

**(1980) 08 SC CK 0038**

**In the Supreme Court Of India**

**Case No : Civil Appeal No. 1397 of 1972**

T.V. Mahalinga Iyer

APPELLANT

Vs

State of Madras and Another

RESPONDENT

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**Date of Decision : 06-08-1980**

**Acts Referred:**

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

**Citation : AIR 1980 SC 2036 : (1981) 1 SCC 445 : (1980) 12 UJ 865**

**Hon'ble Judges : V. R. Krishna Iyer, J;R. S. Pathak, J;O. Chinnappa Reddy, J**

**Bench : Full Bench**

**Final Decision : Dismissed**

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## **Judgement**

V.R. Krishna Iyer, J.—This appeal by certificate turns on the character of a temple in the city of Madras as to whether it is a private temple or a public temple, that is, a temple within the meaning of Section 6(20) of the Madras Hindu Religious & Charitable Endowments Act, 1959 The trial Court held in favour of the plaintiff who claimed that the temple was private and brought a suit to set aside the order passed by the Commissioner, Hindu Religious & Charitable Endowments, but the High Court reversed the judgment and decree of the trial Court and held that the temple was public in character and the authorities constituted under the Act had jurisdiction to manage the temple on that footing.

2. Shri Balakrishnan, appearing for the appellant, had takes us through the details of the evidence to impress upon us that the High Court had grievously erred in holding that the temple was a public one. It is undisputed law that so far as Tamil Nadu is concerned, there is an initial presumption that a temple is a public one, it being up to the party who claims that it is a private temple, to establish that fact affirmatively. Of course, this initial presumption must be rebutted by clinching testimony and tin crucial question is as to whether the public workshop in the temple is as or right. Ordinarily, there may not be direct evidence regarding the exercise of suck right and inference has to be drawn from a wealth of circumstances. In the present case, the High Court has gone into

great detail and takes up circumstance after circumstance to uphold its conclusion that the institution is a public temple. The dedication to the public need not be by a deed and may be spelt out of the circumstances present. The right of the public worship again is a matter of inference. In the present cases, the founder is no more and he died issueless with the result that his family is extinct. A will had been executed by him and the trustees under the will are now claiming the institution as a private temple. The various features referred to by the appellate Court and discussed at some length do not call for reiteration and we desist from doing so. It may be noted that the temple itself is situated on government property, that processions with the deity are taken out and that offerings are made, that the structure especially of Goporam and Mandapam also indicates the public nature of the temple. Many other facts have been accumulated by the High Court and the evidence (Ex. B1) in the case also supports the conclusion that there had been contributions made by the public and the temple was not a private one. We are not inclined to re-appraise the evidence in this Court as we are thoroughly satisfied that no serious error of law or perspective or mis-appropriation of evidence has been pointed out in the judgment of the High Court. We are, therefore, constrained to reject the case of the plaintiff-appellant that the institution is a private or that the deity is a family idol. We accordingly dismiss the appeal.

3. In the peculiar circumstances of the case, we direct that the parties will bear their costs throughout.