
(2000) 03 MAD CK 0033
In the Madras High Court
Case No : Appeal No. 598 of 1986

S.A. Viswanathan and Others

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 31-03-2000

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 6(17)

Citation : AIR 2000 Mad 414

Hon'ble Judges : A. Subbulakshmy, J

Bench : Single Bench

Advocate : T.R. Mani, for R. Loganathan, for the Appellant; R. Muthaian, for R. Balasubramanian, Spl. Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

A. Subbulakshmy, J.—Plaintiff is the appellant.

2. The case of the plaintiff briefly is as follows : The plaintiff is a trust known as Sri Swami Mela Arasalwar Trust at Shencottah. It has been in

existence from time immemorial. The trust is situate at Shencottah which was formerly a part of the state of Travancore, The trust was established

by savings out of grant made by one of the Maharajas of Travancore to a sect of brahmins who by virtue of the said grant became settled in the

three streets in Shencottah now called Perumal Sannadhi Street, Arasalvar street and Vadakku Madam street. The trust which is founded by

savings out of the grant to the brahmin communities who formed a sect by themselves was managed by the brahmins themselves by agreement

among themselves originally. In 1936, there were about 38 members in the three gramams/streets who were in the management of the trust and its

properties and used to administer the trust through a general body of the said

members wherein resolutions were passed on majority of the members present and voting. Subsequently when a dispute arose with regard to the management of the trust among themselves, the petitioners sought the guidance of the Government of Highness the Maharaja of Travancore who through the then Chief Secretary to the Government directed the Superintendent for a limited period of five years to guide the management of the trust. The Superintendent also subsequently ceased and after integration of Shencottah Into the present Tamil Nadu, the second defendant herein has passed specific order to the effect that there shall be no superintendence for the management of the trust by the Hindu Religious and Charitable Endowments Board. The trust consists of a building which is locally known as Chatram which is a place where refreshments were used to be given. The establishment of Chatram was made by the Brahmin grantees of Maharaja for the purpose of feeding way farers and travellers who resorted to Shencottah and put upon in the village. The chatram was established by the brahmin grantees out of the income of the properties granted to them. Among the brahmin communities the samaradhanai was used to be held mainly on Dwadesi days and the poor brahmins among the grantees were fed. On occasions of such Samaradhana is of feasting there used to be invocation of particular deities as grace before feasting started. For this purpose of Invocation, the then trustees chose to Instal niches for Vinayagar Gopalakrishnaswami and Sastha near the Chatram itself. These installations were nothing to do with the establishment of chatram. None has any endowment in their names. The chatram building belongs to the trust. The trust is a limited denominational trust of the original brahmin grantees. The properties were originally granted to them and from the income of the properties they established the chatram. The trust is not a Math. The trust is a chatram building and not a temple. It is not a place of public worship and no member of the general public is allowed to access or worship in the building. The building and the entry were controlled at all material times by the brahmin grantees. The places were never dedicated to the Hindu community as such or any section or for the benefit of any such community as a temple. The feeding at Chatram building is not for a specific service or charity in a muth or temple nor is there any performance of religious charity. There are no hundiyls,

collection of any donation nor any of the deities taken out in procession. Idols were later Installed after the chatram had been in existence and the

feeding is in vogue. As the savings from the properties belonging to the trust increased, the trust diversified its objects by feeding the poor brahmins

among themselves within chatram building. Three deities of Sastha Vinayagar and Gopalakrishnaswami are divided off by a poramboke passage as

declared by the Government. The second defendant, the Commissioner, Hindu Religious and Endowments Department, in A.P. 42 of 1976 has

upheld the order of the Deputy Commissioner, H.R. and C.E. In O.A. 1 of 1969 and had declared that the plaintiff Trust is a religious institution.

The suit is laid now to cancel such order on the ground that the plaintiff trust is not a religious institution but on the contrary a trust delimited to the

original grantees of the three streets, namely, Perumal Sannadhi street, Arasalwar Street and Vadakku Madam street at Shencottah who were a

denominational sect established the chatram by themselves and had on such foundation, chatram was managed from the income of the properties

granted to them by the then Maharajas of Travancore as their own absolute and separate properties.

3. The second defendant filed written statement contending that the Deputy commissioner held that it is a religious institution which was upheld by

the Commissioner. The deputy Commissioner has gone through the entire evidence produced by the plaintiff and has arrived at such conclusion.

