

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.08.2020

Delivered on : 14.09.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.No.571 of 2018

1.M.N.Ranganathan

2.Mrs.Rama

3.V.S.Gopinath

... Plaintiffs

Vs

The Trustees of Smt.M.D.Yadugiri Ammal
and Smt.M.M.C.Alamelu Ammal Trust

No.10, South Mada Street,
Triplicane, Chennai – 600 005

... Defendant

Prayer: Suit filed under Order VII Rule 1 and Section 92 of the Code of Civil Procedure read with order IV of Madras High Court of the Original Side Rules to frame a scheme for management of the defendant Trust and to allow the 1st and 2nd plaintiffs to continue as the Trustees of Smt.Yadugiri Ammal and M.M.C.Alamelu Ammal Trust.

For Plaintiffs : Mr.G.K.R.Pandian

For Defendant : No appearance

JUDGEMENT

The above suit is filed for framing a scheme for the management of Trust and to allow the plaintiffs 1 and 2 to continue as trustees of Smt.Yadugiri Ammal and Smt.M.M.C.Alamelu Ammal Trust. The facts upon which the above suit has been filed are set out as follows.

2. Smt.Yadugiri Ammal and Smt.M.M.C.Alamelu Ammal Trust was established by M.D.Yadugiri Ammal under her Will dated 08.07.1979. The said Yadugiri Ammal had created a corpus as well as religious endowment under the said Will. She had appointed five named persons as the Executors of the Will and had breathed her last on 15.11.1979.

3. On her demise her Executors had sought for grant of probate in respect of her Will by filing the Original Petition before this Court in

O.P.No.64 of 1982. By order dated 18.08.1982 probate was also granted in respect of the Will executed by late M.D.Yadugiri Ammal. The Executors of the Will had taken on the onus of administering the Trust and inventory was also filed into the Court. The following are the terms of the Will with reference to the charitable and religious objects:

“i) The Charitable and Religious objects mentioned shall be conducted under the name of M.D.Yadugiri Ammal and M.M.C.Alamelu Ammal Trust. The Executors named in the Will shall be the first Trustees for the said Trust and shall function for life.

ii) If any of the Executors named by M.D.Yadugiri Ammal, is not desirous of functioning as Executor or Trustee, the said vacancy may be filled up by the remaining Executors or Trustees selecting a Mandayam Sri Vaishnavaits of either sex, to function as Executor or Trustee.

iii) Any vacancy that may arise in the Board of

Trustees shall be filled up by the remaining Trustees by selecting a person being a Mandayam Sri Vaishnavaits of either sex.

iv) The Trustees can appoint the staff, fix their remuneration and regulate their work.”

4. The Testatrix M.D.Yadugiri Ammal had bequeathed the following of her properties for charitable purpose:

“a) House, Ground and Premises bearing New No.6, Old No.5 Nachiappa Chetty Street, Mylapore, Chennai;

b) House, Ground and Premises bearing Old No.42, Nattu Subaraya Street, Mylapore, Chennai.

c) House and premises Old No.43, New No.63 also called as 36 (A) Thiruvalluvar Pettai, 1st street, St.Marrys Road, Raja Annamalaipuram, Chennai.”

5. The Testatrix had also set out in detail the religious and charitable duties that were to be performed from out of the income from the immovable property and the properties that were specifically dedicated for the performance of religious ceremonies and festivals of a named temple. That apart the details of the charitable duties has been set out in detail in the Will.

6. Originally M.N.Krishnaswamy and M.B.Radhakrishnan were functioning as Financial Trustees of the Trust and they had appointed the plaintiffs 1 and 2 herein as the Financial Trustees of the Trust by their letter dated 12.02.2004.

7. The plaintiffs would submit that pursuant to this appointment they have been administering the Bank accounts and the endowments that are vested with the Trust. In the light of the new monetary policy and Bank regulations the plaintiffs would contend that it would be just appropriate to frame a scheme for the administration of the Trust so as to better the

maintenance of the Trust. The Trust operates two Bank accounts one with the Indian Bank, Triplicane Branch and other with State Bank of India, Vivekananda House Branch. Therefore, the plaintiffs have come forward with the above suit.

