vested with the Department. Adding further, the learned senior counsel stated that the contesting

respondent, his father and forefathers were in continuous possession and enjoyment of the dry lands in S. Nos. 566 and 692 in Mathigiri village,

Hosur Taluk to an extent of 2.89 acres and 0.32 acre respectively for more than 100 years and the patta and chitta were also standing in the name

of the contesting respondent''s father on 20.3.89. However, after his demise, the patta and chitta were transferred in the name of the contesting

respondent, therefore, his family is having effective and continuous possession of the above lands. Adding further, he has stated that the above

lands were minor inam lands covered by T.D. No. 2910 and they were classified as devadayam lands. In the year 1963, when the Government

introduced the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, after the said Act came into force on 1.1.64, the above

said lands were taken over by the Government. As a result of taking over, the inam tenure extinguished and the said lands stood converted into

ryotwari lands. By virtue of Section 11 of the Act, the Settlement Tahsildar is empowered to decide the nature and character of the lands and the

pre-existing rights for the claim of ryotwari patta. Therefore, the Settlement Tahsildar No. 1, Salem, acting under the powers conferred under the

said Act, conducted a suo motu enquiry after causing wide publication as required under Rule 9 for claim of ryotwari patta. As nobody preferred any claim for patta in respect of the above lands except the contesting respondent''s father, since his father and forefathers were continuously in

possession for more than 60 years at the time of publication of the public notice, the contesting respondent''s father Mr. Venkatachari appeared

and deposed on 25.7.68 before the Settlement Tahsildar No. 1, Salem with all the relevant documents to show the actual possession and

enjoyment of the said lands. After satisfying with the documents, the Settlement Tahsildar issued notice to the Assistant Commissioner, H.R. &

C.E., Department and the revenue officials of Mathigiri village, Hosur Taluk to ascertain the claim of his father. In this context, the Settlement

Tahsildar, after examining the Karnam of Mathigiri village, Hosur Taluk as C.W.1, who deposed that the grant conferred on them was further

established in T.D. No. 2910. The said Settlement Tahsildar, keeping in mind that his father was a hereditary archaka cum trustee of the temple

and even before that, his forefathers had been performing poojas to the deity for the past sixty years, recording the evidence of the said Karnam

and his father, the Settlement Tahsildar had granted the ryotwari patta to his father under Section 11 read with Section 8(2) (ii) of the Act in his

proceedings dated 30.7.68, subject to the condition that he has to perform the service to the temple as per the original grant. When the patta

issued by the Settlement Tahsildar is a valid one, after the demise of his father, the contesting respondent has been performing poojas to the deity

till date.

7. Moreover, in the year 2004, the contesting respondent had gifted seven cents of land in S. No. 566 to Mathigiri Town Panchayat for laying

public road and subsequently the property had been subdivided into S. Nos. 566/1, 566/2 and 566/3. Since the contesting respondent had two

daughters, he has gifted the above lands in S. Nos. 566/1 and 566/3 to his daughter N.K. Kalpavalli on 20.12.2004 and the same has been

registered in Document No. 2725/2004 in the office of Sub Registrar, Kelamangalam, Hosur. From the date of gift, the said Kalpavalli is in

continuous possession and enjoyment of the same and her name is also entered in the revenue records. That apart, the Headquarters Deputy

Tahsildar had also issued patta in her name in Patta No. 855 dated 10.3.2005. Thereafter, Ms. N.K. Kalpavalli sold the lands to (1) Mr. K.R.

Sridhar, (2) Mr. R. Shivanna, (3) Mr. Sreenivasan, (4) Mr. S.R. Lakshmi under the sale deed dated 14.2.2006 and the patta also stood

transferred in their names on 23.3.2006 by the Headquarters Deputy Tahsildar, Hosur. Thereafter, the said Mr. K.R. Sridhar and three others sold

away a major portion of the said property in favour of one Mr. H.A. Srinivasa Murthy and Mr. N. Veera Reddy under the sale deed dated

20.12.2006. After sometime, the said Mr. H.A. Srinivasa Murthy and Mr. N. Veera Reddy had sold away the property to Mr. M. Srinivasan and

Mr. B. Venugan under the sale deed dated 15.10.2007.

8. But all of a sudden, Mr. V. Muthuraj, Ward Member of Mathigiri Town Panchayat filed a public interest petition in W.P. No. 2317 of 2008

seeking a mandamus to dispose of his representation dated 26.11.2007. This Court, by order dated 29.1.2008, issued a direction to the Assistant

Commissioner, H.R. & C.E. Department, Salem to take a decision in accordance with law with a further direction to the Assistant Commissioner

to verify whether the temple land had been grabbed by one or other person. Although the contesting respondent was arrayed as one of the parties,

he was not heard. If the notice had been sent to him, he would have appeared and put forth his case before this Court for better adjudication.