There were festivals in the temples and the feeding of brahmins which was an integral part of the religious worship among Hindus in the former

Travancore State. The Government of Travancore had exercised its control over the suit institution from 1936 for a very long period and it was not

questioned by the trustees of the institution. But, they all along had subjected themselves to the jurisdiction and control of the Government. The

documents reveal that the Government exercised control over the suit institution by sanctioning budget. No evidence was let in to show that it is not

a public temple. It is a statutory suit filed against the order of the Commissioner. So the plaintiff cannot claim denominational nature of the trust in

the suit. The suit is barred by limitation. The trust was not managed by brahmin community. The community people never sought intervention of the

Government for guidance. Travancore Devasthanam board following the administration made by the previous Government also appointed

Superintendents. The Plaintiff did not object to such control and management by the previous and present Governments. There is a build-ingwhich

is a chatram. Achatram cannot be a private. There are deities like Vinayagar, Gopala Krishna Swamy and Sastha which shows the trust is a public

one. It is not admitted that the trust has been managing the property by and through the brahmin grantees or by committee of persons elected

among themselves. The trust is no I a limited denominational trust. It does not belong to brahmin grantees. The Trust is a religious institution. The

trust is a temple. Any member of the general public can take part in the affairs of the trust. The trust is a religious institution as defined in Act 22 of

1959. Feeding of the brahmin is a public charity. The order passed by the Deputy Commissioner and the Commissioner are correct and valid in

law and the plaintiff is not entitled to the relief asked for.

4. The suit was tried by the Subordinate Judge, Tenkasi and the suit was dismissed. As against the said judgment and decree, the present appeal is directed.

5. The Appellant contends in this"appeal that the finding of the trial Court that the Trust is a public trust, is erroneous and is not supported by

acceptable evidence. The trust has been established and used by the brahmins in the three streets in Shencottah and it is not a religious institution

and the finding of the trial Court is not sustainable.

6. Point for consideration is that whether the suit institution is not a religious institution and the order passed by the Commissioner is liable to be set aside?

7. Learned counsel for the appellant/ plaintiff submitted that the plaintiff is a Private Trust and it is not a religious institution and it belongs to the

residents of Perumal Sannadhi Street, Arasalvar Street and Vadakku Madam street. Shencottah who were brahmins and it was a grantee given to

brahmins and it is not a religious institution and the order passed by the Deputy Commissioner and confirmed by the Commissioner is not proper.

Learned Government Advocate appearing for the respondents submitted that the suit institution is a religious institution and it was under the

superintendence and guidance of the Government of Highness the Maharaja of Travancore who through the then Chief Secretary to the

Government was managing the trust and it is a place where refreshments were

given and the order passed by the Commissioner is perfectly in order. He also took me to the pleadings in the plaint wherein the plaintiff has stated that the plaintiff trust is in existence from beyond memory and when disputes arise with regard to the management of the trust among the members, the members sought the guidance of Government of Highness the Maharaja of Travancore who through the then Secretary to the Government directed the Superintendent to guide the management of trust for limited period of five years and after integration of Shencottah into the present Tamil Nadu, the second defendant, Commissioner passed specific order to the effect that there shall be no superintendence for the management of the trust by the Hindu Religious and Charitable Endowments Board. He further submitted that the trust Consists of a building known as Chatram and refreshments were given there and the income of the properties were used for the purpose of feeding way farers and travellers who resorted to Shencottah and put up in the village and so it is a religious institution and as a matter of fact, the three deities of Vinayagar, Gopalakrishna Swami and Sastha were installed in the poramboke land as declared by the Government and so the order passed by the Deputy Commissioner and confirmed by the Commissioner is perfectly justified and it is not liable to be set aside. In support of his arguments, he relied upon the documents Exs. A. 25 to A. 39 which go to establish that the Government exercise its control over the trust by sanctioning budget. He relies upon the decisions reported in Commissioner, Madras Hindu Religious and Charitable Endowments Vs. Narayana Ayyangar and Others, and in Ramaswami Jadaya Gounder Vs. Commissioner, Hindu Religious and Charitable Endowments Administration and Another, .

8. The plaintiff filed O.A. 1 of 1969 before the Deputy Commissioner under Ex. B. 1, to declare that the suit Institution is a private trust. The Deputy Commissioner dismissed the same under Ex. B. 33. The plaintiff preferred an appeal to the Commissioner and he dismissed the appeal under Ex. A. 48 and to set aside that order, the plaintiff filed the suit u/s 70 of the Hindu Religious and Charitable Endowments Board Act.

