

(1955) 11 MAD CK 0027
In the Madras High Court
Case No : Case Referred No. 5 of 1952

V.S. Ramamirtha Ayyar and others	Vs	APPELLANT
M. Narayana Pillai (since deceased) and Others		RESPONDENT

Date of Decision : 01-11-1955

Acts Referred:

Constitution of India, 1950 — Article 25, 25(2)(b), 26

Citation : (1956) ILR (Mad) 960

Hon'ble Judges : Rajamannar, C.J;Panchapakesha Ayyar, J

Bench : Division Bench

Advocate : K. V. Venkatasubramania aiyar, K. V. Srinivasa Aiyar and A. Balasubra-Maniam, for the Appellant; T. M. Chinnayya Pillai and R. Sundaralingam, for the Respondent

Judgement

Rajamannar C.J.

1. The learned District Munsif of Tiruvayyaru has referred to this Court the following question, which was raised as an additional issue in a suit- O. S. No. 216 of 1949-pending before him, namely,

Whether the Temple Entry Authorisation Act (Madras Act V of 1947) is ultra vires and illegal as opposed to the fundamental rights declared in the Constitution Act."

Mr. Venkatasubramania Aiyar learned Counsel for the plaintiffs, at whose instance this issue was raised, was unable to convince us that the Act was opposed to any of the provisions of Chapter III of the Constitution. On the other hand, Art. 25 (2) (b) appears to conclusively establish the validity and constitutional nature of the impugned Act, because it is there laid down that nothing in Art. 25 shall affect the operation of any existing law or prevent the State from making any law providing for, social welfare and reform or the throwing open to Hindu religious institutions of a public character to all classes and sections of Hindus. Now the impugned Act applies only to religious institutions of a public character and under the provisions of this Act such institutions are thrown open to all classes and

sections of Hindus. The Madras Act has, therefore, done something which the Constitution has expressly permitted. Our answer to the question is that the impugned Act is not ultra vires, or illegal as opposed to any of the provisions of the Constitution. Mr. Venkatasubramania Aiyar, learned Counsel for the plaintiffs, represented that there may be contentions which the plaintiffs may raise without attacking the validity of the Act itself and he also mentioned in this connection Art. 26. On this reference the only question with which we are concerned is the validity of the Act. We are not concerned with any other contentions that may be raised in the suit. The question referred to us we have answered above in unambiguous terms; viz., that the Act is not ultra vires or illegal. If it is open to the plaintiffs to raise any contentions without affecting this answer, they would certainly be entitled to raise them. More than this we cannot say on this reference. The reference is answered accordingly.