

(1977) 01 MAD CK 0002
In the Madras High Court

K.P. Periyannan (fit person) Sri Venugopalakrishnaswamy
Temple

APPELLANT

Vs

Deity Venugopalakrishnaswamy represented by Poojari
Nallappan and Another

RESPONDENT

Date of Decision : 18-01-1977

Acts Referred:

Citation : (1978) 1 MLJ 362

Hon'ble Judges : Ramaprasada Rao, J

Bench : Single Bench

Judgement

Ramaprasada Rao, J.—An extent of 3-48 acres of dry land in S No. 795 in Boganapalli Village was acquired admittedly for a public

purpose. A compensation of Rs. 27,653-47 was awarded. The title to the property admittedly stands in the name of Venugopalakrishnaswami

Devaru of Boganapalli Village, Krishnagiri Taluk. There is no dispute about the title at all. But in the present proceedings, the race is between

claimants 1 and 4, who claim that they are entitled to be paid the interest which accrues from and out of the above corpus for them to conduct the

ritual and affairs of Venugopalakrishnaswami Devaru, and claimants 2 and 3, who claim as the hereditary archakas entitled to possession of the

lands compulsorily acquired. According to the claimants 2 and 3, they are entitled to the Interest to enable them to render archana service to the

deity.

2. Claimant No. 1, is the deputy of claimant No. 4, who in turn is the Managing Trustee of this temple, having been so appointed by the Hindu

Religious and Charitable Endowment Board. Claimant No. 1, the deputy, sails along with claimant No. 4, and in the capacity as such trustee and

deputy, they claim that they are entitled to interest which accrues from the compensation awarded. Both parties agree that the said compensation

should remain in Court deposit, and it is only the income that accrues there-from which has to be operated upon. Whilst the case of claimants 1

and 4 is that they are entitled to receive the accruing interests, the contention of claimants 2 and 3 is that they would be entitled to it as hereditary

archakas. This is the sum and substance of the pleading.

3. The learned Judge, who went into such conflicting claims, considered the earlier proceedings which took place as between the predecessors of

claimants 2 and 3 and the prior appointees of the Hindu Religious and Charitable Endowments Board, in which there was a declaration that the

hereditary archakas are entitled to be in possession of the acquired land, and that without any powers of alienation therefor, they should enjoy the

same in lieu of the archaka service, which was expected from them and which they were mandated to do as hereditary archakas to the deity

Venugopalakrishnaswami Devaru. The learned Judge, after noticing the earlier judgments, which, according to him, were binding on the present

contesting claimants, upheld the claims of claimants 2 and 3 in preference to that of claimants 1 and 4. The fourth claimant appeals.

4. The contention of the learned Counsel for the appellant is that as claimant No. 4 is the Managing Trustee and claimant No. 1 is his deputy

appointed for the purpose of rendering such duties as are obligated on the Managing Trustee, they should be declared to be the persons entitled to

the interest accruing from the compensation amount so as to enable them to render service to the deity. According to him, the earlier proceedings

do not have a clear bearing on the question in issue. But claimants 2 and 3 mainly rely upon the proceedings which transpired between their

predecessors-in-interest and the trustees of the temple in which their right as hereditary archakas was unequivocally declared, and incidentally their

right to possess and enjoy the suit properties was also made clear. It is, therefore, necessary for us to consider the earlier proceedings so as to find

a solution for the conflict between the two sets of claimants.

5. Ammani Ammal was the mother one Girivasa Iyengar. She filed O.S No. 384 of 1931, District Munsif's Court Krishnagiri, the judgments in

