

Application No.8798 of 2018
in
C.S.No.314 of 1930

S.MANIKUMAR, J.

Instant application is filed by Mr.M.Basheer Ahamed, Muthavalli / Turn Trustee of M.K.Periyathambi Maracayar Trust, seeking a direction to the learned Official Trustee to enhance Rabi-UI-Awal (Milad-Un-Nabi) allowance from Rs.5,000/- to Rs.44,800/- for celebrating Rabi-UI-Awal (Milad-Un-Nabi) this year.

2. Learned Official Trustee, filed a Report dated 15.11.2018, which is extracted hereunder:

"1. The Official Trustee of Tamil Nadu humbly submits that one M.K.Periathambi Maracayar had endowed properties through a settlement deed dated 25.4.1919. The Official Trustee of Tamil Nadu further submits that the Official Trustee had been appointed as the sole Trustee of the properties of the Trust Estate of M.K.Periathambi Maracayar vide the Scheme Decree dated 2.5.1939 in C.S.314 of 1930 and thus the Trust Estate of MKP Marakayar is under the administration of the

Official Trustee of Tamil Nadu.

(Photocopy of the settlement deed dated 25.4.1919 and Scheme Decree dated 2.5.1939 are humbly submitted in the typed set of papers as Document No.1 & 2.)

2. The Official Trustee of Tamil Nadu humbly submits that the Rabi-ul-Awal Milad-e-nabi allowance was enhanced from Rs. 3,000/- p.a. to Rs.5,000 p.a. vide order dated 25.01.2017 in A.No.6651 of 2016 in C.S.No. 314 of 1930 by this Hon'ble High Court. Accordingly, Rabi-ul-Awal Milad-e-nabi allowance of Rs. 5,000/- is being paid to the applicant.

3. The Official Trustee of Tamil Nadu humbly submits that an application was taken up by the Official Trustee for fixation of payments. As per the order passed in A.No.5687 of 2011 dated 10.12.2011, following amounts are being paid by the Official Trustee of Tamil Nadu.

Sl.No	Description	Payment per month	Payment for 2 persons	Payment per year
1.	Payment to Pesh Imam(2 persons)	Rs.9,000/- each	Rs.9,000x2= Rs.18,000/-	Rs.2,16,000/-
2.	Payment to Motheen	Rs. 7,000/-		Rs. 84,000/-
3.	Payment to Moulvi	Rs.7000/-		Rs. 84,000/-
4.	Salary for Scavenger	Rs.3,000/-		Rs. 36,000/-
5.	Zikir allowance (for two turn trustees)(As per order dated 27.2.18 in A.No.587	Rs.2,000/-	Rs.2,000/- x 2 = 4,000/-	Rs. 48,000/-

	of 2018)			
6.	Payment towards Festivals			
	Ramzan (As per order dated 22.11.17 in OSA No. 283/2017)			Rs.40,000/-
	Rabi-UI-Avval(As per order dated 25.1.17 in A.No.6651 of 2016)			Rs.5,000/-
	Zulkaida Festival (As per order dated 20.7.18 in A.No.5115 of 2018)			Rs.8,000/-
	Total			5,21,000/-

(Photocopy of the Order of the Hon'ble Court in A.No.5687 of 2011 dated 10.12.2011 (with regard to the payment of Pesh Imam, Moitheen, Moulvi and Salary for Scavenger) is humbly submitted in the typed set of papers as document No.3).

(Photocopy of the orders of the Hon'ble Court in A.No.6651 of 2016 dated 25.01.2017 (with regard to the payment of Rabi-UI-Awal) is humbly submitted in the typed set of paper as Document No.4).

(Photocopy of the Orders of the Hon'ble Court in A.No.587 of 2018 dated 27.02.2018 (with regard to the enhancement of Zikir Allowance is humbly submitted in the typed set of paper as Document no.5)

(Photocopy of the Orders of the Hon'ble Court in OSA No. 283 of 2017 dated 22.11.2017 (with regard to the enhancement of Ramzan Festival allowance) is humbly submitted in the typed set of paper as Document no.6)

(Photocopy of the Orders of the Hon'ble Court in A.No.5115 of 2018 dated 20.07.2018 (with regard to the enhancement of Zulkaida

allowance) is humbly submitted in the typed set of paper as Document no.7)

4. The Official Trustee humbly submits the details of the immovable properties belonging to the Trust Estate of MKP Marakayar and the income received from each of the properties.

Sl.No.	Description of the property	Income From the property	Remarks
1.	No.79,Broadway	Rs. 30,49,000/-	Arrears of rent pending from July 2014 to till date.
2.	No.80, Broadway	Rs. 89,57,620/-	
3.	No. 83, Sembudass Street	Nil	Mosque situated
4.	No.19, Adams Street	Rs. 1,62,000/- p.a.	Lease ended on 31.10.2018
5.	No. 48,Ponnappa Mudali Street	Rs. 7,740/- p.a	Long lease for 30 years ending in 2020

5. The Official Trustee humbly submits that as per the records in the Office of the Administrator General and Official Trustee of Tamil Nadu, the funds position of the trust as on 13.11.2018 is as follows:-

Total Fixed Deposit Receipts Rs. 48,53,069.00

Less:Corpus Rs. 1,47,000.00

Rs. 47,06,069.00

Cash balance as on 13.11.2018 Rs. 5,000.00

Fund position as on 13.11.2018 Rs. 47,11,069.00

(Photocopy of the details of Funds Position as per Ledger maintained in this office is submitted in the typed set of papers

as Document No.8)

6. The Official Trustee of Tamil Nadu further submits that the rental and lease income are the only sources of income to this trust. The Official Trustee of Tamil Nadu further states that the present request of the applicant seeking Rs. 44,800/- (Rupees Forty Four Thousand and Eight Hundred Only) from Rs. 5,000/- (Rupees five Thousand Only) for performing Rabi-UL-Awal is very much on the higher side. The Official Trustee of Tamil Nadu further is of the view that there is no enormous hike in the prices of essential commodities and the claim of the applicant to enhance the amount to the tune of Rs.44,800/- (Rupees Forty Four Thousand and Eight Hundred Only) is therefore unreasonable."

