AIR 1937 Mad 970 : (1937) 2 MLJ 660

Madras High Court

Case No: None

R. Krishnaswamy Aiyangar		APPELLANT
	Vs	
The Sri Kallalagar Devasthanam		RESPONDENT

Date of Decision: March 30, 1937

Citation: AIR 1937 Mad 970 : (1937) 2 MLJ 660

Hon'ble Judges: Pandrang Row, J

Bench: Division Bench

Judgement

Pandrang Row, J.
This is an appeal from the decree of the District Judge of Madura dated 18th October, 1932, affirming on appeal the

decree of the principal Subordinate Judge of Madura dated 28th February, 1930, in O.S. No. 120 of 1928 which was a suit for recovery of Rs.

4,625 from the defendants, three in number. The principal allegations were that the first defendant who was the trustee of the plaint mentioned

Devasthanam, Sri Kallalagar Devasthanam, from 1919 to April, 1926, had been grossly negligent as regards certain items set forth in Schedule II

to the plaint, and that his negligence had caused loss to the Devasthanam which he was bound to make good. The other two defendants were

impleaded on the ground that they had executed a security bond binding themselves to make good to the Devasthanam any loss that might be

caused by the first defendant''s breach of duty or negligence, etc The suit was dismissed by the trial Court as against defendants 2 and 3 and the

only item in respect of which negligence was found to be proved by the trial Court was in respect of the''special festival celebrated in June, 1924,

at the temple, known as the thailaprithishtai and jyeshtabishekam. As regards the other items charged, the trial Court found that the first defendant

was not guilty of any negligence. As regards the money spent for this special festival by the first defendant, the trial Court was of opinion that

though the temple was a rich one and was in a position to spend Rs. 4,000 and even more for the jyeshtabishekam, the first defendant was not

justified in spending more than the Rs. 1,000 that was sanctioned by the temple committee. In other words, his finding was that, though the temple

could very well afford the amount actually spent on the festival, nevertheless the first defendant was only a subordinate of the committee and had

exceeded the allotment of Rs. 1,000 fixed by the committee, and he was therefore liable to pay back the excess spent by him, namely, Rs. 3,633

and passed a decree accordingly. On appeal this decree was confirmed by the District Judge who was of opinion that because the first defendant

ignored the limit of expenditure imposed by the temple committee, he did so at his peril and that he cannot shelter himself behind an allegation that

the allotment was unreasonable. The first defendant is the appellant in this second appeal.

2. A great deal has been said in the course of the argument before me as to the powers of the temple committee to issue directions to the temple

trustee or manager. Reference has been made to the decisions in Seshadri Aiyangar v. Nataraja Aiyar ILR (1898) Mad. 179 Sitharama Chetty v.

Sir S. Subramania Aiyar (1915) 30 M.L.J. 29 : ILR 39 Mad. 700 and also to Subba Naidu v. Gopalaszvamy Naidu (1905) 15 M.L.T. 185.

There is no doubt that the temple committee have the power of general1 superintendence over endowments for the purpose of seeing that the

endowments are appropriated for the purpose for which they were granted. They have also the power of appointing trustees or managers and of

calling for accounts from them and scrutinise the accounts. It may be they also possess the power of calling for budgets every year and of passing

them with or without modification. No authority has been brought to my notice in which it has been held that the mere exceeding of the budget

allotments by the trustee or manager is itself a sufficient ground for compelling the trustee or manager to make good the excess amount spent by

him though for a purpose binding on the temple. Exceeding of budget allotments is not rare even in the best regulated establishments, and it is

difficult to believe that cases of such exceeding of budget allotments would have been very rare in the administration of temples by trustees or

managers. It is therefore significant that there has been no reported case at all in which any one has sought to recover from a trustee or ex-trustee

or manager the amount spent by him in excess of the amount allotted in the budget. It would apoear as if no temple committee or no subsequent

trustee ever conceived the idea of making any temple manager or trustee liable to make good the amount spent by him in excess of the budget

allotments. In this particular case the exceeding of the budget allotment was, if I may say so, quite justifiable in the circumstances; it was the

committee itself who wanted the trustee or manager to celebrate the festival which is a special one held only very occasionally, once in 20 years or

so. Immediately on receipt of this order by the trustee, the latter represented to the committee that it was impossible to celebrate the festival at a

cost of Rs. 1,000 which was the amount sanctioned by the committee. To this letter, the committee made no reply, and the festival was conducted

on a befitting scale by the appellant in the presence of and with the active assistance of one prominent member of the temple committee, one Mr.