9. Learned Counsel for the plaintiff/ appellant pointed out that the trust building was founded from the savings of the brahmins community who form a sect by themselves and they were residents of three streets, i.e. Perumal

Sannadhi Street. Arasalwar Street and Vadakku Madam street and

these members consisted of brahmin residents and the trust was managed only by brahmins and the feeding of brahmins was done and it is not a

religious one and it is only a denominational one and no public is allowed in this institution and so the order of the Commissioner is not sustainable.

He further pointed out that there is another trust in Shengotta known as Swamikeela Arasalwar Dharman in Veera Kerala Varampuram Gramam

which was declared as a denominational one and this trust is also denominational one and so the order passed by the Deputy Commissioner and

confirmed by the Commissioner is erroneous one and it is liable to be set aside and the dismissal of the suit by the trial Court is not at all justified.

He relies upon the decision of this Court reported in The Commissioner for the Hindu Religious and Charitable Endowments and Another Vs.

Swamikeela Arasalwar Dharmam and Others, which relates to Swamikeela Arasalwar Dharmam in Veera Kerala Varampuram Gramam,

Shencottah Village, wherein the Commissioner for the Hindu Religious and Charitable Endowments is the appellant and Swamikeela Arasalwar

Dharmam in Veera Kerala Varampuram Gramam. Shencottah village is the respondent. This Court has held in the decision cited supra that :

The mere fact that festivals are being conducted and the deity is being taken in procession and at that time members of the general public

participate in the functions are not sufficient by themselves to draw an inference that the temple has been dedicated to the public and there must be

a clear indication that the gramadars wanted to exclude the general public, other than themselves, from worshipping in the temple as of right. The

mere fact that public is being allowed to participate in the festivals connected with the temple, or even allowed to worship in the temple could not

persuade the Court to readily infer therefrom dedication to the public.

In that decision it has been held that Swamikeela Arasalwar Varampuram Gramam, Shencottah Village is not a public charity (i.e.) the plaintiff trust

with its temple in that suit cannot come within the meaning of Section 6(20) of the Act. This Court has decided in the above suit that there is no

evidence that the plaintiff trust allowed the public into the temple for public worship. Relying upon this decision, counsel for the plaintiff argues that

the same principle applies for this Swami Mela Arasalwar Trust, Shencottah also

and this case squarely falls within the principles laid down in the decision cited supra and as the Swamikeela Arasalwar Dharmam in Veera Kerala Varampuram Gramam is not a religious institution, and it is a private trust and the principles laid down in Swamikeela Arasalwar Dharmam, Shencottah squarely applied to this case and the plaintiff trust is a private Trust and this institution cannot come within the mischief of the Act. Each case depends upon the facts and circumstances of that case.

10. Learned Government Advocate appearing for the respondents submitted that the entire management was done by the Government and the

Temple and the trust lies in a poramboke land and only the Government granted the land and only the Government is managing the trust and public

also come and participate in the trust and they also worship in the temple and the finding of the trial Court is perfectly in order. So the point that

arises for consideration is whether the suit trust is a private trust or whether it is a religious institution as defined under Hindu Religious and

Charitable Endowments Act, 1959. Section 6(18) of Hindu Religious and Charitable Endowments Act 1959 states that :

"religious Institution" means a math, temple or specific endowments;

Section 6(19) of the said Act states that :

"specific endowment" means any property or money endowed for the performance of any specific service or charity in a math or temple or for the

performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to Clause (17).

Section 6(16) defines that :

religious charity"" means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a

math or temple or not;

Section 6(20) of the Act reads as follows :

temple means a place by whatever designation known used as a place of public religious worship and dedicated to, or for the benefit of, or used

as of right by, the Hindu community or of any section thereof, as a place of public religious worship.

To come under the definitions of this Act, the institution must be used as a public religious worship and it must be dedicated to the Hindu

community or any section shall be for public religious worship and it must be used as a right of the Hindu community or any section thereto as a

place of public religious worship. If these conditions are satisfied, it has to be held that the institution is a religious institution coming under the

purview of the Hindu Religious and Charitable Endowments Act.

11. Division Bench of this Court in the decision in Ramaswami Jadayya Gounder Vs. Commissioner, Hindu Religious and Charitable Endowments

Administration and Another, has held that :

In order to constitute a temple as defined in Section 6(17) of the Madras Hindu Religious and Charitable Endowments Act, 1951, it has to be

proved that the place was and is being used for public religious worship and that it has been dedicated to and for the benefit or used as of right by

the Hindu community or any section thereof as a place of religious worship.