3. Mr.A.Ilaya Perumal, learned counsel appearing for the applicant, submitted that as per the Settlement Deed, dated 25.04.1919, executed by M.K.Periya Thambi Maraikayar, on the 12th day of the month of Rabi-UL-Awal every year, the life of Prophet Mohamed should be read and food be distributed, without fail.

4. Learned counsel for the applicant, further submitted that

on an application made in Appln.No.6651 of 2016, this Court vide order dated 25.01.2017, enhanced the Rabi-UI-Awal (Milad-Un-Nabi) allowance from Rs.3,000/- to Rs.5,000/-. Learned counsel further submitted that on all the 12 days, Samosa has to be served for at least 50 persons which would cost around Rs.6,000/- ($\text{Rs.10} \times 50 = \text{Rs.6,000}$) and Tea for a minimum of 50 persons has to be served, which would cost Rs.6,000/-; dates and snacks have to be served for 8 days which would cost Rs.4,800/- ($\text{Rs.600} \times 8 = \text{Rs.4,800/-}$) and Briyani has to be distributed for 4 days, to at least 50 persons, which would cost around Rs.25,000/-. Further, a sum of Rs.3,000/- has to be paid to Imam for giving lecture and speeches. Thus, for the above said purpose, the Trustees would incur an expenses of Rs.44,800/- and therefore prayed for enhancement of Rabi-UI-Awal (Milad-Un-Nabi) allowance from Rs.5,000/- to Rs.44,800/-.

5. Per contra, Mr.M.Baskar, learned counsel appearing for the Administrator General and Official Trustee of Tamil Nadu, submitted that the last enhancement was made in the year 2016 and the amount fixed was Rs.5,000/-. He further submitted that Rs.2,000/- can be enhanced.

6. At this juncture, learned counsel appearing for the

applicant, submitted that though Rs.44,800/- is sought for, Mr.M.Basheer Ahamed, the applicant herein, would restrict the claim for enhancement to Rs.5,000/- and to that effect, he has made the following endorsement in the case bundle:

"Claim is restricted to Rs.5,000/- from Rs.44,800/-."

The said endorsement made by the learned counsel for the applicant is taken on record.

7. Heard Mr.A.Ilaya Perumal, learned counsel for the applicant and Mr.M.Baskar, learned counsel for the Administrator General and Official Trustee and perused the material on record.

8. As per the Settlement Deed No.1671 of 1919, dated 25.04.1919, executed by Mr.M.K.Periyathambi Maracayar, which forms part of Scheme Decree in C.S.No.314 of 1930, dated 02.05.1939, on the day of the month of Rabi-ul-Awal every year, the life of Prophet Mohamed should be read and food distributed, without fail. As per the said document, executed in the year 1919, not less than Rupees Two hundred should be spent on that account.

9. Though, the applicant / Turn Trustee, has contended that

he has to distribute tea/snacks for 12 days and thus has to incur expense, this Court is not inclined to accept the said contention for the reason that as per the Document No.1671 of 1919, executed by Mr.M.K.Periyathambi Maracayar, which forms part of the Scheme Decree dated 02.05.1929, suffice to offer food only on the 12th day of the month of Rabi-UI-Awal i.e. on Milad-Un-Nabi every year. Similarly, the applicant / Turn Trustee is not under any obligation under the Scheme to distribute briyani for four days, for which, he has to incur expenses.

10. Mr.A.Ilaya Perumal, learned counsel for the applicant submitted that though Scheme provided for celebration on only one day, customarily food and other snacks have to be distributed for twelve days / four days, as the case may be, and this Court has to only consider the object of the Scheme and its implementation.

11. Further, for giving lecture and speeches, a sum of Rs.3,000/-, for Imam, is required. Though there is no proof as to the payment made to Imam, it is inferable that for celebrating Rabi-UI-Awal every year, in common parlance, Milad-Un-Nabi, life

of Prophet Mohamed would be read by a religious person, and in the case on hand, it is the submission of the applicant Imam will give lecture and speeches on the life of Prophet Mohamed. Therefore, this Court is of the view that a sum of Rs.3,000/- sought for by the applicant, payment to the Imam is justifiable.

12. Considering the submissions made by learned counsel for applicant and the learned counsel for Official Trustee, as well as considering the funds position, this Court is inclined to enhance Rabi-UI-Awal (Milad-Un-Nabi) allowance from Rs.5,000/- to Rs.10,000/- (Rupees ten thousand only) for celebrating Rabi-UI-Awal (Milad-Un-Nabi) every year.

13. In the result, the application stands allowed on the above terms.

WEB COPY

15.11.2018

kk

Note:

Issue order copy on 19.11.2018.

S.MANIKUMAR, J.

kk



Appln.No.8798 of 2018
in C.S.No.314 of 1930

WEB COPY

15.11.2018