which are exhibited as Exhibits A-6 and A-4. In that suit, she claimed to be the

hereditary archaka and also dharmakartha. The trial Court recognised the same. But the appellate Court whose judgment is exhibited as Exhibit A-5, confirmed only her right in so far as it related to the hereditary archakaship but would not recognise her right as dharmakartha or trustee. After her death, Girivasa Iyengar filed O.S. No. 447 of 1940 on the file of the District Munsif's Court, Krishnagiri against the trustees, who were by then in possession of the properties which ought to be in the possession of the archakas of the temple. Girivasa Iyengar, claiming such a status in himself by virtue of the decision in O.S. No. 384 of 1931, filed the action, for possession, of such properties. The suit was decreed ex parte. There was no further appeal as against it. Pursuant to the said decree, which was rendered in the presence of the trustees appointed by the Hindu Religious and Charitable Endowments Board, Girivasa Iyengar, took possession of the properties to enjoy the income therefrom and for purposes of rendering the archaka services in lieu thereof. This state of affairs continued for some time until the compulsory acquisition proceedings started in 1945. For an admitted public purpose, certain lands which were in possession of the hereditary archakas, of the temple were acquired in or about the year 1945. This led to conflicting claims again between the hereditary archakas on the one side and the trustees appointed by the Hindu Religious and Charitable Endowments Board on the other. This was fully enquired into, and it was admitted before us that under Exhibit A-11, which was a judgment rendered by the Subordinate Judge of Salem in L.A.C. No. 10 of 1945 the entitlement of the hereditary archakas to receive the interest on the compensation amount awarded in the compensation proceedings was finally recognised. From this, it follows that even as early as 1945, the right to enjoy the properties which were the subject-matter in this appeal as well as the subject-matter of L.A.C. No. 10 of 1945 was upheld in favour of the hereditary archakas. This would mean that in the presence of the trustees appointed by the Hindu Religious and Charitable Endowments Board, the right of the archakas to enjoy the properties in question or a part thereof and in consequence to receive the interest from the compensation amount after acquisition was recognised and has become indisputable. Exhibit A-11, therefore, effectively would operate as res judicata, as against the trustees

appointed by the Board, and they are not in a position as at present to raise the plea once over that the compensation amount in question has to be

invested no doubt in the name of the deity, but the income therefrom should be paid over to them for purposes of some imaginary services to be

performed by them to the deity.

6. In passing, we would like to refer to the recalcitrant and unsatisfactory conduct of the trustees appointed by the Board. The learned Subordinate

Judge in his judgment Exhibit A-5 has observed as follows:.

"It is therefore unnecessary to give plaintiff a decree for money for purpose of doing the purificatory ceremonies. There will however, be a

direction to the second defendant that he will perform the Samprokshana or purificatory ceremonies within three months from this date.

7. This judgment was on 17th January, 1936. The learned Judge in these proceedings has noted:

Probably no Samprokshana ceremony has been done up to now.

8. There is no representation before us that the second defendant in the earlier suit, who is now the first claimant before us, has ever done the

Samprokshana or purificatory ceremonies to the deity at all. This is the attitude of the trustees appointed by the Hindu Religious and Charitable

Endowments Board. But, yet, such a trustee would demand that the interest from the compensation amounts, which ought to, in the circumstances

of the case, be paid over to the hereditary archakas as per the earlier judgments, should be paid over to him on the ground. that he has performed

some unknown services to the Devaru.

9. The archanas can be performed only after Samprokshanam. When the trustees have not performed so far the Samprokshanam, or the

purificatory ceremony the claimant No. 4 cannot with any grace claim that the archaka did not perform his services of archana. Apart from this he

cannot, in these proceedings, resist the declared entitlement of the hereditary archaka to claim the interest accruing from the compensation amount.

10. We have already referred to the short facts. Another piece of land standing in the name of the deity but set apart for archaka services to which

possession and income therefrom the hereditary archakas were entitled was acquired for an admitted public purpose. The compensation amount

has been deposited in Court, There comes the claim once again by the trustee

whom we have characterised as a person who cannot with any grace and sincerity under which they oppose the grant of interest to the hereditary archaka. Not only because he has sinfully failed to perform his elementary duty of purificatory ceremony to the deity for decades, but also because he cannot challenge the decrees and judgments in the earlier proceedings such as Exhibits A-11, A-5 etc. in which the right of the hereditary archakas to be in possession of the lands acquired and in consequence to enjoy the income-therefrom have been recognised fully the claim is unjustified. Both on the principle of res judicata and also on the ground that the hereditary trustee by no stretch of imagination could be entitled to the payment of the interest accruing from the compensation amount, the trial Court rightly upheld the claims of the hereditary archakas viz., claimants 2 and 3, who are the successors-in-interest of Girivasa Iyengar. There is no substance in the claim made by the first claimant as the deputy of the fourth claimant, who is the trustee so appointed by the Hindu Religious and Charitable Endowments Board.

11. The appeal, therefore, fails and it is dismissed. There will be no order as to costs.

12. The Commissioner, Hindu Charitable and Endowments Department, shall take note of the most unsatisfactory state of affairs which are prevailing in this temple. If what has been brought to our notice is right, then the purificatory ceremony for the deity has not been done by the trustees appointed by the Board. Such samprokshanan appears not to have been done for several decades. This observation of ours is based upon the judgment of the trial Court. There is no better evidence before us to conclude otherwise. If the trustees appointed by the Board did not care to do the Samprokshanam for the deity for years, one cannot expect the archakas to perform the archanas to the deity. This unsatisfactory state of affairs has to be set right immediately. The Commissioner Hindu Religious and Charitable Endowments Department, will take note of it. A copy of this judgment will be forwarded to him for immediate and necessary action.