In the case of a very ancient temple whose origin is unknown, there being no evidence as to who founded it or built it and it is in evidence that it is

a popular one situated on a hill, in which the right of worship is not confined to any particular family alone, but it has always been accessible to all the

villagers living in the locality who have been holding the temple in great veneration, it must be held that the institution is a public one and a "temple

as defined by Section 6(17). In respect of temples in the Madras State there is strong presumption that they are public institutions. The situation of

the temple on a hill, its accessibility to all the people residing in the locality without let or hindrance, the shrine being built of stone, with a

mandapam and a tower, the deity having several vahanams and the existence of utsava vigrahas, the existence of a car in which the deity is taken

out in procession during the festival days, the expenses of the festival of the temple being met by collections from the public, the existence of a

hundi in which devotees put money, and the circumstance that during festival days the public put up big pandals after clearing the thorny tracts up

the hills, all these features indicate that the temple is a public one.

12. In the decision reported in AIR 1934 230 (Privy Council), it has been held that there is no presumption as regards temples in Malabar that

they are public charitable trusts and they must be established to be so on evidence.

13. A Division Bench of this Court in Sri Chidambareswara Sivagami Ambigai

Temple Vs. Commissioner, Hindu Religious and Charitable

Endowments, Madras, it has been held as follows :

It is now well settled that unlike the temple in Kerala there is a presumption that temples in South India are public and the onus of proof is on the

person asserting it, I to prove that it is a private temple.

14. The manager of Mela Arasalwar Trust is examined as P.W. 1. His evidence is that the properties were given by Maharaja of Travancore for

the residents of three streets, Perumal Sannadhi street, Arasalvar street and Vadakku Madam street and the income from those properties were

utilised by the residents of these three streets for doing the charity and for doing this charity, there is a separate building and feeding to poor is also

being done in the building. Even the plaintiff would admit that there is a chatram building which belongs to the trust and there is feeding to the

wayfarers and the establishment of chatram was managed by brahmin grantees for the purpose of feeding wayfarers and travellers who resorted

Shengogga and it was related only for the purpose of feeding wayfarers and there are also installation of three deities of Vinayagar,

Gopalakrishnaswami and Sastha. P.W. 1 also has spoken in his evidence that wayfarers used to come and stay there in the Chatram and they used

to stay there. But later, he has stated that except brahmins in those three streets, no one has got any right in that charity. But he specifically states

that while feeding, they used to feed persons who were non-Hindus also and after defraying the expenses in the feeding, from the balance amount,

they were administering Library, Schools, Government building, Water tank. Scholarship for the Students, Vedapada Salai. Nursery School. So,

the evidence of P.W. 1 shows that even non-Hindus are fed in this chatram and balance of the amount was also utilised for library, water tank,

Government School building, Veda Padasalai and Nursery school. The trust money is being spent for the Government School building also. So at

no stretch of imagination, it can be stated that it is purely a private one and the feeding and other charities were done only for the residents of those

three streets and not for others. The evidence of P.W. 1 proves that the charity was being done even to non-Hindus also. So it can safely be

concluded that it was only a public charity and that charity was associated with public for both the Hindus and non-Hindus. Even though P.W. 1

has spoken in his evidence that except the brahmins of those three streets no one has got any right in that trust, he has deposed that even non-

Hindus are fed there and the balance amount was also spent for Government school, water tank, which clearly goes to establish that the charity

was connected with public and it is only a public charity and it is not confined to the persons of those three streets as pointed out by the counsel for

the plaintiff. It is evident from the evidence of P.W. 1 that the primary object of the charity is to feed wayfarers who come to the chatram and stay

there. It is not the case of the plaintiff that only the brahmins of those streets come and stay there and the wayfarers used to come and stay there

means residents from other place also used to come and stay there irrespective of community and religion. The evidence of P.W. 1 clearly proves

that the primary purpose of the charity is to feed wayfarers who are poor either Hindu or Non-Hindus and it is only a public religious charity.