8. As on date, it appears that the Trust is left with only the schedule mentioned property. The income from which is being used for conducting various charities and other religious objects directed by the Testatrix, M.D.Yadugiri Ammal.

9. The 2nd plaintiff has deposed as P.W.1 and in the course of her evidence has marked Ex.P.1 which is the copy of the Will dated 08.07.1979 executed by M.D.Yadugiri Ammal. Ex.P.2 is the copy of the probate dated 29.04.1982 granted in O.P.No.64 of 1982 by this Court. Ex.P.3 is the copy of the letter dated 24.04.2016 received from the Trust requesting the Bank to permit the plaintiffs to continue as Trustees of the Smt.Yadugiri Ammal and Smt.M.M.C.Alamelu Ammal Trust. The witness has reiterated the contents of the plaint in the form of oral deposition.

10. The learned counsel appearing on behalf of the plaintiffs would reiterate the contents of the plaint and submit that there is a need to frame a scheme with reference to the defendant Trust and to allow the plaintiffs 1 and 2 to act as the Trustees so as to enable them to interact with the Banks and operate the Bank accounts of the defendant Trust. A draft scheme was also filed by the plaintiffs.

11. A perusal of Ex.P.1, namely, the Will of M.D.Yadugiri Ammal would clearly indicate that the Testatrix was desirous to conduct certain rituals in temples like Lakshmi Narasimhaswamy Temple, Mysore, Madhava Perumal Temple, Mylapore, Nithya Kalyana Perumal temple at Tiruvidanthai and the Pillayar Temple at Arundale street, Mylapore, Sri Parthasarathy Temple besides other temples which is set out in detail in the Will dated 08.07.1979.

WEB COPY

12. The Testatrix has given a detailed instructions in this regard in her Will which has been probated in O.P.No.64 of 1982 as evidenced by

Ex.P.2. The plaintiffs have approached this Court for framing a scheme as they were of the opinion that the framing of scheme would ease the administration of the Trust. The plaintiffs are desirous of streamlining the functioning of the Trust. It is for this purpose they have come forward with the suit for the reliefs as claimed and since they have been appointed as Financial Trustees by the erstwhile trustees. They have also prayed that they be continued as Trustees. The Testatrix had created the endowments in respect of three of her properties and her fixed deposits. The house property at 42, Nattu Subbaraya Mudali Street, Mylapore, Chennai - 4 was bequeathed absolutely to the Sri Madhava Perumal Temple Devasthanam with directions to the Devasthanam Authorities to perform named festivals and rituals. The other two properties and the fixed deposits have been dedicated for the Charitable and Religious purposes. The plaint however describes only the property at St. Mary's Road in the schedule to the petition. There is nothing mentioned as to whether the property at Nattu Subbaraya Mudali Street was handed over to the Devasthanam and as to what had happened to the property at Nachiappa Chetty Street. This Court after it had reserved orders on 07.08.2020 sought a clarification from the

plaintiffs as to what had happened to the other two properties on 03.09.2020. The plaintiffs have thereafter filed a memo dated 08.09.2020 in which they have given details, how the properties have been dealt with. The plaintiffs have stated as follows:

"1. The Property at New No.6, Old No.5, Nachiappa Chetty Street, Mylapore, Chennai - 600 004 - in which T.Krishna Swamy, 2.Balaji and 3.Srinivasa Babu are the tenants. Petitioners are paying property tax and water tax from the rent received and the religious rituals as per the Will.

2. The Property at old No.42, Nattu Subbaraya Mudali Street, Mylapore, Chennai - 600004, was bequeathed to Sri Madhava Perumal Temple Devasthanam at Mylapore for performing certain rituals. The possession has been handed over to the said temple way-back in the year 1996.

3. The Property at old New Door No.63, Door No.43, also called as 36-A, Thiruvalluvar Pettai First Street, St. Mary's Road, Raja Annamalaipuram, Madras has been leased out for a monthly rent and the religious rituals were carried out as per the Will."

