(1945) 02 MAD CK 0036

In the Madras High Court

The Board of Commissioners for the Religious Endowments — APPELLANT

Vs

Marutha Naicker and Others — RESPONDENT

Date of Decision : 09-02-1945

Acts Referred:
Hindu Religious Endowments Act — Section 57

Citation : (1945) ILR (Mad) 877 : (1945) 58 LW 219 : (1945) 1 MLJ 345

Hon'ble Judges : Mockett, J;Kuppuswami Ayyar, J;Kuppuswami Aiyar, J

Bench : Full Bench

Judgement

Kuppuswami Ayyar, J.—The appellant is the first defendant in the suit, the Board of Commissioners for Hindu Religious Endowments,

Madras. The suit was for setting aside a scheme framed in respect of a Hindu Religious Endowmentand was filed by a community known as the

Santakula Sowmyanarayana Kavaraya comtnunity. The plaintiff''s case was that defendants 2 to 7 were some of the representatives of the

community to which the plaintiff belonged and that it was on tjheir motion that the Board framed the scheme. That is why they were added as

supplemental defendants. They support the Board. The endowment consists of certain shops at Palni owned by the community. The plaintiff''s

father and his ancestors were in management of these properties on behalf of the community. There was a document, Ex. P-3 under which the

plaintiff was allowed to continue in management of the property. It was complained that the endowment was not properly managed and that was

why a scheme was framed. The plaintiff''s case is that there was no endowment in respect of the property, that it was open to the community to do

anything they chose with the income and the four objects for which the money was to be spent were not wholly of a religious character and consequently the Board had no authority u/s 57 of the,Hindu Religious Endowments Act to frame a scheme. The learned District Judge, Madura,

found that three of the four objects specified in Ex. P-3 could be brought under the scope of religious endowment within the meaning of Section

9(11) and could be held to be attached to the temple of Sri Dandayudapani Devasthanam and Sri Lakshminarayana temple in the sense that they

are for services connected with these two temples. He found that the suit trust was not a public religious endowment because one of the four

objects, namely, performance of the charities was not religious and therefore was not a religious endowment. He found, however, that the suit trust

was a single inseparable trust partly for religious and partly for secular objects and until u/s 77 the Board separates the religious from the secular

charities the Board is not entitled to fraLme a scheme u/s 57 of the Act. He found, however, that the plaintiff was not a hereditary trustee, that the

scheme was not vitiated by any irregularity in procedure; but in view of the fact that the suit properties, though trust properties, are not all religious

endowments within the meaning of Section 9(11), he set aside the scheme. Hence this appeal.

2. The only question for consideration is whether one of the charity! services mentioned in Ex. P-3, namely the second, Nadapadutan UShayam,

water-shed charity and distribution of horsegram grilel, etc., slrvices in the Ramanuja Kootam at Srirangam, commencing from the sixth day festival

of the Chitra festival of every year was not a charity connected with the temple so as to make the endowment not a religious one. The learned

District Judge has found that so far as the other three charity services were concerned they1 can be held to be religious endowments attached to

the deity of Sri Dandyudapani temple and Sri Lakshminarayana Perumal temple at Palni. The first one was a fire works celebration in a particular

building on the 8th day festival in the Ghitrotsavam of Sri Lakshminarayana Perumal temple of Palni.e The third one was that of bringing theerta

kavadi from Kodumudi for Sri, Dandayudapaniswami. The fourth was a Thirukalyana Mandagappadi at the Tirukalyana mandapam at the foot of

Swamimalai at Palni. So far as the last one is concerned it is a ritual connected with the temple. So also was the third. But with regard to the first,

the fireworks celebrations which was to be celebrated 1 on a day on which there was to be a festival at Palni, itis not clear how it could be said to be in any way different from that of having a water-shed charity and the distribution of water or the distribution of horse-gram on certain festival

days in Srirangam temple. If exhibition of fireworks in a particular building which is certainly not a temple is connected with the temple on the

ground that it takes place during the festival in the temple, the other two also are pious services to be rendered on similar festival days in connection

with the temple at Srirangam, The learned District Judge held with regard to No. 2 service that it was purely secular, but without taking evidence.

When a finding was called for, after taking evidence the Judge has reported that the Nadai Ubhayam is a ritualistic religious ceremony conducted at

Srirangam and therefore a religious endowment. But with regard to the other two he found that they were only secular. That they are secular

though pious services cannot be disputed. But then a service may be secular and still it will be a religious endowment as defined in Section 9(11) of

the Madras Hindu Religious Endowments Act, if such charitable service is connected with the temple. In his finding the learned Judge no doubt

relies upon the decision in T. Venkatachala Pillai (died) and Another Vs. The Taluq Board, , but there the question under consideration was

whether the relevant service was or was not a religious one but that is not the point at issue here. The question is whether it is a charity religious or

secular connected with a temple. A charity may be secular and yet may be connected with the temple.

3. There was no occasion for considering the question whether the charity in dispute in that case was connected with the temple or not. What we

are now concerned with is whether the giving of water and gruel at Srirangam at the time of the festival makes it one connected with the temple.

The evidence in the case disclosed that from the sixth day of the festival a water pandal was maintained in front of the Ramanuja Koodam and on

the car festival day gruel will be distributed to the pilgrims at the Ramanuja Koodam, vide D.W. 2. He also stated that principally those that have

dragged the car will go to the Ramanuja Koodam for gruel. It is no doubt a charitable service. It may even be said to be a pious service. The water

and the gruel was not to be distributed throughout the year. The gruel was given on the day of the car festival which is on the 10th day and the

water pandal was to be kept there from the sixth to the 10th day of the festival. The place where this charity was to be conducted, viz., at

Srirangam where there is the temple of Sri Ranganadha and the fact that it is to be given on the sixth day of the festival in that temple coupled with

the evidence that this gruel will be distributed mainly to those who drag the car of Sri Ranganadha on the 10th day of festival, all go to indicate that

even though it was a pious and charitable service, still it was connected with the temple. What is meant by the words "" connected with the temple

has not been idefined. It is also significant that out of the four objects, three have been held tope connected with the temple and with regard to the

fourth of the three services mentioned, one is connected with the idol of the temple and the other two are also connected with the celebration in the

temple, as pointed out above. Consequently, though it may not be a religious service, still it is a religious endowment as defined in Section 9(11) of

the Hindu Religious Endowments Act, because these services, though charitable and secular, are connected with the temple.

4. It is urged for the appellant that inasmuch as only the income is set apart for the services the properties have not been endowed. I do not think

so. D.W. 2 has stated that the expenses in connection with these services are Very much more than the income from the properties and merely

because there is a provision in Ex. P-3 that if there is any balance after meeting the expenses it shall be deposited in the Co-operative Bank, Palni,

it cannot be said that it was only the income that was endowed and that there was only a charge on these properties for the expenses to be

incurred in connection with these services.

5. I would therefore find that all the four services are services in connection with the temple and consequently it is a religious endowment as defined

in Section 9(u) of the Hindu Religious Endowments Act. If so, the Board is entitled to frame a scheme.

6. The other issues have been found against the appellant, and the correctness of the same has not been questioned in this Court.

7. I would therefore allow the appeal and dismiss the suit with costs in both the Courts to be paid by the 1st respondent.

Mockett, J.

8. I agree.

