

(2002) 04 MAD CK 0226

In the Madras High Court

Case No : Second Appeal No. 423 of 2002 and C.M.P. No. 3397 of 2002

Muthaiah Mudaliar and Srinivasan

APPELLANT

Vs

State of Tamil Nadu, Commissioner, Hindu Religious and Charitable Endowment Board, Madras and Assistant Commissioner, Hindu Religious and Charitable Endowment Board (Admn.), Tirunelveli

RESPONDENT

Date of Decision : 05-04-2002

Acts Referred:

Citation : (2002) 2 MLJ 460

Hon'ble Judges : P. Shanmugam, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

P. Shanmugam, J.—Plaintiffs filed the suit in a representative capacity praying for a declaration that Sri Muthu Vinayagar Temple situated in Muthukrishnapuram at Krishnapuram, Kadayanallur is a denominational temple belonging to Senaikulathavar community people of Muthukrishnapuram and for a permanent injunction. Though the suit was decreed by the trial court, the said judgment and decree was reversed by the Subcourt. The second appeal is against this judgment.

2. The facts of the case are stated hereunder :

The plaintiffs claim that they belong to a particular community called Senaikulathavar community residing at Muthukrishnapuram. The forefathers of their community people have established a temple called Sri Muthu Vinayagar Temple. According to the plaintiffs, there are 850 families of Senaikulathavar community people in the village and they are the only worshippers of the temple and that they are managing and maintaining the temple by themselves. The properties were purchased by the temple by the community for the temple. According to them, even though they belong to Senaithalaivar community, they are called and are known as Senaikulathavar community and they are considered

to be superior to Senaithalaivar community. It is stated that they constitute a religious denomination and that Muthu Vinayagar is their Kula Deivam. In reference to their peculiar form of religious belief and worship, they have stated in paragraph 8 of the plaint as follows :

"The plaintiffs have got a peculiar form of worship in the temple. The plaintiffs" community people used to prepare and offer pongal at the temple during important festival days. The male members of the community use to offer Poojas and Karpooa Aarthi to the Vinayagar idol. Such kind of worship is not known to any other community or prevailing in any other temple. Kodai festival is conducted every year by the plaintiffs in the temple which is not practised in any other Vinayagar temple in India."

It is further averred in the plaint that the Hindu Religious and Charitable Endowment Department issued a notice for appointing trustees to the temple. But, subsequently, they did not proceed further. The Inspector of the Department informed the plaintiffs that they are receiving applications for appointment trustees to the temple and hence they filed the suit for the declaration as prayed for.

3. Plaintiffs examined P.Ws. 1 and 2 and filed documents Ex.A.1 to A.8. On behalf of the Department, D.W.1 was examined and also report Ex.P.1 was submitted. The trial court found that the suit temple is a denominational temple belonging to the plaintiffs" community exclusively and granted the injunction. The appellate court reversed this finding. In the course of the judgment, the Subcourt referred to the criteria laid down by the Supreme Court in the judgment in S.P. MITTAL & OTHERS VS , which is as follows :

"The term religious denomination must satisfy the following three conditions -

- (1) it must be a collection of individuals who have a system of beliefs or doctrines which they regard as conclusive to their spiritual well being, i.e. a common faith;
- (2) a common organisation; and
- (3) designation by a distinctive name.

In that case, it was contended that the followers of Sri Aurobindo satisfy the aforesaid three conditions and therefore, they constitute a religious denomination. It was further pointed out that the followers of Ramanuja, the followers of Madhavachariar and the followers of other religious teachers were held to be a religious denomination. On the strength of these, it was contended that Sri Aurobindo was also a religious leader and therefore, the followers of Aurobindo share a common faith and organisation have a distinctive name and constitute a religious denomination. Their lordships approved the view of the Andhra Pradesh High Court in NADAN RAMALINGAIAH VS. H.R. & C.E. ILR 71 A.P. 320, wherein it was held that to hold that there exists a religious denomination, there must exist a religious sect or a body having a common faith and

organisation and designated by a distinctive name. Of course, any sect or sub-sect professing certain religious cult having common faith and common spiritual organisation such as Vaishnavites, Madhavites and Saivites may be termed as religious denomination, but certainly not any caste, sub-caste or any sect of religious community who worship mainly a Hindu deity or God. The Madras High Court, in ASSISTANT COMMISSIONER, H.R. & C.E., SALEM VS. NATTAMAI K.S. ELLAPPA MUDALIAR & OTHERS 100 L.W. 240, held that Senguntha Mudaliar community of Tharamangalam cannot claim to be a religious denomination. It was found that they have no common religious tenets peculiar to those other than which are common to the entire Hindu community. Their claim that they have a common faith peculiar to Senguntha Mudaliar community of Tharamangalam by worshipping a peculiar idol known as Kannanur Mariamman was not accepted.

4. While applying these principles, the appellate court found, in my view, rightly that though the temple was established by the Senaikulathavar community people, they have neither pleaded nor proved that they have got a system of beliefs or doctrines in order to conclusively prove which they regard necessary to their spiritual well being. Admittedly, the Senaikulathavar community is part of Hindu faith and religion and to make it a separate denomination of their own, they should plead and prove of a system of belief or doctrine which is exclusive to their community. Apart from saying that they have got Vinayagar temple and that they have got a peculiar form of worship in that temple by offering pongal and karpooa aarthi, they did not make out a case to establish their peculiar system of belief or doctrine. Lord Vinayaga is a common deity for all the people of Hindu religion and as a matter of fact, prayers and poojas are offered to Him before commencement of any function. Therefore, the claim that the plaintiffs are exclusively having Vinayagar as their special deity cannot be accepted.

5. Secondly, the offering of pongal and karpooa aarthi is the usual form of worship; there is nothing peculiar about it. The only claim of the plaintiffs is that Kodai festival is conducted every year by the plaintiffs, which means the offering of umbrella to the temple. This is also a common practice observed by all the Hindus during Vinayaga Chathurthi festival when Lord Vinayaga is taken under an umbrella and it is nothing special and peculiar for this community alone. Therefore, as rightly pointed out, there is no pleading at all in the plaint as to this claim of separate system of belief or doctrine. Assuming for the sake of argument that the appellants have established the temple and that their community people are worshipping in the temple, it would not make the temple as a denominational temple of their own.

6. The appellate court also found from the evidence and the document Ex.A.8 that the temple belongs not only to the Senaikulathavar community, but also to the Mudaliar as well as the Senaithalaivar communities. It was the case of the plaintiffs at that stage, before the court below, that the name of Mudaliar community is forming part of Senaithalaivar Samudayam also. If that is so, there

is no reason why the document described that the temple belongs not only to the Senaikulathavar community, but also to the Mudaliar community. Thus, both from the documentary and oral evidence let in on the side of the appellants, they have not satisfactorily proved their claim of the denominational character of the temple. I do not find any factual or legal error committed by the appellate court in appreciating the claim of the appellants.

7. Hence, no grounds are made out to interfere with the judgment and decree of the court below and no question of law arises for consideration in this second appeal. The second appeal is accordingly dismissed. No costs. Consequently, the connected C.M.P. is closed. The dismissal of this second appeal will not prevent the appellants from applying for appointment to the hereditary trusteeship from their community, which shall be considered and decided on merits and in accordance with the law by the H.R. & C.E. Department.