

(2014) 07 KL CK 0046
In the High Court Of Kerala
Case No : CRP. No. 370 of 2014

Vasudevan Namboodiri

APPELLANT

Vs

A.M. Parameswaran Namboodirippad

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Guruvayoor Devaswom Act, 1978 — Section 10(a), 11(6), 12(3), 19(3), 2(d)
Kerala Civil Courts Act, 1957 — Section 11(1)
Koodalmanickam Devaswom Act, 2005 — Section 2(d)

Citation : AIR 2014 Ker 190 : (2014) 3 ILR 589 : (2014) 3 KHC 345 : (2014) 3 KLT 386

Hon'ble Judges : V. Chitambaresh, J

Bench : Single Bench

Advocate : M.P. Ashok Kumar, Advocate and Mohan C. Menon, Amicus Curiae, Advocate for the Appellant; P.B. Sahasranaman, T.S. Harikumar, K. Jagadeesh, K. Ramachandran, M.C. Bindumol and P. Gopal, Advocate for the Respondent

Judgement

V. Chitambaresh, J.—Has any court other than the District Court the jurisdiction to try any suit relating to the appointment of "Melsanti" in the Sree Krishna Temple at Guruvayur?

2. The suit in O.S. No. 897/2013 on the file of the court of the Munsiff of Chavakkad was filed for a declaration that non inclusion of persons possessing "abhijathyam" for selection to the post of "Melsanti" (chief priest) in the Sree Krishna Temple is arbitrary and illegal. A mandatory injunction was also sought in the suit directing the Administrator of Guruvayur Devaswom to include persons possessing "abhijathyam" amongst Nambudiris for selection to the post of "Melsanthi" in the Sree Krishna Temple hereafter. The plaintiff contended that he was unceremoniously excluded from selection on the premise that he did not possess "agnihothram" or "bhatavrithi" even though he possessed "abhijathyam" which is sufficient to the post of "Melsanthi" in the temple. The defendants are the Guruvayur Devaswom, its Administrator and "Tantri" and two

other persons interested in the rituals of the temple got themselves impleaded questioning the very maintainability of the suit in the court of the Munsiff. The plaintiff asserted that the suit is of a civil nature the cognizance of which is not either expressly or impliedly barred under Section 9 of the Code of Civil Procedure, 1908 and the court of the Munsiff at Chavakkad has very much the jurisdiction to try the same. The court below has by the order impugned overruled the objection as regards the maintainability of the suit and the same is challenged in these two civil revision petitions filed by the third and the fourth defendant separately.

3. I heard Mr. M.P. Ashok Kumar, Advocate on behalf of the petitioner in C.R.P. No. 370/2014 and Mr. K. Ramachandran, Advocate on behalf of the petitioner in C.R.P. No. 390/2014 and Mr. P.B. Sahasranaman, Advocate on behalf of the first respondent in the cases. I also heard Mr. P. Gopal, Advocate on behalf of the Guruvayur Devasom as well as Mr. Mohan C. Menon, Advocate as Amicus Curiae who is well versed with the law governing the administration of temples in the State and also the rituals therein.

4. The Sree Krishna Temple at Guruvayur situated in the district of Thrissur is a very ancient temple of unique importance which owns extensive property and endowments and in which millions of devotees from all over India repose their faith and belief. The Guruvayur Devaswom Act, 1978 (the "Act" for short) was enacted by the State after a long deliberation to make provision for the proper administration of the Guruvayur Devaswom in public interest and in the interest of the worshipers of the temples thereunder. It shall be the duty of the Guruvayur Devaswom Managing Committee constituted under Section 3 of the Act to arrange for the proper performance of the rights and ceremonies in the temple and the subordinate temples attached thereto under Section 10(a) of the Act. The Guruvayur Devaswom Managing Committee is empowered to constitute a sub-committee from among its members for the selection of the officers and other employees of the Guruvayur Devaswom under Section 19(3) of the Act. The proviso thereto stipulates that the "Tantri" of the temple who is the final authority in religious matters under Section 35(2) of the Act shall be a member of the sub-committee as regards the selection of employees to be in charge of the rituals and other ceremonies of the temple. It is beyond any pale of doubt that the appointment of "Melsanthi" in the Sree Krishna Temple at Guruvayur is governed by the provisions of the Act which also gives the necessary indicia about the court where the grievances are to be ventilated.

5. Section 2(d) of the Act defines the term "court" as under:

(d) "Court" means the District Court having jurisdiction over the area in which the Temple is situated.