13. Therefore the properties at Nachiappa Chetty Street, Mylapore and St.Marry's Road, R.A.Puram, Chennai are available with the Trust. Therefore, in view of the various directions that has been set out by the Testatrix in her Will, it would be in the interest of the Trust that a scheme is framed so as to streamline and perpetuate the desires of the Testatrix and to reserve the properties for the above purpose. In view of the above, this Court is of the view that the suit should be decreed by settling a scheme and appointing the plaintiffs 1 and 2 as the trustees (to continue as trustees of Smt.Yadugiri Ammal and Smt.M.M.C.Alamelu Ammal Trust).

14. The following scheme is framed keeping in view the wishes of the founder:

I. Name of the Trust:

Smt. M.D. Yadugiri Ammal and Smt. M.M.C.Alamelu Ammal Trust.

II. Address of the Trust:

No.101, South Mada Street,
Triplicane, Chennai - 600 005.

III. Objects of the Trust:

(i) To carry out religious or charitable works in the name of the Trust such as Education, Hospitals, Publication of Religious Books, renovation or construction of Sri Vaishnavite Temples.

(ii) To administer and manage the properties of the Trust and utilise the net income derived after meeting all charges and other outgoings to the various religious endowments and charities detailed herein below.

(a) To pay to the authorities of Nithya Kalyana Perumal Koil at Thiruvadanthai

(1) (a) Rs.100/- (one hundred only) a year for Vasantha Utsavam,

(b) Rs.100/- (one hundred only) a year for Thathiarathanai during Brahmotsavam of Perumal.

(2) Rs.100/- (one hundred only) a year to the Perumal Temple at Mahabalipuram for Masi Maham:

(3) To the Parthasarathiswami Temple at Triplicane a sum of Rs.50/- (fifty only) Aradanai in the month of Karthigai for the temple elephant.

(4) Rs.100/- (one hundred only) a year for the Uriyadi Festival for Sri Krishna in Nemmeli Village.

(5) Rs.100/- (one hundred only) a year for Malar (Piper) for Dharmaraja Koil Utsavam in Nemmeli Village.

(6) Rs.50/- (fifty only) a year to the Pillayar Temple in Arundale street, Mylapore, Madras, on Vinayake Chaturti day.

(b) To pay to the Yadugiri Ethiraj Mutt at Melkote, Karnataka

(i) Rs.100/(one hundred only) a year for Thathiarathanai for Permal on Dwadasi day in the month of Karthigai.

(ii) Rs.50/- (Fifty only) a year for Melkote Udayavar Sathumurai.

(iii) Rs.100/- (one hundred only) a year for Melkota Narasimha. Perumal Jayanthi Utsavam.

(iv) Rs.50/- (fifty only) a year on Vaikunta Ekadasi day for Dosaipadi:

(e) The executor shall pay every year:

(1) Rs.500/- (Five hundred only) each for the marriage expenses of five poor Srivaishnava Brahmin girls every year (Total Rs . 2, 500/- (two thousand five hundred only).

(2) Rs.200/- (two hundred only) each to ten deserving poor Srivaishnava Boys for their education every year, school, College or other religious or technical institution (total Rs.2,000/- (two thousand only).

(3) For performing Upanayanam to Srivaishnava Brahmin boys below the age of 18 at the rate of Rs.250/- (two hundred and fifty only) per boy for five boys (total Rs.1,250/- one thousand two hundred and fifty only).

(4) Rs.200/- (Rupees two hundred only) per year to Thanucharya Sempradaya Sabha for contribution for coaching in Divya Prahhandam, Veda and other religious scriptures.

(5) For medical help to poor and suffering persons Rs.1,000/- (one thousand only) the same may be utilised by the executors in payment for medical expenses to individual cases, or to a medical institution according to the discretion of the executors.

(6) For performing a Utsavam at Sri Parthasarathiswami temple for the Lord Parthasarathy or for Nārasimhaswami at Rs.500/- (five hundred only) per year the utsavam to be selected by the executors.

