
(1967) 03 MAD CK 0076
In the Madras High Court

Pappuchetti Raghavayya Chetti's Charities APPELLANT
Vs
Commissioner of Labour and Another RESPONDENT

Date of Decision : 31-03-1967

Acts Referred:

Tamil Nadu Shops and Establishments Act, 1947 — Section 2(16)

Citation : (1967) 2 LLJ 848 : (1967) 80 LW 535

Hon'ble Judges : Kailasam, J

Bench : Single Bench

Judgement

Kailasam, J.—This petition is filed by Pappuchetti Raghavayya Chetti's Charities by its president P. Manavala Chetti to issue a writ of certiorari calling for the papers relating to the proceedings of the Commissioner of Labour, Madras, and to quash his order dated 9 February 1967. The petitioner is a charitable institution founded by one Pappuchetti Raghavayya Chetti under a deed of trust dated 24 July 1912. The trust owns twelve items of out standings secured on mortgages and pledges and unsecured debts. The charities also maintain a kalyana koodam which is being 1st out for the auspicious functions like marriage to Brahmins and Vaisyas, For allowing the use of kalyana koodam, the charities collect a fee of Ra. 35 per day and for the use of utensils a fee of Rs. 40 is charged for two to four days, In addition to the rent of the building. When the kalyana koodam is let out, a levy at the rate of 75 palae per unit is charged towards electricity supply. The charities realized a turn of Rs. 3,300 by levying charges for renting out the kalyana koodam and hire charges of the vessels. For the year 1963-64 a sum of Rs. 2,900 was realized as electricity charges, but the electricity charges paid by the charities was only Rs. 1,800. The charities maintain an office in which the staff attend to the collection of rents from immovable properties, maintenance of kalyana koodam, collection of electricity charges, realization of interests from investments, etc. The charities are realizing as rents and interest about Rs. 30,000 per annum. The question that has to be decided is as to whether the office of the charities falls within the definition of "shop" u/s 2(16) of the Madras Shop and Establishment Act, 1947:

Shop? any premises where any trade or business is carried on or where services are rendered to customers and includes offices, store-rooms, godowns and warehouses, whether In the same premises, or otherwise, used in connexion with such business, but does not include a restaurant, eating-house or commercial establishment.

2. The activities of the petitioner not being one of trade, the question is whether it is a business carried on by it. The word " business " is not defined In the Act. It Is not necessary that to be termed business there should be a profit motive. From the facts of the case, it is clear that charities are engaged in the activity of collecting rents from immovable properties, and moneys lent to others. In addition to that, they are renting the kalyana koodam and collecting hire charge on the vessels and electricity charges. It appears that the charities have made a profit from the hiring out of the vessels and from the collection of electricity charges.

3. Sri V. Vedantachari, the learned Counsel for the petitioner, relied on a passage In Maxwell on " Interpretation of Statutes," 11th Edn., p. 323, and submitted that the word "business" should be read along with other words, namely, trade used in the definition, and therefore, should be confined to business which is in the nature of trade. The word " business" should have soma analogy to trade, bat It la not necessary that it should be trade itself.

4. The kind of activity engaged by the trust which brings a profit to It cannot be excluded from the definition. Reliance is placed on the Catholic Centre Staff Union Vs. Archbishop of Madras and Another, where it was held that It would be Improper to call a Social or cultural Institution, admission to whose membership Is restricted by the management, a shop or a commercial establishment. The Court in that case was considering the applicability of the Shops and Establishments Act to an Institution known as Catholic Centre whose activity was In the nature of a club than a commercial establishment. The decision cannot be of any help to the petitioner.