15. The evidence of P.W. 1 also proves that there is installation of idols of Vinayagar. Gopalakrishnaswamy and Sastha. The plaintiff has filed title

deed granted to Mela Arasalwar Trust, Shencottah which is marked as Ex, A. 10. That grant was granted u/s 24 of the Royal Proclamation dated

24-2-1986. P.W. 1's evidence is that there is a grant even prior to that but that title deed is not available with them. In Ex. A. 10, it is stated as

Mela Arasalwar Swami and it is not stated as Mela Arasalwar Trust or Chatram. So even the grant deed is not in the name of trust or Chatram but

it is only in the name of Swami P.W. 1 is also not able to say when the Chatram was established. But he says that it is from time memorial and the

idols are also installed from time immemorial and he does not know when they were installed. He further states that he also does not know when

these idols were installed whether prior to the formation of Chatram or after to that. It is seen from the evidence of P.W. 1 that there are five

trustees but those trustees were not examined. P.W. 1 is only the manager of the trust. He further states that there is also one Archagar. So it is

evident that poojas are also performed for the idols and hence it is a religious institution. He further states that there is one pathway, leading to the

river adjacent to Chatram and that Chatram is situate in the Poramboke land and the installation of these three idols are also in the poramboke

land. So it is clearly established that even the idols were installed in the poramboke land, which is a public place and it is not in the land granted to

them who to form the private trust. He further admits in his evidence that the public after taking bath in the river used to come and worship the three idols installed there. His specific evidence is that apart from the people of three streets, all the other public also use to come and worship the three idols installed there. But the key of the temple is with them and poojas were being done and Dceparthanai are also being done for those idols and prasadams are also given. He further states that residents of three streets are entitled to take part in the administration and the brahmins belonging to Sub-seel are also entitled to take part in the administration. He further states that if one brahmin sells a house in that street to any other person, who is from a different place, even that person is also entitled to take part in the administration of the trust. This part of P.W. 1's evidence goes to establish that the trust is not confined to the residents of those three streets alone and the persons who hail from other place and also who purchase the house in those three streets are also entitled to take part in the administration of the trust. All these things clearly goes to establish that it is only a religious institution and public temple.

16. The evidence of P.W. 1 establishes that public come and worship in the temple. It is not as if only on the festival days, public were allowed to participate in the temple. The evidence of P.W. 1 proves that even public who come to take bath in the river daily come and worship in the temple.

He further states that there is also Azhaghiya Manavala Perumal temple which is a Public temple and the amount spent for that temple is also

written in the accounts of the plaintiff Chatram and that expenditure is borne by the amount of this Chatram and Ex. A. 30 contains the entire bills

for the expenditure of that Chatram and manavala Perumal Koil. The account book Ex. A. 27 also contains the expenditure of Chatram and the

accounts in Ex. A. 17 contains the expenditure sanctioned by the Devasthanam Superintendent and the cash savings is entered in Ex. A. 19 and

Exs. A. 16 to A. 19 contain all the bills. He further states that the entire income is spent for charity purposes and even for feeding wayfarers they

used to give cheques and those cheques were not filed. He further states that for Gopalakrishna, Radha Urchavam all street peoples used to come

and they are also fed by Chatram. So it is evident from the evidence of P.W. 1 that there is not only the participation by the public but also the

public are also fed. These things reveal that all the people Hindus and non-Hindu come and slay and they are also fed. This clearly goes to prove

the nature of this charity as a public charity. It is clearly borne out by the evidence of P.W. 1 that the trust was not confined to residents of those

three streets and all the public used to come and take part in that. Eventhough P.W. 1 has spoken in his evidence that there is no Brahmortchavam

in the temple his evidence shows that all the public used to come and worship in that temple and in that Chatram also irrespective of caste and

religion all are fed. It clearly goes to establish that this trust is a religious institution. So the principles laid down in Swami Arasalwar Darmam's

case are not applicable to the case on hand.

17. Learned Counsel for the plaintiff/ appellant submitted that this trust originally belonged to Kerala State and this part of area formed part of the

State of Kerala and after that it has become part of the Madras State and since its origin was in the Malabar State, as per the various decisions of

this Court relied upon by the learned counsel, there is no presumption as regards the temple in Malabar that they are public charitable trust and

they must be established so only on evidence and this trust is a private trust.

18. The trial Court also considered with regard to the maintainability of the suit. The evidence of P.W. 1 goes to establish that public take part in

the trust and all are being fed and all are worshipping in the temple there. The evidence of P.W. 1 that even Non-Hindus are fed in the Chatram

and also the other persons who purchased the property in those three streets also have got right to take part in the trust would clearly go to

establish that it is only a public charity and not a private trust.

