

(1925) 11 MAD CK 0034
In the Madras High Court

S. Logasigamani Mudaliar and Others	APPELLANT
Vs	
L. R. K. Theogaraya Chetti	RESPONDENT

Date of Decision : 20-11-1925

Acts Referred:

Citation : AIR 1927 Mad 427

Judgement

1. The petitioners in O. P. No. 63 of 1919 before the District Judge of Chingleput, who are worshippers of the temple of Sri Theagarajaswami, Tiruvattiyur, have filed a civil miscellaneous appeal under Sections 47 and 96 of the Civil P. C., and alternatively a civil revision petition u/s 115 of the Code against the order of the learned District Judge refusing to dismiss from his office the respondent, the trustee of the temple. It is conceded by Mr. Ramchandra Iyer on behalf of the petitioners that no appeal lies; but he presses before us the civil revision petition on the ground that irregularities which would vitiate his order have been committed by the learned District Judge in the exercise of his jurisdiction. As there is no appeal, it is clear that we are precluded from dealing with the order on its merits; and unless the learned District Judge has, in disposing of the petition, misdirected himself in a manner which will show that his order cannot be accepted as satisfactory, we will not be right in interfering with it u/s 115 of the Civil P. C.

2. This temple at Tiruvattiyur is a well-known one and possesses considerable moveable and immovable properties. In O. S. No. 2 of 1908 on the file of the District Court by certain worshippers, a scheme was framed for its management which was confirmed in appeal with certain modifications by the High Court in A. S. Nos. 204 and 205 of 1910. The

respondent was a minor at that time and was represented by his mother.

He is said to have assumed charge of his office as trustee in November 1912, In 1915 the then District Judge dismissed an application filed for his

removal under Clause (9) (a) of the scheme with the remark that

in the future he (the trustee) is expected to manage the trust property more prudently than in the past and that as trustee he has not merely rights but also duties.

3. The present application has been filed by the worshippers for the same relief.

4. On behalf of the petitioners Mr. Ramachandra Iyer argues that the order of the learned District Judge in the present case should not be accepted

as a satisfactory one mainly on the following grounds: (1) that the learned District Judge being of opinion, which according to him is erroneous, that

the petition is not a bona fide one intended to benefit the temple and its worshippers, has not dealt with the case from a proper standpoint, and so

the conclusion is unsatisfactory, (2) that with regard to the first charge, viz., conversion to his own use of the income from the temple properties, (a)

he has omitted to consider some evidence relating to it, stating that there is ""absolutely no evidence to support it"" and (b) that the true significance

of some parts of the evidence relating to this charge has not been perceived by the learned District Judge: and (3) that in dealing with the trustee's

failure to make certain collections which have lapsed owing to his neglect, the learned District Judge excuses the trustee as regards a portion of the

amount on a ground for which there is no evidence. We will now proceed to deal with these grounds.

5. Ground No. (1).--In our opinion this ground of attack is well-founded. The learned District Judge prefaces his examination of the evidence with

this remark in para. 6:

In considering this petition I have to consider how far it is a bona fide petition intended to benefit the temple and its worshippers and how far it is

only a personal grudge of the petitioner.

6. A perusal of that paragraph shows that the learned District Judge is clearly of opinion that the petition is not a bona fide one. Starting with this

view, he considers the entire case and says in para. 17:

My conclusion is that the trustee has been incessantly harassed by the petitioner

and the acts of omission are mainly due to this.

7. It seems to us that the learned Judge's conclusions as regards the administration of the trust by the respondent given in this paragraph afford a

complete refutation of his view that the petition is not a bona fide one. He states in the same paragraph that the trustee

must set his house in order; more particularly leases of the gardens should be offered by auction. Proper accounts should be kept for lamps and

their cost; arrears of rent should be collected as far as possible and the richer defaulters sued; the second key to be given to the Gurukkal and not

to the Nambudri though this may cause inconvenience; there must be no handing over of grain in bulk to the cook unless it is first entered in the

accounts and a clear statement of its expenditure recorded; wages of servants must not be allowed to get into arrears and if in arrears must be

clearly shown against each; to have the inventory prepared at once.

8. And these observations come after a clear warning given to the trustee in the prior application to which we have already referred. Having regard

to the conclusion arrived at by the learned Judge we cannot say that the petition is not one intended to benefit the temple and its worshippers. As

the entire evidence relating to the administration of the trust has been adjudged from this erroneous standpoint, we cannot accept the final

conclusion of the learned Judge as satisfactory.

9. Ground No. 2 (a).--One of the allegations with regard to the first charge, viz., conversion to his own use of the temple income is that certain

grain was received from Kattalaikars for daily pujas; that this was received by the trustee with a large measure and distributed for temple use with

a small measure and that the difference was a profit to the trustee. The learned District Judge says with reference to this charge:

This is made with absolutely no evidence to support it, and the witnesses who speak on the point deny any such set of double measure. What

mentality can a man have who makes such lying accusations with reference to the trustee of a temple?

10. We find from the evidence that the learned District Judge is not justified in saying that there is absolutely no evidence to support the allegation.

At page 17 of the printed papers in the cross-examination of P. W. 3 we find the following statement:

I get 3/4ths measure of unboiled rice from the Nityakattalai and I get Rs. 41/2. Every donor gives rice with the big measures and the temple

expenses are measured with a small measure. I know the rice received from the Ubhayakar and I know how much is used. So I say there is that

saving.

11. In view of this evidence the observations of the learned Judge as regards this point of the case are uncalled for.

12. Ground No. 2 (b).--The evidence shows as the learned District Judge points out

when grain was paid in arrears it was given raw to the servants instead of being first cooked and presented to the deity.

13. The learned Judge while pointing out:

No doubt, that is wrong for the gift is to the god says: Yet in practice it is the servants who benefit and so it was but one step further to think they

could have it without its being cooked.

14. It may be, we do not express any opinion, as the learned Judge says that from this it is not proper to presume that the trustee was taking rice

for his own use; still it must not be forgotten that from a devotee's standpoint it has this significance: that no puja is performed with the rice so

offered by the Kattalaikars. This aspect of the evidence has apparently been lost sight of by the learned District Judge.

15. Ground No. 3.--In para. 11 of his judgment the learned Judge says:

Rupees 900 is said to have lapsed owing to neglect. It is not so, Rs. 400 was attached by the Taluk Board and the balance was deposited in the

post office under orders of this Court.

16. Mr. Ramachandra Iyer points out that there is no evidence to support the learned Judge's statement that Rs. 400 was attached by the Taluk

Board. We have not been shown any evidence justifying this statement by the learned counsel for the respondent; but he informs us that the

records of the Court available to the District Judge show that Rs. 400 was attached by the Taluk Board. This may be true but absence of any

reference to such records gives a justifiable handle to the attacks of the petitioner and renders it impossible for us to verify the statement.

17. In our opinion, the learned District Judge has misdirected himself in the various ways pointed out above which makes it difficult for us to accept

his conclusion as a satisfactory one. We must, therefore, set aside the order of the lower Court and ask the learned District Judge to hear the petition afresh and dispose of it according to law.

18. In meeting the case put forward by the petitioners Mr. Thanickachallam, the learned counsel for the respondent, has brought to our notice that

subsequent to the passing of the order the trustee ""has set the house in order"" to use the expression of the learned Judge as regards the weak

points in his administration. If this is so, the learned Judge should pay attention to this improved conduct of the trustee in considering the petition on

its merits.

19. The appeal is dismissed and the revision petition is remanded to the lower Court for fresh disposal. We make no order as to costs in the

appeal. In the civil revision petition the costs will be costs in the cause.