

(1937) 03 MAD CK 0031
In the Madras High Court

R. Krishnaswami Iyengar

APPELLANT

Vs

Sri Kallalagar Devastanam

RESPONDENT

Date of Decision : 30-03-1937

Acts Referred:

Citation : 174 Ind. Cas. 166 : (1937) 46 LW 782

Hon'ble Judges : Pandrang Row, J

Bench : Single Bench

Judgement

Pandrang Row, J.—This is an appeal from the decree of the District Judge of Madura dated October 18, 1932, affirming on appeal the decree of the Principal Subordinate Judge of Madura, dated February 28, 1930 in O.S. No. 120 of 1928 which was a suit for recovery of Rs. 4,625 from the defendants, three in number. The principal allegations were that defendant No. 1 who was the trustee of the plaint mentioned Devastanam, Sri Kallalagar Devastanam, from 1919 to April 1326, had been grossly negligent as regards certain items set forth in Scheduled 2, to the plaint, and that his negligence had caused loss to the Devastanam which he was bound to make good. The other two defendants were impleaded on the ground that they had executed a security bond binding themselves to make good to the Devastanam any loss that might be caused by defendant No. 1's breach of duty or negligence, etc. The suit was dismissed by the trial Court as against defendants Nos. 2 and 3, and the only item in respect of which negligence was found to be proved by the trial Court was in respect of the special festival celebrated in June 1924 at the temple, known as the Thailaprithishtai and Jyeshtabhishekam. As regards the other items charged, the trial Court found the defendant No. 1 was not guilty of any negligence. As regards the money spent for this special festival by defendant No. 1, the trial Court was of opinion that though the temple was a rich one and was in a position to spend Rs. 4,000 and even more for the Jyeshtabhishekam, defendant No. 1 was not justified in spending more than the Rs. 1,000 that was sanctioned by the temple committee. In other words, his finding was that though the temple could very well afford the amount actually spent on the festival never the less defendant No 1 was only

asubordinate of the committee and had exceeded the allotment of Rs. 1,000 fixed by the committee, and he was, therefore, liable to pay back the excess spent by him, namely, Rs. 3,633, and passed a decree accordingly. On appeal this decree was confirmed by the District Judge who was of opinion that because defendant No. 1 ignored the limit of expenditure imposed by the temple committee, he did so at his peril and that he cannot shelter himself behind an allegation that the allotment was unreasonable, Defendant No.1 is the appellant in this second appeal.

2. A great deal has been said in the course of the argument before me as to the powers of the temple committee to issue directions to the temple trustee or manager. Reference has been made to the decisions in *Seshadri Ayyangar v. Natraja Iyer* 21 M. 179; *Sitharama Chetty v. Subramania Iyer* 39 M. 700 : 32 Ind. Cas. 211 : AIR 1917 Mad. 551 : 30 M.L.J. 29 : 19 M.L.T. 25 : 3 L.W. 43, and also to *Subba Naidu v. Gopalaswami Naidu* 15 M.L.J. 185. There is no doubt that the temple committee have the power of general superintendence over the endowments for the purpose of seeing that the endowments are appropriated for the purpose for which they were granted. They have also the power of appointing trustees or managers and of calling for accounts from them and scrutinize the accounts. It may be they also possess the power of calling for budgets every year and of passing them with or without modification. No authority has been brought to my notice in which it has been held that the mere exceeding of the budget allotments by the trustee or manager is it self a sufficient ground for compelling the trustee or manager to make good the excess amount spent by him though for a purpose binding on the temple. Exceeding of budget allotments is not rare even in the best regulated establishments, and it is difficult to believe that cases of such exceeding of budget allotments would have been very rare in the administration of temples by trustees or managers. It is, therefore, significant that there has been no reported case at all in which any one has sought to recover from a trustee or ex-trustee or manager the amount spent by him in excess of the amount allotted in the budget. It would appear as if no temple committee or no subsequent trustee ever conceived the idea of making any temple manager or trustee liable to make good the amount spent by him in excess of the budget allotments.

