

(2009) 12 MAD CK 0076

In the Madras High Court

Case No : W.A. No. 1806 of 2009 and M.P. No. 1 of 2009

S.K. Lakshminarayanan and another

APPELLANT

Vs

The Commissioner, The Joint Commissioner and K.S.
Ramabadran

RESPONDENT

Date of Decision : 16-12-2009

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 54(3),
6(15), 6(15)(b), 6(20)

Citation : (2010) 2 CTC 696

Hon'ble Judges : R. Banumathi, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : K. Narasimhan, for the Appellant; K. Chandrasekaran for Respondent
Nos. 1 and 2 and Mr. M. Rukmangathan, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

R. Banumathi, J.—Challenge in this Appeal is dismissal of W.P. No. 17957 of 2009 declining to interfere with the order of 1st Respondent impleading 3rd Respondent in Appeal No. 17 of 2009 on the file of 1st Respondent. By consent of both sides, the Writ Appeal was taken up for final disposal at the admission stage.

2. The dispute relates to "Arulmighu Sampathy Vijaya Kothandaramasamy Temple, Koda Nagar village, Cheyyar Taluk, Tiruvannamalai District". Appellants who are sons of Veeraraghava Achariar claim that "Arulmighu Sampathy Vijaya Kothandaramasamy Temple" is a private temple and after the life time of their father, they are in management of the temple. According to the Appellants, they have also obtained a decree in Civil Court in O.S. No. 38/1976 on the file of District Munsif Court, Cheyyar that Appellants are the title owners of suit temple and also Permanent Injunction.

3. Based on the report of Assistant Commissioner, HR & CE dated 23.2.2009, "Fit person" to the temple was appointed u/s 54(3) of Tamil Nadu Hindu Religious

and Charitable Endowments Act, 1959 in Na.Ka. No. 6871/2008/A1 dated 03.3.2009. Being aggrieved by the order of appointment of "Fit person", Appellants preferred statutory Appeal in A.P. No. 17/2009 before the Commissioner, HR & CE [1st Respondent]. In the said Appeal, 3rd Respondent [K.S. Ramabadrana] filed I.A. No. 1/2009 to implead himself as party Respondent to the Appeal on the ground that he is an interested party. Application filed by 3rd Respondent in I.A. No. 1/2009 to implead himself as party Respondent was allowed by order dated 7.8.2009.

4. Challenging the impleading of 3rd Respondent in A.P. No. 17/2009, Appellants filed W.P. No. 17957/2009 contending that "Arulmighu Sampathy Vijaya Kothandaramasamy Temple" is a private temple and Joint Commissioner, HR & CE has no jurisdiction to appoint "Fit person". Further case of Appellants is that they have obtained Permanent Injunction against K.S. Ramanujam, father of 3rd Respondent in O.S. No. 38/1976 and 3rd Respondent is not a necessary party to A.P. No. 17/2009 and 3rd Respondent has filed Petition only to interfere with the administration of the temple and 1st Respondent ought not to have allowed the impleading Petition.

5. Learned single Judge held that u/s 6(15) and 6(20) of HR & CE Act, 3rd Respondent has right to see that properties of the temple are properly administered and that u/s 6(15)(b), 3rd Respondent is a regular worshipper of the temple and he is a person interested in the temple, learned Single Judge dismissed the Writ Petition which is challenged in this Writ Appeal.

6. Mr. K. Narasimhan, learned counsel for the Appellants contended that "Arulmighu Sampathy Vijaya Kothandaramasamy Temple" is not a public temple and that 3rd Respondent is not a "person having interest" and that he has filed impleading Petition only to intrude into the affairs of the temple and the learned Single Judge did not keep in view the Permanent Injunction obtained by the Appellants in O.S. No. 38/1976 on the file of District Munsif Court, Cheyyar.

7. We have heard Mr. R. Chandrasekaran, learned Special Government Pleader for Respondents 1 and 2 and Mr. M. Rukmangathan, learned counsel for the 3rd Respondent.

8. Taking us through the order of the 1st Respondent in I.A. No. 1/2009 dated 07.8.2009, learned counsel for the 3rd Respondent submitted that the 3rd Respondent has brought to the notice of Commissioner, HR & CE [1st Respondent] about mis-administration of the temple and alienation of temple properties and therefore, 3rd Respondent was rightly impleaded as necessary party in A.P. No. 17/2009.

9. Point in dispute lies in a narrow compass. u/s 6(15)(b) of HR & CE Act "person having interest" means - "in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat".

10. 3rd Respondent claims to be descendant of K.S. Ramanujam and 3rd Respondent is coming in the line of K.S. Narasimharaghavan. In the order in I.A. No. 1/2009 in A.S. No. 17/2009 dated 07.8.2009, 1st Respondent has pointed out that 3rd Respondent is engaged in the renovation works of the temple and also spent several lakhs of rupees and therefore, 3rd Respondent is a "person having interest" in the affairs of the temple.

11. As per Section 6(20) of the Act, "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. Explanation to the said Section states that where a temple situated outside the State, has properties situated within the State, control shall be exercised over the temple in accordance with the provisions of HR & CE Act, in so far as the properties of the temple situated within the State are concerned. Temple under the control of HR & CE is evidently the temple within the meaning of Section 6(20) of HR & CE Act.

12. Alleging acts of mis-management, 3rd Respondent has also brought to the notice of 1st Respondent about the sale of temple lands by Appellants. 3rd Respondent has brought to the notice of 1st Respondent as to certain instances of alienation of temple lands. For exercise of proper control over the temple in accordance with HR & CE Act, 1st Respondent has rightly ordered impleading of 3rd Respondent in A.P. No. 17/2009. Observing that as a "person having interest" in the temple, 3rd Respondent has legal right to be heard in the Appeal before the 1st Respondent, learned Single Judge rightly dismissed the Writ Petition and we do not find any reason for interference with the order of learned Single Judge. In the result, this Writ Appeal is dismissed. The issues are left open to be agitated before the 1st Respondent. The order of learned Single Judge in the Writ Petition and the views expressed by us in this Judgment may not be construed as expression of opinion on merits of the matter. No costs. Consequently, the connected M.P. is closed.