

(2025) 02 KAR CK 0013

Karnataka High Court, Dharwad Bench

Case No: Writ Appeal No. 100073 Of 2025 (GM-R/C)

Krishnaji Tammaji Kotabagi

APPELLANT

Vs

State Of Karnataka & Ors

RESPONDENT

Date of Decision: Feb. 5, 2025

Hon'ble Judges: B.M. Shyam Prasad, J; Ramachandra D. Huddar, J

Bench: Division Bench

Advocate: Shrikant. T. Patil, Praveen. K. Uppar, Anoop G. Deshpande, K.L. Patil

Final Decision: Disposed Of

Judgement

B.M. Shyam Prasad, J

1. This Court must at the outset observe that the larger controversy is about who make the Committee which can oversee management of Sri Vitthal

Devasthan [the Temple], at Kittur, Belagavi. This larger question may have to be considered in Misc.No.242/2023 on the file of the Principal District

and Sessions Judge, Belagavi (These miscellaneous proceedings are under Section 3 and 7 of the Charitable and Religious Trust Act, 1920)

and in WP No.100053/2024, a petition filed by the sixth to tenth respondents for directions to the State and its office to take control of the temple until

the disposal of the aforesaid miscellaneous application.

2. This writ petition is pending from the month of January 2024, and for the annul Jatra Mahotsava that is held in the month of January 2024, the writ

Court by its order dated 09.01.2024 has made certain arrangements with discretion to the jurisdictional Tahsildar to choose the persons to assist him in

the conduct of this event. However, with some of the respondents in the writ petition invoking the intra-Court appellate jurisdiction in WA

No.100029/2024, a Co-ordinate Bench of this Court has clarified that the jurisdictional Tahsildar will conduct the Jatra Mahotsava , but can take the assistance of the trustees of the first appellant-Trust except appellant No.2, i.e Sri Vitthal Gopalrao Pagad (These appellants are the second and third respondents in the present appeal).

3. The traditional Jatra Mahotsava will have to be held even during the current year, and it is scheduled to be held between 12th and 14th of February, 2025. When the petition in WP No.100053/2024 is listed on 29.01.2025, the writ Court has observed that the directions by the Co-ordinate Bench in W.A. No.100029/2024 shall be applicable for the present Jatra Mahatova as well. The appellant, who is one of the members of the Committee about whose constitution there is a dispute, is aggrieved by this order.

4. Sri Shrikant T. Patil, the learned counsel for the appellant, submits that the writ Court could not have continued the same arrangements because Sri Vittal Gopalrao Pagad [the third respondent in the present proceedings who is excluded from participating in the conduct of the Jatra Mahotsava in W.A. No.100029/2024] has actively participated in the previous Jatra Mahotsav and that the Tahsildar has not filed the accounts of the Jatra. Sri Shrikanth Patil, proposes to contend that the third respondent must be excluded completely because of certain acts of misdemeanor. Sri.

K.L.Patil, the learned counsel for the sixth to tenth respondent, while supporting the canvassed by Sri. Srikant T.Patil, submits that this Court must modify the arrangement providing for participation of those members whose names are found in the PTR only as is indicated by the appellants in the petition in WP No.100053/2024.

5. Sri Anoop Deshapande, the learned counsel for the second and third respondents, refutes the assertion that the third respondent has participated in the previous Jatra Mahotsava despite the orders of the Co-ordinate Bench in W.A.No.100029/2024 and that the accounts have not been filed. The learned counsel also refuses the allegations of misdemeanor by the third respondent. In fact, the learned counsel submits proposes to make elaborate submissions to contend that all the members of the Committee as stated in Misc.A.No.242/2023 must be permitted to assist the Tahsildar in the

conduct of the Jatra Mahotsava and exclusion of any member would be prejudicial as all are duly selected as the members of the Committee.

6. This Court must also record that the learned counsel emphasis that the third respondent cannot be prevented from participating in the Jatra

Mahotsava as a devotee. Sri. Ravindra Hadimani, the jurisdictional Tahsildar who is present, when queried states that the accounts for the previous

Jatra Mahotsava is filed in the writ proceeding in the month of April 2024 and that the Tahsildar also submits that he has not permitted the third

respondent to participate in the conduct of the Jatra Mahotsava on the previous occasion.