Alagappa Chettiar, who unfortunately died before the evidence in the suit was recorded. Another member of the committee appears also to have

been present at the festival. The findings of the Courts below are to the effect that the money was actually spent for the festival; in other words,

there is nothing to show that any portion of the amount was misappropriated. The temple is very ancient and important and enjoys considerable

repute. The annual income is something over Rs. 60,000 and the festival in question was a special one, the object of which was to restore the lost

or diminished lustre of the idol. This process appears to involve elaborate preparation of costly oils and it is impossible to say that the festival could

have been fittingly performed within the amount sanctioned by the committee. Full accounts were submitted to the committee by the first defendant

and practically no objections-was taken to the accounts, the only objection taken being to a very small item of cart hire and the supply of a small

quantity of Madras snuff and tobacco to the establishment. As the learned District Judge observes in his judgment the committee was to some

extent to blame for what happened because they passed no orders on the appellant''s report to the effect that the festival could not be celebrated at

a cost of anything like Rs. 1,000 and also because they never took any steps either to repudiate the excess expenditure actually incurred or to

regularise it after the accounts were received by them. The accounts were received by the committee sometime in November, 1925, and the

present suit was instituted only in October, 1928. During all this period, there was never any complaint about the exceeding of the budget allotment

in respect of this festival. The learned District Judge while saying that it is not necessary to go into details has nevertheless permitted himself to

observe that:

The huge sums spent on fire works, public feeding and such matters Could easily have been reduced to proportions more suitable to the financial

resources of the temple.

3. As a matter of fact the details show that the amount spent on fire works is only Rs. 69 which certainly cannot be regarded as a huge sum. Public

feeding which cost about Rs. 900 was a necessity as the temple is situated in a place where admittedly there are no hotels or eating houses and the

worshippers who had come to attend the festival would have had to starve if the trustee had not made arrangements for feeding them. The financial

resources of the temple, as stated above, are more than sufficient to stand an expenditure of the amount incurred in this connection. As the learned

trial

4. Judge remarks:

The temple is rich and is in a position to spend Rs. 4,000 and even more for the jyeshtabishekam.

5. I am unable to appreciate the contention that even though the temple had enough money and could afford to celebrate the festival magnificently,

nevertheless the trustee was bound to celebrate it as economically as possible. I do not think expenditure on festivals in temples by the trustees

should be wholly guided by considerations similar to expenditure by guardians for the minors" necessaries or benefit. Festivals and other

ceremonies conducted in honour of God cannot be regarded as being similar to necessaries in the case of minors; so long as the temple

endowment can stand the strain, the celebration of a festival, on a grand scale cannot in my opinion be regarded as being unreasonable or

extravagant, and the conduct of such a festival in such a manner by a trustee or manager should not in my opinion be regarded as a breach of trust

or negligence. He has only to do his duty according to the best of his judgment and to the satisfaction of the worshippers whose contributions add

to the income of the temple. There has been in this case no misappropriation of any kind and the temple is certainly rich enough to afford to spend

a sum of Rs. 4,600 on a special festival and there is in my judgment no justification for the view that the temple trustee or manager is liable to make

good out of his pocket everything spent by him over and above the amount allotted by the committee. Such a general proposition is in my opinion

not in accordance with law. Even otherwise in this particular case, the conduct of the committee has been such that the excess expenditure must be

deemed to have been ratified by the committee. Even assuming that the position of the trustee or manager is only that of an agent bound to obey

every direction of his principal, that is, the committee, nevertheless when he brings to the notice of the principal the fact that he had exceeded his

authority by spending more than what was sanctioned and the principal acquiesces in it and takes no action whatever against him, his act must be

deemed to have been ratified by the principal. In this connection reference may be made to Ramasami Chetty v. Karuppan Chetty (1915) 29

M.L.J. 551. The learned Judge therefore erred in law in coming to the conclusion that, though the committee was to some extent to blame for what

happened because it passed no orders on the appellant''s letter Ex. G-4 and there should have been prompt action to regularise or repudiate the

excess expenditure, the appellant was liable all the same to make good the excess to the succeeding trustee. He did not consider the question

whether in these circumstances there was not a ratification of the appellant''s act by the committee. The appeal must therefore be allowed and the

decree passed against the appellant set aside with costs in this Court and in the Courts below to be paid out of the temple funds.

6. Leave to appeal is refused.