Sections 5(5), 6(3), 11(6), 12(3), 20(4) and 26(4) provide for filing of suits in "the court" under various contingencies which can only mean the District Court having jurisdiction over the area in which the temple is situated and not in any

other civil court. The only exception is where a title to the property has to be established by any person aggrieved by an order passed under the Act by the institution of a suit which is not barred under Section 28(5) of the Act wherein the term "the court" is conspicuously absent. It is beyond dispute that the jurisdiction of the District Court extends subject to the provisions of the Code of Civil Procedure, 1908 to all original suits and proceedings of a civil nature under Section 11(1) of the Kerala Civil Courts Act, 1957. Therefore the District Court alone has the jurisdiction to entertain a suit as regards selection to the post of "Melsanthi" in the Sree Krishna Temple at Guruvayur and the court of the Munsiff at Chavakkad wholly lacks jurisdiction to entertain the same.

6. A reference to the definition of "court" appearing in similar enactments governing the administration of temples in the State will be extremely profitable to decipher the intent of the expression "court" appearing in the Act and the same are enumerated hereunder:

(i) Section 2(d) of the Koodalmanickam Devaswom Act, 2005 defines "court" as under:

""Court" means the District court having jurisdiction over the area in which the Temple is situated"

(ii) Section 61(2) of the Travancore - Cochin Hindu Religious Institutions Act, 1950 defines "court" as under:

"Court" shall mean the District Court within the local limits of which the principal temple, shrine, samootham or samootha madhom or sabha madhom, sanniyasi madhom, yogam or brahmaswom madhom of the institution is situate.

(iii) Section 6(6)(ii) of the Madras Hindu Religious and Charitable Endowments Act, 1951 defines "court" as under:

"Court" means in relation to a math or temple, the Subordinate Judge's Court having jurisdiction over the area in which the math or temple is situated, or if there is no such court, the District Court having such jurisdiction.

Thus the definition of the term "court" in the Madras Hindu Religious and Charitable Endowments Act, 1951 alone is contra distinct from the definition found in the Act, the Koodalmanickam Devaswom Act, 2005 and the Travancore-Cochin Hindu Religious Institutions Act, 1950. The irresistible conclusion therefore is that the legislature only contemplated the District Court having jurisdiction over the area in which the temple is situated to entertain suits in relation to appointment made under the Act.

7. A revisit to the definition of the term "court" under Section 2(d) of the Act reveals that only a restrictive meaning is intended to be applied by the use of the word "means" in order to confine it to the District Court having jurisdiction over the area in which the temple is situated. The fact that the expression "means" has been used would be prima facie indicative of a restrictive and not exhaustive

meaning as has been held in *State of Maharashtra and Another Vs. B.E. Billimoria and Others*, which applies on all fours to the case on hand. The Supreme Court has again in *TDM Infrastructure Private Limited Vs. UE Development India Private Limited*, held that the word "means" found in an interpretation clause must be given a restrictive meaning. The Supreme Court as early as in *Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another*, had occasion to consider the use of the word "mean" in an interpretation clause and observed as follows:

As pointed out in *Craies on Statute Law*, 7th edition, page 213, where an interpretation clause defines a word to "mean" a particular thing, the definition is explanatory and prima facie restrictive; and whenever an interpretation clause defines a term to include something, the definition is extensive. While an explanatory and restrictive definition confines the meaning of the word defined to what is stated in the interpretation clause, so that wherever the word defined is used in the particular statutes in which that interpretation clause occurs, it will bear only that meaning unless where, as is usually provided, the subject or context otherwise requires, an extensive definition expands or extends the meaning of the word defined to include within it what would otherwise not have been comprehended in it when the word defined is used in its ordinary sense.

Therefore only the District Court having jurisdiction over the area in which the temple is situated has the jurisdiction to entertain the suit relating to the appointment of "Melsanthi" in the Sree Krishna Temple at Guruvayur and the court of the Munsiff erred in usurping the jurisdiction.

8. It is obvious that the jurisdiction of all civil courts except the District Court is impliedly barred in the light of Section 9 of the Code of Civil Procedure, 1908 going by the scheme of the Act under which a "Melsanti" is appointed in the Sree Krishna Temple at Guruvayur. The court of the Munsiff of Chavakkad has exercised a jurisdiction not vested in it by law in holding that the suit is maintainable on its file after overruling the objection of the defendants in that regard by the order impugned and the same is hereby set aside. The court below is directed to return the plaint to the plaintiff by following the procedure laid down under Rule 10 of Order VII of the Code of Civil Procedure, 1908 in order to facilitate its re-presentation to the court of the District Judge of Thrissur if so desired.

The Civil Revision Petitions are allowed. No costs.