19. The documents filed also goes to prove that only the Government has been dealing with this property. Ex. A. 4 is the bye-laws of Mela

Arasalwar. These bye-laws were enunciated for the purpose of this charity by the Government of Travancore. Only the Government of

Travancore was dealing with this charity. Even in the plaint, the plaintiff has alleged that when disputes are in regard to the management of trust

among themselves, the members sought the guidance of the Government of Highness the Maharaja of Travancore who through the then Chief

Secretary to the Government directed Superintendent for a limited period of five years to guide the management of the trust. So it is well evident

that the members were not managing the trust by themselves and they also sought the guidance of the Government and the Chief Secretary directed to guide the management of the trust.

20. It is stated in Ex. A. 4 that the rules and bye-laws were passed by the Travancore Government in R.O.C. 631/37/Dev./dated 12-7-1937, R.

Dis. No. 815/58/Dev. dated 17-11-1939 and some of the rules were deleted and new rules were added. So it is evident from Ex. A. 4 that the

rules were "framed by the then Travancore Government. So it is very clear that this Mela Araslwar Trust was under the supervision of

Travancore Government. Ex. A. 9 is the proceedings of the Government of His Highness the Maharaja of Travancore. Ex. A. 9 reveals that in G.

O. ROC. No. 710/36. Dev. / dated the 1st April 1936, Government resolved to exercise Superintendence over the management of the

Mealarasalvar Swami Trust Fund, Shencottah for a period of five years u/s 5 of Hindu Religious Endowment Regulation III of 1079 and passed a

set of rules which was published in the Gazette dated 2nd February 1937. The rules were passed under Sections 12 of the Hindu Religious

Endowment Regulation of 1079 and the Chief Secretary to Government has signed under order. Revised rules were framed by the Government

under Ex. A. 9. The Superintendent of Devaswoms, Shencottah group shall exercise superintendence over the management of the fund and

Assistant Commissioner shall inspect the institutions and the budget shall be accompanied by a full statement of the fund. Ex. A9 also proves that

the trust was managed by the Government under the Rules framed by the Government. Ex. A. 31 is the revised estimate. Ex. A, 32 is the

sanctioned given by the Devasthanam. Exs. A. 34 and A. 35 are the sanctioned budget Ex. A. 37 and Ex. A. 38 are the budget estimate of

Swami Mela Arasalwar Trust". Ex. 39 to Ex. A. 41 are the proceedings of the Devasthanam Board for sanctioning the budget. Ex. A. 42 is the

proceedings of the Devasthanam for the budget estimate. Exs. A. 43 to A. 46 are the budget estimate. Ex. A. 47 is the expenditure account of

Mela Arasalwar Trust. All these documents would go to establish that the suit trust is only a religious institution and the Government was managing

this Institution by sanctioning the budget and it was under the control of State of Kerala. Trust was managed by the Government of Travancore.

The documents were signed by order by the Chief Secretary to Government of Travancore. All these documents clearly go to prove that the

Swami Mela Arasalwar Trust is only a religious institution and it is not a private one as contended by the plaintiff confined to the residents of three

streets mentioned in the plaint. A perusal of these documents leave no doubt to come to the conclusion that the title deed Ex. A. 10 is in the name

of deity only and the Government of Travancore was exercising control over this institution from 1936 for a pretty long period and the suit

institution was all along subject to the jurisdiction of the Government in controlling the institution. Further it shows that the authorities of the

government were exercising control by sanctioning the budget. The accounts produced also prove that only the Government was exercising control

over the trust. Even P.W. 1 has admitted in his evidence that idols were installed in poramboke land. The land belongs to the Government.

Absolutely there is not even an iota of evidence to show t hat this trust is a private trust purely managed by the residents of three streets mentioned

in the plaint and no other persons were connected with this trust. Only the Government of Travancore was managing and administering the trust

Government alone has been exercising control over this trust. Analysing all these aspects, the Deputy Commissioner has passed the order that the

Institution is a religious institution as defined under the Act, which was also confirmed by the Commissioner. The trial Court on a careful

consideration of the evidence let in, has found that the order passed by the Deputy Commissioner and confirmed by the Commissioner are

perfectly justified and there are no grounds to set aside those orders and the trial Court has rightly come to the conclusion that the suit institution is

a religious institution. On a perusal of the entire evidence and documents, 1 entirely concur with the findings of the trial Court and 1 see no grounds

at all to interfere with the judgment and decree passed by the trial Court.

21. In the result, the appeal is dismissed concerning the judgment and decree passed by the trial Court. No costs.