

(1958) 03 MAD CK 0012
In the Madras High Court

R. Sambandam Pillai

APPELLANT

Vs

State of Madras, by Commissioner, Hindu Religious and
Charitable Endowments and Another

RESPONDENT

Date of Decision : 24-03-1958

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1958 Mad 557 : (1958) ILR (Mad) 862 : (1958) 2 MLJ 445

Hon'ble Judges : P.V. Rajamannar, J

Bench : Single Bench

Judgement

P.V. Rajamannar, C.J.—The appellant before us was granted a lease of certain lands belonging to the Tirukkadayur Devasthanam by the

Pandarasannadhi of Dharma-puram who is its hereditary trustee. The lease was for a period of five years from fasli 1363. Under Rule 10 of the

rules framed u/s 100(2)(m) of the Madras Hindu Religious and Charitable Endowments Act, all leases stipulating an annual rental of Rs. 500 or

more or its equivalent in paddy or other produce shall be reported to the Commissioner who shall have power to veto such leases. If within one

month from the date of receipt of the report by the Commissioner, no order vetoing or cancelling the lease is received, the lease shall be deemed to

have been approved. The lease was reported to the Commissioner on 17th August, 1953. On 17th September, 1953, a telegram was despatched

by the Commissioner to the trustee-matathipathi purporting to veto the lease and advising the grant of the lease to cultivators after obtaining the

permission of the Deputy Commissioner. This was followed by a communication of an order, dated 16th September, 1953, which runs as follows:

In exercise of the powers vested in him under the Rule 10 of the rules framed u/

s 100(2) of the H.R. & C.E. Act. 1951 (Madras Act XIX of

1951) the Commissioner, H.R. & C.E., Madras, hereby vetoes the lease of lands in items 7 to 10 of the auction notice to one Sri Sambandam

Pillai for five faslis from fasli 1363 at a rental per fasli of black and green gram, one kalam each and straw, bundles 260.

The trustee is advised to lease out the lands to the cultivators for fasli 1363 only as per provisions of the Tanjore Tenants and Pannayals Protection

Act after obtaining the permission of the Deputy Commissioner.

2. When the trustees prayed for a reconsideration of the order, the Commissioner informed him that he had exercised the power of veto in time

and that his veto was binding on the trustee and the lessee. Thereupon the lessee filed an application to this Court under Article 226 of the

Constitution for the issue of a writ of certiorari to quash the order of the Commissioner vetoing the lease in his favour. That application came on

before Balakrishna Ayyar, J., who dismissed it in limine. Evidently the point seriously pressed before him was that there was, a conflict between

Rule 10 of the rules above-mentioned, under which the Commissioner purported to veto the lease, and Section 29 of the Act itself. The learned

Judge found no conflict between the two and dismissed the application. This appeal is against that order of Balakrishna Ayyar, J.

3. Mr. R. Gopalaswami Ayyangar, for the appellant, did not press before us the point of inconsistency between the rule in question and the section

of the Act. Balakrishna Ayyar, J., was quite right in saying that there was no conflict between the two. Section 29 dealt with leases in excess of five

years whereas Rule 10 can be confined to leases other than the leases covered by Section 29. But we see considerable force in Mr. Gopalaswami

Ayyangar's contention that the Commissioner cannot veto a lease without assigning any valid reason, and the exercise of an arbitrary power to

veto any lease without assigning a reason would be unconstitutional. He did not go so far as to say that in no case could the Commissioner Veto a

lease for a period of less than five years for a valid reason, for example, when the lease was the result of fraud or corruption or nepotism, or on the

ground that the rental was grossly inadequate. Unfortunately in this case the Commissioner did not give any reason for the exercise of his powers of

veto. Nor did the Commissioner give any reason in his subsequent order refusing

to reconsider the original order. In our opinion this is an unreasonable exercise of the power conferred on the Commissioner under Rule 10 above mentioned. Prima facie a trustee will be entitled to grant a lease for a period of five years without the prior sanction of the Commissioner. It is true that even such a lease can be set aside by the Commissioner ; but that should only be on a valid ground, that is, a ground which has a relation to the benefit of the institution. As the lease in favour of the appellant was set aside without assigning any reason, the Commissioner's order is not valid and should be struck down. We, therefore, allow the appeal and the writ petition filed by the appellant and quash the order of the Commissioner purporting to veto the lease in favour of the appellant.

4. Ordinarily we would have followed this order with a direction to the Commissioner to reconsider the matter and to consider whether there are valid grounds to exercise his power of veto. But having regard to the fact that nearly five years from the date of the lease shortly will expire, we think it will serve no purpose to have the matter again re-examined. This order should not be taken to mean that we approve of the lease in favour of the appellant on the merits. There will be no order as to costs.