7. This Court is of the considered view that as all questions are now pending in WP No.100053/2024, no observations can be made even on who will

be entitled to participate in the conduct of the Jatra Mahotsava scheduled to be held between 12.02.2025 and 14.02.2025. The standout is that the

jurisdictional Tahsildar has conducted Jatra Mahotsava on the previous occasion and is assisted by those mentioned in Misc.A.No.242/2023 except

the third respondent and this arrangement obviously has not brought about a quietus on the dispute about who must organize the Jatra Mahotsava

during the pendency of the writ petition. Therefore, this Court must examine whether there must be any change in the arrangement that was provided

for on the previous occasion for the conduct of the scheduled Jatra Mahotsava.

8. The Jatra Mahotsava is over the next week and the arrangements must be made for the same at the earliest. The arrangement must be mutually

acceptable and without prejudice to respective contentions. This Court in this regard has queried the learned counsels, Sri Sriktant T. Patil and Sri

K.L.Patil, who submit that Sri. Balavant Prabhakar Davale and Sri Vitthal Krishanji Mathad and Sri Shri Krishnaji Tammaji KotabagTi hese persons

are also part of the Committee that is constituted by the second and third respondents, must only assist the Tahsildar because these persons are

mentioned in the PTR and are also part of the Committee that is constituted by the second and third respondents and that the third person was the

Chairman of the undisputed Committee in the past.

9. Sri Anoop Deshpande submits that the group of people who can assist the Tahsildar must be wider because, according to the second respondent,

the Committee is duly constituted including the afore three persons and 8 others. When specifically queried on who could part of the group who will

assist the Tahsildar apart from the three as is mentioned by both Sri. Srikant T. Patil and Sri K.L. Patil, Sri Anoop Deshpande submits that it must

include Sri Narasimha Ramachandra Nayak and Sri Prahlad Narasimha Shiggavi.

10. This Court must enable a group [an ad-hoc arrangement] where decisions can be taken by a majority, but with a decisive voice to the Tahsildar

if there is any difference in opinion amongst the members of such group. This can be achieved if the group comprises of five including the Tahsildar

and the group must include members from both sides. As such, the group [the ad hoc Committee] must include Sri Srikrishnaji Tammaji Kotabagi who

admittedly was a Chairman of the Committee in the past and along with him, it should be either Sri. Balavant Prabhakar Davale or Sri Vitthal Krishanji

Mathad. If such two represent the appellant and sixth to tenth respondent, Sri Narasimha Ramachandra Nayak and Sri Prahlad Narasimha Shiggavi

must be part of the ad hoc Committee to represent the opposite group represented by the third respondent.

11. At this stage, it is stated that apart from Sri Shri Krishnaji Tammaji Kotabagi, Sri Vitthal Krishanji Mathad was also a Chairman of the Committee

in the past. In consideration of these circumstances, the writ appeals stand disposed of modifying the Writ Court's order dated 29.01.2025 in WP

No.100053/2024 in the following terms:-

[a] An ad- hoc Committee comprising of [i] the Tahsildar, [ii] Sri Shrikrishnaji Tammaji Kotabagi, [iii] Sri Vitthal Krishanji Mathad, [iv] Sri

Narasimha Ramachandra Nayak and [v] Sri Prahlad Shiggavi is constituted with all the responsibilities to conduct the annual Jatra Mahotsava

scheduled to be held between 12.02.2025 and 14.02.2025.

[b] This ad hoc Committee shall conduct Jatra Mahotsava and file accounts before 30.04.2025 in the writ proceedings in WP No.100053/2024.

[c] This ad hoc Committee now shall endeavor to decide on all aspects by unanimity, but if there is any difference in opinion, it shall be the decision of

the Tahsildar that shall prevail on the aspect over which there is difference in opinion.

[d] If the amount in Trust's accounts falls short to meet the expenditure in conduct of the Jatra Mahotsava for this year, the members who are now constituted the ad hoc Committee shall contribute and if there is any delay in they contributing, the appellant shall contribute such amount when a communication is addressed by the Tahsildar.

[e] The ad hoc Committee shall meet on 07.02.2025 to work out the modalities necessary to conduct the Jatra Mahotsava and the members who were now made part of this Committee shall be informed by the learned counsel for the parties.