(1988) 02 MAD CK 0004

In the Madras High Court

M.V. Nallamuthu Pillai Charitable Trust — APPELLANT

Vs

State of Tamil Nadu — RESPONDENT

Date of Decision : 09-02-1988

Acts Referred:
Tamil Nadu Urban Land Tax Act, 1966 — Section 27, 29, 29(k)

Citation : (1988) 1 LW 628 : (1988) 2 MLJ 244

Hon'ble Judges : Swamikkannu, J

Bench : Single Bench

Judgement

Swamikkannu, J.—A Trust when once created, has to spend its money for the objectives of the said trust. In the instant case, the orders of

the Government which are now sought to be quashed in these two writ petitions are not even on the very face of it, a speaking order. The order

simply states that the Trust is indulging in sectarian and communal activities. This is an observation which is not fortified by any evidence. There is

no instance worth-mentioning that the Trust in question had indulged in spending money for non-objectives.

The Government Order M.S.1803, Revenue, dated 1st August, 1978, very much speaks about the percentage of the amount to be spent on the

objectives should be more than 50%. In the instant case, we find that the trust has spent only a little money and has saved and kept the remaining

income in order that the same may fetch interest and also grow in its value so as to utilise for the objective of the very institution, namely to build

Kalyanamandapam and Karumathi Thope. In the instant case the only point that is very much stressed on behalf of the Revenue is that the trust has

also provided for the benefits of Vellala Community. A careful reading of the relevant passages pointed out does not point out any such communal attitude on the trusts. We find that among other communities, the vellala community may also be given some help. That does not mean that the trust

is exclusively communal or sectarian especially when its objectives are for the welfare of the entire human race. That is how it has to be interpreted.

A close scrutiny of the objectives of the Trust also shows that it is not even internal in character but international. Therefore to dub this Trust as

sectarian or communal without giving any reasons, is most unjustifiable and unwarranted. G.O.Ms.No. 1803, Revenue, dated 1-8-1978 cannot be

said to have been at any point of time contravened by the Trust. G.O.Ms.No. 1947, Revenue, dated 17-9-1976 and G.O.Ms.No. 2625,

Revenue, dated 27-12-1976 were also looked into by this Court with interest when they were pointed out by O.V. Balusami, learned Counsel for

the respective petitioners.

2. The main contention of the petitioner is that when once Sections 27 and 29 and the rules made thereunder are to govern the procedure relating

to exemption that is to be granted, in the instant case before us, we have got only 2 or 3 Government Orders that are incorporated in the Counter

of the Revenue. There is nothing to show by way of a detailed order as per law when the reconsideration was required for by the petitioner Trust.

The Government simply rejected to reconsider the question of granting exemption to the Trust. This rejection is certainly unjustifiable and is not

quite in consonance with the sections and the rules framed under the Tamil Nadu Urban Land Tax Act, 1966 (Tamil Nadu Act 12 of 1966). The

only attack on the trust by the Revenue is that it is sectarian and communal in character and when that has been justified by giving details regarding

the expenditures if any towards some objects which are not contemplated by the Trust, then one can say that the Revenue is not far away from

truth. On the other hand, we find that without any basis whatsoever perhaps only on the basis of an objective being the benefits to Vellala

Community also, the Government had come to the conclusion that the Trust is sectarian and Communal. This conclusion is not correct because

nowhere it is envisaged that the entire income of the Trust has to be utilised only towards the uplift and welfare of the said Vellala Community so as

to dub the Trust as communal or sectarian. Further the petitioner trust has produced the necessary certificate from the Income Tax Department.

Therefore the orders of the Government negativity the request of the petitioner even after the production of Income Tax certificate, to reconsider

the question, have certainly to be quashed. The entirety of the trust deed should be taken into consideration by the Government. The truncated

portion of the deed should not be taken to dub the trust as communal or sectarian. Therefore this Court is of the opinion that the matter involved in

these writ petitions must be gone through afresh by the Government. It has been made specifically clear on the part of the Revenue that there is no

rules u/s 27 and there are only Government orders. The specific Government Order which was in existence at the time of the request for exemption

and which was the guiding factor for coming to the conclusion in this matter is G.O.Ms.2625, Revenue, dated 27-12-1976. Even the subsequent

Government Order, namely G.O.Ms.No. 1803, Revenue, 1-8-1978 comes u/s 29(k) at the most. So far as Section 29 is concerned, it deals with

the statutory exemption for which no order of the Government is necessary because it is the Legislature while enacting Section 29, had given

exemption to those trusts which are eligible to be exempted. Under these circumstances this Court finds that non-framing of Rules u/s 27 and by

making Government orders as a guiding factor which are not in consonance with the procedure prescribed by law are fatal to the Revenue. Further

Government Orders can be amended at any time. For all these things, the court directs the authorities concerned to consider the request of the

petitioner-Trust afresh and pass suitable orders.

3. In the result, the order dated 25-4-1981 by its letter No. 79588/U2/79-8 and the order dated 13-2-1979 in its letter No. 34814/U2/78-5 are

quashed. The matter is remitted to the respondent to consider the question afresh. The Government is at liberty to take into consideration the

materials already available on behalf of the petitioner herein as well as the materials available for the Revenue and come to a decision on the

petitions filed by the petitioner in both the writ petitions for reconsideration. No costs. R.S. Petitions allowed.