

(1923) 11 MAD CK 0036
In the Madras High Court

Srinivasa Ayyangar and Another

APPELLANT

Vs

Annathanam Ayyar and Another

RESPONDENT

Date of Decision : 09-11-1923

Acts Referred:

Citation : AIR 1925 Mad 135

Hon'ble Judges : Krishnan, J

Bench : Division Bench

Judgement

Krishnan, J.—This is a revision petition under Sections 115, C.P.C. and 107 of the Government of India Act against an order passed by the

District Judge of Trichinopoly on an application made by one worshipper in a Temple called Gunassalam in Trichinopoly District under the

Charitable and Religious Trusts Act XIV of 1920.

2. The application was made u/s 3 of the Act to direct the trustees of the temple to furnish the petitioner through the Court with particulars of the

value and condition of the jewels, vessels and other articles belonging to the deity, to direct the accounts of the temple for the last three years to be

examined and audited, to order the respondents to produce all documents relating to the Temple and its properties and to appoint a Commissioner

to take the keys and prepare an inventory of all the jewels, vessels, and other articles, belonging to the deity. To this application there were only

three respondents added, and it was stated in the petition, that the respondents were the chief archakas of the temple. It would appear however,

that there are 21 archakas of this temple who are all in the position of trustees of the temple and that the temple is managed by the vote of the

majority of this body of 21.

3. The learned District Judge before sending notice appointed a Commissioner and directed an inventory of the articles to be taken and had an inventory so taken. The accounts have also been produced in the Court without any objection on the part of the three respondents, but they have not been examined or audited yet.

4. The District Judge also passed an order directing regular accounts to be kept of all the income and expenditure connected with the temple and ordered the money Rs. 4 paid by the parties performing marriages in this temple in respect of each marriage to be entered in a special register after obtaining the signature of the persons paying in such register and he also ordered the donations and gifts that might be made to the deity by the worshippers and pilgrims to be so entered. He also directed that the archaka in charge for the time being should account for and be responsible for the safe custody and preservation of the existing properties belonging to the deity. He further directed the accounts kept by the respondents to be filed every year in the Court on the first Monday in January of the succeeding year and stated that the Court would appoint an auditor to audit the accounts if it was thought necessary to do so, the remuneration being paid out of the trust funds.

5. These orders are said to have been passed by the consent of the three respondents who were made parties to this petition but the order goes very much further than to bind these respondents for it purports to bind all the archakas in the temple.

6. The great defect in the order is that unfortunately the other archakas have not been made parties and their objections have not been heard. As already stated above the management of the temple is by the vote of the majority of the 21 archakas and in such a case it is absolutely necessary u/s 5(1) for the petitioner to have made all the 21 archakas respondents to his petition and for the Court to have served a copy of the petition together with notice of the date fixed for the hearing of the petition on each of these 21 archakas or trustees.

7. As this was omitted to be done I am constrained to set aside the order, as three of the trustees cannot be made to do certain acts which they themselves would be unable to do being only a small minority of the 21 trustees in the temple.

8. The order, therefore of the District Judge, dated the 5th of September, 1922, in O.P. No. 12 of 1922 is sat aside and the case sent back to him

for a fresh disposal according to law after giving notice to all the necessary parties. The costs of this revision petition and of the application in the

lower Court will be dealt with by the District Judge in passing final orders.