(1964) 01 MAD CK 0002

In the Madras High Court

Case No : Second Appeal No. 602 of 1962

K. Subramantam Chettiar, General and Executive Trustee Sri. Thirumoolanathaswami Temple — APPELLANT

Vs

The Poovalurr Sri. Thirumoolanathaswami Sayaraksha Arthajama etc. by Trustee (1) Lakshmi Ammal representing Her Minor Son Sivachidambara Nathan Chettiar and (2) Kandaswamy Chettiar — RESPONDENT

Date of Decision : 22-01-1964

Acts Referred:
Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 57

Citation : (1964) ILR (Mad) 724

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Advocate : U. Somasundaram and P. Kothandaraman, for the Appellant; T.M. Chinnia Pillai and T.S. Palani Sivagurunathan, for the Respondent

Judgement

Veeraswami J.

1. The Defendant is the Appellant against a reversing judgment of the learned District Judge of Tiruchirappalli, arising out of a suit brought by the

Respondent for a permanent injunction restraining the Appellant and his men, agents and servants from in any manner interfering with his

administration, management and worship during performance of the Sayarakshai and Ardhajaman kattalais by the introduction of tickets for

archanas during those periods. The defence to the suit was that the Defendant, being a general trustee of the temples themselves, was entitled, in

exercise of the powers u/s 57 of the Madras Hindu Religious and Charitable Endowments Act, to introduce the ticket system for performance of

archanas during the periods when the two kattalais are performed in the temples. The trial Judge accepted the defence and dismissed the suit. The

lower Appellate Court, on the view he took of the statutory provisions, considered that the kattalais being independent institutions, of Which the

Plaintiff was a specific trustee,

2. The general trustee of the temple had no right u/s 57 to pass an order fixing the fee for the performance of any service, ritual or ceremony in the

specific endowment.

3. He, therefore, allowed the appeal and decreed the suit. The Defendant has, therefore, come up here in second appeal.

4. It seems to me that the view of the learned District Judge as to the effect of the statutory provisions in respect of the powers of a general trustee

of a temple vis-a-vis the powers of the trustee of a specific endowment cannot be accepted. The learned District Judge referred to the definition in

the Act of a temple, religious institution and a specific endowment and thought that a specific endowment or a kattalai was an independent

institution within a bigger institution, namely the temple, and to the extent to which the specific trustee functions in performance of a kattalai to that

extent the powers and jurisdiction of the general trustee will stand excluded in respect of the main institution itself. It may be conceded that a

specific endowment is certainly a religious institution and in that sense an independent entity. It is also true that a specific endowment as an

institution is in a sense one within a bigger institution, namely, a temple. But, from these premises, it does not follow that the specific endowment in

any way affects or limits the powers of the general trustee over the temple and the performance of the objects of the specific endowments in the

temple. It may be that the general trustee may have no control, in the absence of specific statutory provisions or a decree or scheme, over the

actual, administration by the specific kattalaidars of the Icattalai properties. But, because the performance of the kattalai is in the temple on

particular occasions, it does not mean that ipso facto the jurisdiction of the general trustee over the temple on those occasions is excluded. To

illustrate, supposing there is a kattalai for performance of a newedyam on the occasion of a particular nakshatram or star, neivedyam being

performed before the deity in the temple. Can it be said that when neivedyam is offered to the deity in the temple the performance is entirely to be controlled by the kattalai trustee, without the general trustee having any right in respect of the temple on the occasion? I think not. Likewise,

supposing the kattalai is for deeparadana on certain occasions in the sanctum sanctorum or inside the temple, on that account, the kattalai trustee

cannot assume that, during the time the service is done he has control! over the entire temple, and the powers of the general trustee over the temple

are confined to the rest of the period. In such cases, the kattalai is but intended for performance of a ceremony or ritual or service in or in

connection, with temple and does not normally affect or exclude in any way the jurisdiction of the general trustee over the temple, its properties and

management during all periods. Experience shows that seldom a kattalai trustee by virtue of his position ousts a general trustee of the temple and

gets or exercises jurisdiction over the temple itself. The statutory provisions in the various enactments made from time to time do not make any

change in this position. In my opinion, there is no basis for the wrong assumption made by the District Judge that a kattalai being a separate or

independent institution, the kattalai trustee, when the objects of the kattalai are performed takes the place of the general trustee, thereby

suspending the latter''s jurisdiction, as it were to administer and manage the temple at the time.

5. In fact, Sri T.M. Chinnaiya Pillai for the Respondent-Plaintiff did not and could not go to the extent of supporting the view of the District Judge

on the scope of the statutory provisions. But his argument is that the kattalai in this case is a peculiar one in the sense that unlike the generality of

temple and kattalais in the State, the kattalaidar here is entrusted with the keys of the temples here during the periods of Sayarakshai and

Ardhajaman, leaving only the duplicate keys with the general trustee, and that this means that during those periods the general trustee is not in

possession of the temples themselves, but the special trustee or kattalaidar. Learned Counsel, therefore, argues on that basis that when the general

trustee is not in possession of the temples during those two periods, and when the special trustee employs his own men and performs the two

objects of the kattalai, it is an irresistible inference that the general trustee''s powers over the temples during those periods are suspended or kept in

abeyance as it were, and that, therefore, the general trustee will have no power to introduce the ticket system for archanas performed during those periods. In support of this argument, reference is made to an agreement signed by the general trustee as well as the kattalai trustees to show

possession of the keys of the temples with the special trustee during the two periods. Unfortunately this aspect of the case has not been considered

at all by the learned District Judge. As the inference which Sri T.M. Chinnadya Pillai wants to draw will depend upon the factual position as to

whether the special trustee is really entrusted with the keys and possession of the temples during the two periods, I think it necessary to remit the

appeal back to the lower appellate Court for fresh disposal, without myself expressing any opinion on that aspect at the moment.

6. The judgment and decree of the lower appellate Court are set aside. The appeal is remitted to that Court for fresh disposal in the light of the

observations contained in this judgment and after considering the aspect relied on by Sri T.M. Chinnaiya Pillai. If the parties so desire, they will be

at liberty to adduce further evidence before the District Judge. The costs in this appeal will abide the result of the appeal and be provided for by

the lower appellate Court. The Court-fee paid on the memorandum of Second Appeal will not be refunded.

7. No leave.

