

(1927) 05 MAD CK 0023
In the Madras High Court

S.V. Kailasanatha Ayyar

APPELLANT

Vs

M. Nallasivam Pillai and Another

RESPONDENT

Date of Decision : 02-05-1927

Acts Referred:

Madras Hindu Religious Endowments Act, 1926 — Section 78

Citation : AIR 1928 Mad 361

Hon'ble Judges : Devadoss, J

Bench : Division Bench

Judgement

Devadoss, J.—This is an application by a trustee of Sri Krishnaswami Temple at Ambasamudram to set aside an order of the District Judge of Tinnevely passed u/s 78, Madras Religious Endowments Act, 1927. The first contention raised before me is that the petitioner had no notice of the application and the learned District Judge passed an order ex parte without sending notice to the petitioner or getting any explanation from him. The respondent was only appointed as an additional trustee of the temple and at best he would be only entitled to joint possession with the petitioner. The order, as drawn up, directs the petitioner to hand over charge of Sri Krishnaswami Temple and other minor temples attached to it with all the properties belonging to them. I consider the order illegal because it was passed without giving notice to the person who was to be bound by it. It is an elementary principle of law that no order should be passed which prejudices a person without giving him an opportunity to show cause against it. I therefore set aside the order of the District Judge, direct him to restore the application to his file and dispose of it according to law after giving notice to the petitioner. The petitioner will have the costs of this application.