However, the District Revenue Officer, Krishnagiri sent a notice to the contesting respondent and his wife and daughters who have purchased the

above said lands at various times to appear in person with relevant documents on 8.8.2008. In the meanwhile, the Sub Collector, Hosur also had

initiated proceedings under Section 145 of Cr.P.C., on the basis of some information given by the Sub Inspector of Police, Mathigiri Police Station

in Crime No. 100 of 2008 dated 5.6.2008, and directed all of them to appear before him to establish their claim over the property. But no orders

have been passed till date. Thereafter, all of them appeared and established their case. But no orders were passed. All of a sudden, the District

Revenue Officer, Krishnagiri cancelled the ryotwari patta granted to his father by the Settlement Officer, Salem in his proceedings dated

30.9.2008. Aggrieved by the same, a revision was filed before the Principal Secretary and Commissioner of Land Administration, who has passed

the present impugned order rightly holding that the order passed by the Settlement Tahsildar under Section 8(2)(ii) of the Act in favour of the father of the contesting respondent as a service holder of the temple, subject to the condition that he performs service to the temple as per the terms of

the original grant, cannot be questioned, since the same has attained finality. In support of his submissions, he has also relied upon a Division Bench

judgment of this Court in the case of Palaniappa Pandaram and Others Vs. The Special Commissioner and Commissioner Land Administration

and Others, .

9. Concluding his arguments, the learned senior counsel submitted that when there is no proof that the contesting respondent has failed to render

service to the temple, as rightly found by the Principal Secretary and Commissioner of Land Administration in the impugned order, there is no

violation of the conditions of patta, therefore, the writ petitions challenging the impugned order are liable to be dismissed.

10. This Court is unable to countenance the submissions made by the learned senior counsel for the contesting respondent. It is true that the lands

comprised in S. Nos. 566 and 692 of Mathigiri Town Panchayat were minor inam lands covered by T.D. No. 2910, as they were also

devadhayam lands. In the year 1963, the Government introduced the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act,

which came into force on 1.1.64. After the enforcement of the above said Act, the above lands were taken over by the Government. As a result of

taking over, the inam tenure got extinguished and the said lands stood converted into ryotwari lands. To deal with the ryotwari lands, the

Settlement Tahsildars are conferred power under Section 11 of the Act to decide the nature and character of the lands and the pre-existing rights

for the claim of ryotwari patta. Admittedly, it is the claim of the contesting respondent that the lands covered in the above said two survey numbers

were given to his ancestors under the TitleDeed No. 2910 (Devadhayam) to perform the service to Sri Anjaneyaswamy temple at Chinnakothur.

When the inam lands were taken over by the Government under the provisions of the Act, it is true that the Settlement Tahsildar No. 1, Salem, by

his proceedings dated 30.7.68, allowed ryotwari patta in favour of Mr. Venkatachari, the father of the contesting respondent as a service holder of

the temple under Section 8(2)(ii) of the Act, subject to the condition that he performs service to the temple as per the terms of the original grant. In this context, it is pertinent to extract the gist of the admission made by the contesting respondent in paragraphs 9 & 10 of the counter affidavit as

follows:-

I state that the patta issued by the Settlement Officer No. 1, Salem to his father was a valid one, as the same was issued after a property enquiry

and after considering the objections. After the demise of his father, he is performing pooja to the deity till date. After the transfer of patta and chitta

in his name, he had gifted 7 cents of the land in S. No. 566 to the Mathigiri Town Panchayat for laying public road and subsequently the property

has been subdivided into S. Nos. 566/1, 566/2 and 566/3. The land in S. No. 566/2 stands in the name of Mathigiri Town Panchayat and after the

laying of road by the panchayat, the general public and the adjacent plot owners in the locality are using the road as there is no alternative way.

Since the contesting respondent had two daughters, he has gifted the above lands in S. Nos. 566/1 and 566/3 to his daughter N.K. Kalpavalli on

20.12.2004 and the same has been registered in Document No. 2725/2004 in the office of Sub Registrar, Kelamangalam, Hosur. From the date

of gift, the said Kalpavalli is in continuous possession and enjoyment of the same and her name is also entered in the revenue records. That apart,

the Headquarters Deputy Tahsildar had also issued patta in her name in Patta No. 855 dated 10.3.2005. Thereafter, Ms. N.K. Kalpavalli sold the

lands to (1) Mr. K.R. Sridhar, (2) Mr. R. Shivanna, (3) Mr. Sreenivasan, (4) Mr. S.R. Lakshmi under the sale deed dated 14.2.2006 and the

patta also stood transferred in their names on 23.3.2006 by the Headquarters Deputy Tahsildar, Hosur. Thereafter, the said Mr. K.R. Sridhar and

three others sold away a major portion of the said property in favour of one Mr. H.A. Srinivasa Murthy and Mr. N.Veera Reddy under the sale

deed dated 20.12.2006. After sometime, the said Mr. H.A. Srinivasa Murthy and Mr. N. Veera Reddy had sold away the property to Mr. M.

Srinivasan and Mr. B. Venugan under the sale deed dated 15.10.2007. As of now, Ms. B.K. Sowbagyamma and Mr. M. Srinivasan and Mr. B.

