(1983) 12 MAD CK 0035

In the Madras High Court

Rajammal and Others APPELLANT

Vs

The Authorised Officer (Land Reforms) and Another RESPONDENT

Date of Decision : 22-12-1983

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 2(1)(ii)

Citation : (1984) 1 MLJ 270

Hon'ble Judges : S. Nainar Sundaram, J

Bench : Division Bench

Judgement

S. Nainar Sundaram, J.—This revision is directed against the order passed by the Land Tribunal under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act LVIII of 1961, hereinafter referred to as the Act. The petitioners are the owners of the lands. They are interested in saving only the extent of the lands covered by a will, dated 8th May, 1928 under which a trust is created over the said lands. They wanted to state that the lands are held by a religious trust of a public nature within the meaning of Section 2(1) (ii) of the Act. Both the Authorised Officer and the Land Tribunal negatived this attempt of the petitioners and the result is that they have come to this Court by way of this revision.

2. The relevant recitals in the Will, relating to the object of the trust in question have been extracted in the order of the Land Tribunal and they run as follows:

The Land Tribunal has taken the view that the provision for Vedaparayarams during Adi Pooram festival in the temple in question would not amount to a religious trust of a public nature. This view of the Land Tribunal is being questioned before me by Mr. B. Kumar, learned Counsel for the petitioners. For elucidation as to what would amount to a religious trust of a public nature, learned Counsel relies on a few judicial pronouncements, an appraisal of which, in my view, definitely clinches the issue and supports the case of the petitioners.

3. In Abdul Sattar Ismail Vs. Abdul Humid Sait, , this Court considered the reading of Koran over the tomb of the founder as religious and pious. In Bai

Hirbai Rahim Aloo Paroo and Kesarbai Dharamsey Kakoo Charitable and Religious Trust Vs. Commissioner of Income Tax, Bombay City II, , the High Court of Bombay held that the reading of the Holy Koran is not only a religious and pious act, but it would constitute a valid purpose of a religious endowment. In pavallewai Maricair Dharmarn, Nagore v. State of Tamil Nadu (1979) 92 L.W.. 261, Ramanujam, J., dealt with a. case where the object of the trust was to run a Madaras a wherein Muslim girls and boys are given religious lectures and lessons in Koran and the learned Judge held that the recitals indicate that religious instructions and lessons in Koran and also lectures on principles of Islamic religion are given in the Madarasa for the benefit of Muslim girls and boys and it would come within the purview of Section 2(1) (ii) of the Act, so as to claim total exemption from the provisions of the Act. In Hajia Aiysha Nachiar Kalvi Arakkattalai Vs. State of Tamil Nadu, , I had occasion to recapitulate these decisions, amongst others, and of course, on the facts of that case, I had to hold that the matter could not be brought within the purview of Section 2(1) (ii) of the Act."

4. The dedication of the property must be for purposes religious. The income from the property must be utilised for the propagation or practice of religion, or in other words, for religious purposes. I have expressed these views in the decision referred to above. In Vedapatasala Trust v. State of Tamil Nadu (1981) 94 L.W. 137, a Bench of this Court consisting of Ismail, C.J. and Sen got tuvelan, J., held as follows:

The imparting of instructions in Vedas and Agamas is certainly of religious nature. Therefore, whenever a Trust which is of a public nature provides for the imparting of instructions in Vedas and Agamas, certainly that will be a religious trust of a public nature, and the imparting of instructions in Vedas and Agamas cannot be anything other than of religious nature.

In the present case, the provision made is for Vedaparayanams during Adi Pooram festival in the temple in question. If imparting of instructions in Vedas and Agamas could be characterised as of religious nature, it is needless to state that recitals of Vedas during the Adi Pooram festival in the temple in question are nothing but calminations of such learnings a sort of practice by way of recitals of what has been learnt and hence they cannot but be religious in character. It is not pleaded before me that the trust is not of a public nature. The object is not temporal or secular in character and it is purely religious in character. Vedas are the breath of God. That is to say, it is the life of the Lord. It would mean that ore could realise God through Vedas. Therefore, it is held to be sacred by itself. This is the significance of chanting Vedas More than their meaning, it is the chanting that matters. It is the vibration of the chanting that is significant. Vedaparayanams are nothing but glorifying the Lord and adoring Him. These are all well accepted conceptions in the ethical level, and they need importing for consideration of the question of the present nature. Hence, the exclusion of the operation of Section 2(1) (ii) of the Act is not permissible, but on the other hand, the said provision is attracted to enable the petitioners to claim the exemption.

5. There is ore reasoning found in the order of the Land Tribunal and I must advert to it for the purpose of eschewing the same and that is, the Land Tribunal states that there is only a limited charge on the properties. How the Land Tribunal came to this conclusion and what is the recital in the Will that led to this conclusion are not clear from its order. The minimum to be spent are prescribed and there is no reservation of the income for any other purposes personal to the petitioners. Mr. B. Kumar, learned Counsel for the petitioners, also submits that the entirety of the income is meant for discharging the religious trust of a public nature created by the will. The discussion of the principles and their application to the facts of the present case compel me to interfere in revision. Accordingly, this revision is allowed, but there will be no order as to costs.

