

(1919) 08 MAD CK 0030
In the Madras High Court

Nili Rangasami Mudaliar

APPELLANT

Vs

Kari Krishna Battacharcar

RESPONDENT

Date of Decision : 19-08-1919

Acts Referred:

Citation : 54 Ind. Cas. 281 : (1919) 10 LW 616

Hon'ble Judges : Odgers, J;Bakewell, J

Bench : Division Bench

Judgement

1. In this case the plaintiff (respondent) is the hereditary Archaka for performing certain Poojas in the Sri Krishna Perumal Devasthanam. He was dismissed from his office by the 1st defendant (appellant before us), the Trustee of the Devasthanam since 1909, and brought his suit to declare that his dismissal was improper and for an injunction to restrain, inter alia, 1st defendant from excluding him (plaintiff) from his rights and for Rs. 349-8-0 damages respecting the value of honours detained from the plaintiff by 1st defendant.

2. The District Munsif decreed that, upon plaintiff filing in Court an undertaking that he will faithfully obey the orders of the trustee or his deputy for the time being in all the matters pertaining to the Archakaship, including the showing of temporal honours by garland, Theertham and the like to Ubayakars, and generally to conduct himself in subordination to the trustee in respect of his duties, the order of dismissal should be set aside and the plaintiff restored to office. He also granted an injunction, but found against plaintiff on the subject of emoluments. The Temporary Subordinate Judge confirmed this decree, but awarded the plaintiff emoluments as claimed by him. The 1st defendant appealed. The charges against the plaintiff were set out at length and two sets of these were dealt with in argument before us, viz., charges IV, VI, and IX. together and charges VIII and X together. The first set of charges relates to non-observance on plaintiff's part of garland honours due to the 1st defendant : the second set relates to the non-observance of honours to certain Ubayakars. The plaintiff's answer to the first set of charges is that the orders of the 1st

defendant were contrary to the Mamul of the temple : his answer to the second set is that his Swathanthrams were not paid to him.

3. The real fact seems to be that this is a contest between the temple committee on the one hand and the trustee on the other. The temple committee issued orders relating to the garland honours in Exhibit III dated June 1913. It is stated that the Amin, who was the 1st defendant's deputy, was refused garland honours subsequently to this by plaintiff, in consequence of Exhibit III. First defendant thereupon issued Exhibit I in January 1914, laying down the procedure as to these honours. All these relate to charges IV, VI and IX. As before stated, the answer to the charges VIII and X was that 1st defendant withheld the perquisites due to plaintiff. The question really is whose authority the plaintiff is bound to obey--can he set up the authority of the temple committee as against the trustee? Mr. T.R. Venkatarama Sastri has argued that the temple committee can intervene to see that the Mamul of the temple is carried out. The Subordinate Judge found that there was nothing to show what the Mamul was and that Exhibit III was an illegal document. He seems to think, however, that the plaintiff might be justified in regarding the committee as having the authority of overriding that of 1st defendant in these matters. Both Courts found the charges proved against plaintiff. We had a long discussion as to the effect of certain provisions of Madras Regulation VII of 1817 Endowments and Escheats, and the Religious Endowments Act (XX of 1663) in order to support the contention of the plaintiff as to the authority of the temple committee, but on a consideration of these enactments we are satisfied that it could never have been intended that Government as represented by the Board of Revenue or the temple committee, as the successor of the Board, should intervene on a question of the kind before us, viz., purely temporal honours to certain definite persons. Section 15 of the Regulation and Section 12 of the Act seem to us to be perfectly clear to exclude such matters as those in suit entirely.

4. As to the respective powers of the temple committee and the trustee, reference may be made to *Seshadri Ayyangar v. Nataraja Ayyar* 21 M.p 179 where at page 189 it is stated: "The question was much discussed whether the matters mentioned in the order relating to the conduct of the festival were within the scope of the committee's authority, the committee being primarily concerned to see only to the preservation and proper disposition of the temple property In our opinion, having regard to the language of the Act the committee have no business to interfere in the internal management of the temple or in mere matters of ritual or ceremonial. Their interference with the trustee is unauthorised and improper, save so far as it can be justified as necessary in discharge of the secular duties which the Act imposes on the committee." In *Tiruvengadath Ayyangar v. Srinivasa Thathachariar* 22 M.p 361 the learned Judges say that "it is not part of the duty of the committee to interfere with the trustees in matters of ritual. The business of the committee is primarily to see that the endowments are appropriated to their legitimate purposes and are not wasted " Reference may also be made to *Sundarama Sastri v. Anantha Krishna*

Naidu 38 Ind. Cas. 695 : 5 L.W. 672. There also appears to us to be ample authority to show that the Archaka is bound to obey the trustee and that the trustee has power to dismiss the Archaka, even though hereditary. See Seshairi Ayyangar v. Ranga Bhuttar 10 Ind. Cas. 548 : 10 M.L.T. 14. and Kristnasamy Tatachary v. Gomatum Rangacharry 4 M.H.C.R. 63. It is, therefore" our opinion that the plaintiff was bound to obey the orders of the trustee and not those of the committee in the matters complained of. We also think that the answer on the second set of charges must fail. It was clearly the duty of the plaintiff to pay the honours and to recover his perquisites if with-held aliunde. He was not justified in refusing to carry oat the orders of the 1st defendant in the matter of these honours on the ground that his perquisites were with-held.

5. Reference was made by Mr. T. R. Venkataratua Sastri to the opinion of Wallis, C.J. in Sitharam Chetty v. Subramania Aiyar 32 Ind. Cas. 211 : 39 M.p 700 : 30 M.L.J 29 : 19 M.L.T. 25 : 3 L.W. 43 viz. that, in his Lordship's view, some of the earlier decisions had unduly fettered the discretion of temple committees. The case in question was a scheme suit, and it does not appear to us that what is said there can affect the present case which is one between the trustee and a temple servant. In our opinion the case is clearly proved against plaintiff and what he did would have justified his dismissal by the 1st defendant, hut as there is no appeal as to this, the order as to his restoration on an undertaking will stand. With regard to the emoluments, we think, the learned Subordinate Judge was wrong. In decreeing emoluments to the plaintiff the latter was placed in the position of drawing pay for the interval between his dismissal and his suit and consequently suffered not at all for his acts of disobedience to the order of the trustee for which, in our opinion, he deserves punishment, and we adopt the view of the District Munsif on this question.

6. In the result the decree of the lower Appellate Court will be set aside and that of the Munsif restored. The plaintiff will pay 1st defendant's costs throughout. Respondent's (plaintiff's) memorandum of objections is dismissed with costs.