
(2000) 01 KAR CK 0076
In the Karnataka High Court
Case No : Writ Petition No. 4700 of 1995

K. Shivaram Karanth

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 20-01-2000

Acts Referred:

Ancient Monuments and Archaeological Sites and Remains Act, 1958 — Section 2 (j)
Hindu Religious Institutions and Charitable Endowment Act, 1997 — Section 100 (1)
(1), 36

Citation : AIR 2000 Kar 193 : (2000) ILR (Kar) 1294 : (2000) 2 KarLJ 452 :
(2000) 2 KCCR 927

Hon'ble Judges : Y. Bhaskar Rao, C.J;V. Gopala Gowda, J

Bench : Division Bench

Advocate : Sri K. Sachindra Karanth, for the Appellant; Sri V.K. Narayana Swamy, A.G.A. and Sri B. Pape Gowda, Central Government Standing Counsel, for the Respondent

Judgement

V. Gopala Gowda, J.—This writ petition was filed as a Public Interest Litigation by a well-known Novelist Dr. Shivaram Karanth of Karnataka alleging certain illegal activities carried out by the 6th respondent-Executive Officer of Sri Kollur Mookambika Temple resulting in loss of priceless antique jewellery and articles of the said temple.

2. The petitioner is no more now. But he has not filed this writ petition asserting his personal right or to safeguard his own interest. Since it is in the nature of Public Interest Litigation, the lis is between this Court and the respondents against whom relief is sought in public interest. Therefore, in view of the law laid down by the Apex Court, we entertain this writ petition despite the death of the petitioner.

3. The petitioner has stated that on or about 17-5-1993 one of the Archaks of the temple informed him about the removal of valuable articles pertaining to the temple. Immediately the petitioner wrote letter to the then Chief Minister. In

response to the same, the Chief Minister in his letter at Annexure-C, dated 24-5-1993 intimated the petitioner that he had instructed the Revenue Commissioner to conduct enquiry in accordance with law. Thereafter, the petitioner wrote a letter to the 3rd respondent about the illegal action of 6th respondent in fraudulently removing and switching of the valuable jewellery of the temple. In reply to the same, petitioner received a letter informing that the Assistant Commissioner has been asked to submit a report and appropriate action would be taken thereafter. Again the petitioner wrote to 3rd respondent but no reply was received. It is averred in the petition that the jewellery and other articles of the temple were of antique value, they cannot be valued. It is asserted that there has been consistent attempts in the public institutions of replacing antique articles in the guise of renovating and handing over original items and handing over the same to unscrupulous exporters. It is alleged that the officials of the department are direct beneficiaries. After narrating the temple and the idol of the deity, its character, it is stated that the same had been donated several centuries ago. Many of the jewels of the image are stated to have been donated by the kings of Vijayanagara Kingdom and rulers of Ikkeri. It is further stated that the temple contains large number of jewellery and other art and artifacts of historical value. The petitioner states that unless a record of all the jewellery is maintained and regularly inspected, there is always possibility of losing or misappropriating those valuable articles. The other grievance of the petitioner is that the authorities have not taken any action to protect the temple as a historical or archaeological monument either under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the Ancient Monuments Preservation Act, 1904 by declaring the temple as such. Alleging that the authorities have failed to discharge their statutory duty, the petitioner has filed this writ petition seeking a direction to the respondents to take appropriate action to retrieve and restore the jewellery of the temple, to maintain a Photographic Record of all the jewellery and other valuable articles of the temple, to direct 5th respondent to declare the temple as a "Protected Monument" under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and also to direct the respondents to maintain a Register of the valuables gifted to or acquired by the temple.

4. In the statement of objections filed on behalf of respondents 1, 2, 3 and 6, while admitting the existence of valuable jewellery and other articles and also the fame of the temple in South India, it is stated that the 6th respondent, who is appointed as Executive Officer of the temple, has been managing the day-to-day affairs of the temple, which includes the custody of the moveables, jewelleries and other records pertaining to the temple. It is stated that all the jewelleries are entered in the Inventory Register maintained since 1954. It is further stated that every item of jewellery and other precious offerings made by the devotees to the temple find a place therein. It is stated that the jewellery items found in the photographs enclosed to the petition are all intact and find a place in the Inventory Register. It is stated that the 6th respondent has been maintaining

them as provided under the rules made under Sections 36 and 100(1)(1) of the Hindu Religious and Charitable Endowments Act, 1951. Traversing the allegations made in the writ petition about the removal of valuable articles in the guise of repairing or replacing, it is stated that the gold Neri used to be put on the deity had become brittle. The matter was placed before the committee and a resolution had been passed on 31-1-1993 and permission was sought from the Deputy Commissioner to repair it. It is stated that the then Executor of the temple got it repaired through the jeweller, who had put more gold at his own cost and prepared the Neri and handed over to the temple. It is stated that this fact is evidenced in the Inventory Register. The allegation that temple properties are misappropriated and fake jewellerys were replaced, etc., have been denied. With reference to the prayer made by the petitioner for maintaining a photograph of the jewellery and other valuable articles, it is stated that 6th respondent has maintained the photographic record and preserved as document. Even register in respect of the valuable jewellery is stated to be maintained very meticulously and at the end of the first year the jewellerys are being verified and inventory is made. It is categorically stated that there is no theft of temple jewellery.

5. In view of what has been stated in the counter, we do not find any truth in the allegations made by the petitioner. Since the petitioner is seeking certain directions in public interest to safeguard the properties of the temple, the reliefs sought for have to be moulded to the extent required.

6. In the light of the statements made in the counter, the first prayer made to direct the respondents to take appropriate action to retrieve and restore the temple jewellery, is wholly unnecessary and such a direction is not warranted. So far as prayer (ii) to maintain photographic record of all the jewellery and other valuables and the prayer (iv) to maintain register of valuables are concerned, the same are stated to be maintained by the 6th respondent. Hence, no direction need to be issued. However, in the interest of safeguarding the valuable properties of the temple, the respondents shall maintain the valuable jewellery and other articles of the temple in good condition with photographic records and Inventory Register. Periodical verifications shall be conducted of those articles and records and necessary entries be made to that effect in the presence of the officers of Muzrai Department.

7. So far as prayer (iii) to direct the 5th respondent to declare the Mookambika Temple as a "Protected Monument" is concerned, the definition of "Protected Monument" u/s 2(j) of the Ancient Monuments and Archaeological Sites and Remains Act is as under:-

"(j) "Protected Monument" means an ancient monument which is declared to be of National importance by or under this Act".

The temple in question is not an "ancient monument". It is also not declared to be of National importance. Therefore, the said prayer cannot be granted.

8. Writ petition is disposed of subject to the above observations and directions.