Venugan are the owners of the lands.

11. When the above admitted alienation of the temple lands conspicuously speak about the proof of alienation of the temple lands, which were

given as temple inam subject to specific conditions to the service holder to perform service to the temple as per the terms of the grant, the Principal

Secretary and Commissioner of Land Administration, after accepting the admission made by the contesting respondent that he had sold away the

suit lands to other persons, for the simple reason that he has been rendering the service to the temple, ought not to have disturbed the well

reasoned order passed by the District Revenue Officer, Krishnagiri. Section 21 of the Act also amply indicates that wherever complaints or

objections are received against the service holder for non performance of service to the religious institution, the District Revenue Officer concerned

can issue notice in the prescribed form as mentioned in the annexure to the service holder and if it is found that there is any violation of the

conditions, the Revenue Divisional Officer can cancel the patta issued under Section 8(2)(ii) of the Act to the service holder and transfer the patta

in the name of the religious institution. Admittedly, in the present case, when the lands belonging to the temple were given to the forefathers of the

contesting respondent and when admittedly the contesting respondent has alienated the property, as rightly held by the Apex Court in the case of

Joint Commissioner, H.R. & C.E. Administration Department v. Jayaraman and Others (supra), in respect of the lands belonging to the temple

governed by the H.R. & C.E. Act, no alienation is permissible and even under the settlement proceedings, the alienation of the temple property by

third party cannot be approved, if the property had been dedicated for the purpose of the temple under Section 34 of the H.R. & C.E Act.

Besides, this Court has also held in the case of Neti Anjaneyalu Vs. Sri Venugopal Rice Mill (Limited), that a personal inam for public service is

not a property that is liable to attachment under Section 60 C.P.C., for the simple reason that Section 6(h) of the Transfer of Property Act

prohibits transfer of such property, as it is opposed to public policy and the transfer cannot convey any title and is, therefore, invalid.

12. When a similar issue came up for consideration, this Court, in the case of Soora Ramakrishnamma Vs. Pasumarthi Venkata Subbiah and

Others, , has held that the land burdened with the performance of a service of public nature is inalienable being opposed to public policy.

Moreover, the Apex Court in the case of A.A. Gopalakrishnan v. Cochin Devaswom Board and Others (supra), while deprecating the practice of usurpation or encroachment of the temple properties, has held as follows:-

10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their

trustees/archakas/shebaits/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of

temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or

adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of ""fences eating the crops

should be dealt with sternly. The Government, members or trustees of boards/ trusts, and devotees should be vigilant to prevent any such

usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from

wrongful claims or misappropriation.

The above judgments of the Apex Court, more particularly, the ratio laid down by the Apex Court in the case of Joint Commissioner, H.R. & C.E.

Administration Department v. Jayaraman and Others (supra) clearly shows that when the lands are conveyed in trust not to the temples or to the

deities, but to the poojaries of the temples with an obligation to utilise the income from the properties for the poojas and the up-keep of the

temples, the poojaries, who are to be in-charge of the temples, are forbidden to bypass the provisions of the H.R. & C.E. Act to alienate the

temple properties, which are given for the purpose of using the income for the poojas and the maintenance of the temples. In the case on hand also,

the lands were admittedly given to the contesting respondent''s father as a service holder of Sri Anjaneyaswamy Temple at Chinnakothur. Indeed,

the proceedings issued by the Settlement Tahsildar No. 1, Salem dated 30.7.68 granting ryotwari patta in the name of Mr. Venkatachari under

Section8(2)(ii) of the H.R. & C.E. Act is not absolute, as it was subject to the condition that he performs service to the temple as per the terms of

the original grant. While so, the contesting respondent has also admitted before the revisional authority about the alienation of the said lands

belonging to the temple. However, it was argued that although he sold away the suit lands to other persons, the contesting respondent and his

family members are rendering service till date to the temple. This Court finds no justification whatsoever to accept the rendering of poojas and

other service to the temple by the contesting respondent and his family, when they had already sold away the temple lands. As a matter of fact, the

impugned order justifying the rendering of poojas and other service by the inamdar continuously to the temple cannot be sustained, as it is not

known how the lands conveyed in trust to the poojari of the temple with an obligation to utilise the income from the properties for the poojas and

the up-keep of the temple can do service continuously, after his demise, when the temple lands were already sold by him. In view of the above

admitted position, as per the ratio laid down by the Apex Court in Joint Commissioner, H.R. & C.E. Administration Department v. Jayaraman and

Others (supra), any alienation would prima facie be hit by Section 34 of the H.R. & C.E. Act and even if the case of the claimants were to be

taken at face value, the transaction would be hit by Section 41 of the H.R. & C.E. Act, hence the impugned order does not deserve to stand for

any reason. Therefore, the impugned order is set aside and the order passed by the District Revenue Officer, Krishnagiri dated 30.9.2008 is

restored to file. The writ petitions stand allowed. Consequently, M.P. Nos. 2 & 3 of 2010 are closed. However, there is no order as to costs.