3. In this particular case the exceeding of the budget allotment was, if I may say so, quite justifiable in the circumstances; it was the committee itself who wanted the trustee or manager to celebrate the festival which is a special one held only very occasionally, once in 20 years or so. Immediately on receipt of this order by the trustee, the latter represented to the committee that it was impossible to celebrate the festival at a cost of Rs. 1,000 which was the amount sanctioned by the committee. To this letter the committee made no reply, and the festival was conducted on a be fitting scale by the appellant in the presence of and with the active assistance of one prominent member of the temple committee, one Mr. Alagappa Chettiar, who unfortunately died before the evidence in the suit was recorded. Another member of the committee appears also to have been present

at the festival. The findings of the Courts below are to the effect that the money was actually spent for the festival; in other words, there is nothing to show that any portion of the amount was misappropriated. The temple is very ancient and important and enjoys considerable repute. The annual income is something over Rs. 60,000 and the festival in question was a special one, the object of which was to restore the lost, or diminished lusture of the idol. This process appears to involve elaborate preparation of costly oils and it is impossible to say that the festival could have been fittingly performed within the amount sanctioned by the committee. Full accounts were submitted to the committee by defendant No. 1 and practically no objection was taken to the accounts, the only objection taken being to a very small item of cart hire and the supply of a small quantity of Madras snuff and tobacco to the establishment. As the learned District Judge observes in his judgment, the committee was to some extent to blame for what happened because they passed no orders on the appellant's report to the effect that the festival could not be celebrated at a cost of any thing like Rs. 1,000 and also because they never took any steps either to repudiate the excess expenditure actually incurred or to regularize it after the accounts were received by them, The accounts were received by the committee sometime in November 1925, and the present suit was instituted only in October 1928. During all this period there was never any complaint about the exceeding of the budget allotment in respect of this festival. The learned District Judge, while saying that it is not necessary to go into details, has nevertheless permitted himself to observe that:

The huge sums spent on fireworks, public feeding and such matters could easily have been reduced to proportions more suitable to the financial resources of the temple.

4. As a matter of fact the details show that the amount spent on fireworks is only Rs. 69 which certainly cannot be regarded as a huge sum. Public feeding which cost about Rs. 900 was a necessity as the temple is situated in a place where admittedly there are no hotels or eating houses and the worshippers who had come to attend the festival would have had to starve if the trustee had not made arrangements for feeding them. The financial resources of the temple, as stated above, are more than sufficient to stand an expenditure of the amount incurred in this connection. As the learned trial Judge remarks, "the temple is rich and in a position to spend Rs. 4,000 and even more for the Jyeshtabbashikam". I am unable to appreciate the contention that even though the temple had enough money and could afford to celebrate the festival magnificently, nevertheless the trustee was bound to celebrate it as economically as possible. I do not think expenditure on festivals in temples by trustees should be wholly guided by considerations similar to expenditure by guardians for minors" necessities or benefit. Festivals and other ceremonies conducted in honour of God cannot be regarded as being similar to necessities in the case of minors; so long as the temple endowment can stand the strain, the celebration of a festival on a grand scale cannot, in my opinion, be regarded as being unreasonable or extravagant

and the conduct of such a festival in such a manner by a trustee or manager should not, in my opinion, be regarded as a breach of trust or negligence. He has only to do his duty according to the best of his judgment had to the satisfaction of the worshippers whose contributions add to the income of the temple. There has been in this case no misappropriation of any kind and the temple is certainly rich enough to afford to spend a sum of Rs. 4,600 on a special festival and there is in my judgment, no jurisdiction for the view that the temple trustee or manager is, liable to make good out of his pocket everything spent by him over and above the amount allotted by the committee. Such a general proposition is, in my opinion, in it in accordance with law. Even otherwise in this particular case, the conduct of the committee has been such that tie excess expenditure must be deemed to have been ratified by the committee.

5. Even assuming that the position of the trustee or manager is only that of an agent, bound to obey every direction of his principal, i.e. the committee, nevertheless, when he brings to the notice of the principal the fact that he had exceeded his authority by spending more than what was sanctioned and the principal acquiesces in it and takes no action whatever against him, his act must be deemed to have been ratified by the principal. In this connection reference may be made to *Ramaswami Chetty v. Karuapan Chetty* 29 M.L.J. 551 : 31 Ind. Cas. 216 : AIR 1916 Mad. 1133, The learned Judge therefore erred in law in coming to the conclusion that though the committee was, to some extent, to blame for what happened because it passed no orders on the appellant's letter, Ex. G-4, and there should have been prompt action to regularize or repudiate the excess expenditure, the appellant was liable all the same to make good the excess to the succeeding trustee. He did not consider the question whether in these circumstances there was not a ratification of the appellant's act by the committee. The appeal must, therefore, be allowed and the decree passed against the appellant set aside with costs in this Court and in the Courts below to be paid out of the temple funds. Leave to appeal is refused.