
(1959) 11 MAD CK 0038
In the Madras High Court

G. Radhakrishna Chettiar and Others	APPELLANT
Vs	
The Commissioner, Hindu Religious and Charitable Endowments	RESPONDENT

Date of Decision : 05-11-1959

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1951 —
Section 6(13), 6(14)

Citation : (1960) 1 MLJ 494

Hon'ble Judges : Anantanarayanan, J

Bench : Division Bench

Judgement

Anantanarayanan, J.—I his is an appeal by the plaintiffs in the Court below in a suit filed u/s 62 of the Hindu Religious and Charitable Endowments Act, Madras Act (XIX of 1951), to set aside the order of the Commissioner of Hindu Religious and Charitable Endowments in respect of the suit chatram properties.

2. The facts are that this chatram was created by a deed of trust dated 26th November, 1942(Exhibit B-1) for the benefit of members of the Arya Vysya community of that area, who visit Gunaseelam for the purpose of participating in specified religious festivals in the month of Purattasi. Exhibit B-2 is a subsequent transfer of the management of this trust executed by the original founder, Venkatachala Chettiar and others. The simple point involved in this appeal is whether the Commissioner of Hindu Religious and Charitable Endowments was justified in notifying this charity as one within the ambit of Madras Act (XIX of 1951), because it was a religious charity (Section 6, Sub-section (13) or a religious endowment (Section 6, Sub-section (14), or "a specific endowment" (Section 6, Sub-section (16)).

3. Learned Counsel for the appellants placed two arguments in the forefront of his submissions. The first is that the learned Subordinate Judge was in error in relying upon the later document Exhibit B-2 as superseding the earlier document Exhibit B-1. It is the earlier document Exhibit B-1 which determines the

conditions of the trust and which also enunciates the objects of the trust. Under that document it is not mentioned that puja and neivedyam should be done upon the relevant festival days, though this object is found in Exhibit B-2. The second argument is that, in any event, the Arya Vysya section of the community in this locality or district, cannot be said to constitute the public, within the nomenclature of Section 6, Sub-section (13) or Sub-section (14) or Sub-section (16).

4. We have carefully considered these arguments, and they do not appear to us to be tenable. It is not now necessary to consider whether the learned Subordinate Judge was justified in his finding that the puja and neivedyam had to be performed at the temple during the Radothsavam, when there is no specific mention of the place of puja in the second document, Exhibit B-2. But presumably, the puja and neivedyam had to be performed at the temple, as this is in consonance with the usual religious practice. This apart, we are unable to subscribe to the inference that the performance of this religious ritual was not one of the objects of the trust. For, it is perfectly probable and possible that all the objects of the trust might not have been enumerated in the very first document and a legitimate object of the trust might be enumerated, in a later document. Consequently, it cannot be said that the performance of puja and neivedyam are not objects of the trust; and, since admittedly they are performances of a religious character, the property would be a "religious charity" within the meaning of Section 6, Sub-section (13) of the Act.

5. Even apart from this, and upon a wider ground, the contentions of the learned Counsel are unsustainable. The decisions placed before us, such as the decision in *The President, Hindu Religious Endowments Madras Vs. Venkatarama Ayyangar and Others*, , related to the provisions of the Act prior to recent amended Act, and this is highly significant. The *President, Hindu Religious Endowments Madras Vs. Venkatarama Ayyangar and Others*, , did concern an alleged specific endowment in this very district and shrine of Gunaseelam, and the learned Judges (Govinda Menon and Basheer Ahmed Sayeed, JJ.) stated that the endowment was not a specific endowment, because the property was not dedicated for the performance of a specific service or charity in a temple or mutt. But this is now no longer necessary. u/s 6, Sub-section (13) "religious charity" includes a public charity associated with a Hindu festival, or observance of a religious character, whether it be connected with a mutt or temple or not. Similarly, Section 6, Sub-section (14) has been widened in its scope and Section 6, Sub-section (16) defining "specific endowment" now attracts "religious charities" as defined in Section 6, Sub-section (13) of the Act. Since, the admitted facts of the present case are that this charitable institution was intended to feed Arya Vysya pilgrims to these religious festivals, upon the stated occasions this endowment would be a "religious charity", even apart from the performance of puja and naivedyam. Those latter objects indisputably determine its character as religious charity and specific endowment, to which the provisions of the Act are applicable.

6. The further argument that the matter is different, because the plaintiffs form a society which is now registered, has no substance. The decision in Commissioner, H.R.E. Board v. Vinayakar A.T. Sabha (1952) 1 M.L.J. 182, has no application at all to the present facts because that related to the definition of a "specific endowment" under Madras Act(II of 1927) and prior to the enactment of Madras Act (XIX of 1951). Consequently, those criteria are not applicable to the present definitions which have been deliberately made far wider in their scope.

7. The last argument is that the Arya Vysyas of this region do not constitute "the public" within the scope of that term. This is opposed to the manner in which the word "public" has been used, and described, both in Section 6(4) relating to "charitable endowment", and Section 6(17) relating to "temples". Even this apart in. Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others, , the Supreme Court has clearly, held that the word "public" includes, in its ordinary acceptation, any section of the public. This makes an end of the argument that this is not a religious charity referable to a public purpose.

8. The decision of the learned Additional Subordinate Judge was therefore, correct. We dismiss this appeal, but, under the circumstances, without costs.