(7) For performing Utsavam at Melkote for Lord Chella Pillai at Rs.500/(Rupees five hundred only) per year selected by the executors.

(8) Rs.125/- (one hundred twenty five only) for Thanthiyaradanai at Yathuraja Mutt at Malkota on the date of my death Anniversary (thithi) every year.

(9) Rs.125/- (one hundred and twenty five only) for Thathiyaradanai at Yathuraja Mutt at Madras on the date of my death Anniversary (thithi) every year.

It is open to the Trustees to increase the quantum of the charities to keep it in tune with the relevant period.

IV. Composition of the Trust:

i. The Trust shall be managed and administered by a Board of Trustees consisting of five persons and one of them shall be selected to be the Managing Trustee and another a Secretary.

ii. The plaintiffs shall be the Trustees and besides them one representative shall be a Mandayam Sri Vaishnavite of either sex as desired by the Testatrix and the 5th shall be the Executive Officer of the Madhava Perumal Devasthanam, Mylapore or the Nitya Kalyana Perumal Thirukoil, Thiruvadanthai as Ex Officio Trustees. They shall hold office by rotation once in three years.

iii. Any vacancy arising in the Board of Trustees shall be filled up by the remaining Trustees. However, two of the Trustees of the Board shall definitely be

(a) A Mandayam Sri Vaishnavite of either sex and

(b) The Executive Officer of the Sri Madhava Perumal Devasthanam

or Nitya Kalyana Perumal Thirukoil as Ex Officio Trustees.

iv. The Board of Trustees may increase the number of Trustees if a need is so felt.

V. Tenure:

- i. The plaintiffs shall function as Trustees for life.
- ii. The other two trustees shall hold office for a period of three years from the date of their appointment.
- iii. Except the plaintiffs all other Trustees can hold office for two continuous period of three years and shall not be eligible for re-appointment at the end of the 6th year. However, they can be re-appointed after a break of 3 years.

VI. Meetings:

- i. The Board of Trustees shall hold a meeting at least once a month. The meeting shall be called by the Secretary. The meeting shall be chaired by the Managing Trustee and in his absence the Secretary.

ii. In case of an requisition the Secretary may convene an emergency meeting.

iii. Notice of the meeting shall be given at least three days in advance to the Trustees, served personally or through the electronic mode.

iv. The notice of an emergency meeting can be delivered through the electronic mode.

v. The quorum for a meeting shall be three.

vi. There shall be a record of all meetings in the form of a minutes.

VII. Powers of the Board of Trustees:

The Board shall have all powers to execute the desire of the Founder of the Trust.

VIII. Removal of Trustees:

i. Except the plaintiffs the other Trustees can be removed if they are found to be unfit to hold the office of Trustee by reason of their acting prejudicial to the interest of the Trustee or if they are found guilty of an offence by a Criminal Court.

ii. The Trustee can be removed only after a show cause notice is issued and response, if any given thereto is not found satisfactory by the Board of the Trustees. The resolution of the Board shall be communicated to the Trustee who is sought to be removed.

IX. Operation of Bank Account:

The Managing Trustee and Secretary shall jointly operate the Bank Account that the Trust is having with the Indian Bank Triplicane Branch, SB A/c.No.400965113 and the State Bank of India, Vivekananda House Branch in SB A/c.No.10146591468.

X. Properties of the Trust:

“a) House, Ground and Premises bearing New No.6, Old No.5 Nachiappa Chetty Street, Mylapore, Chennai;

b) House and premises Old No.43, New No.63 also called as 36 (A) Thiruvalluvar Pettai, 1st street, St.Marrys Road, Raja Annamalaipuram, Chennai.”

Any alienation shall only be only after obtaining the permission of this Court.

XI. Coming into operation of the Scheme:

The Scheme shall come into effect from the date of the order.

XII. Modification to the Scheme:

Subject to the terms hereinabove, any modifications to the scheme shall be made by filing necessary application in this scheme suit.

The suit is decreed in terms of the Scheme indicated in Para (I) to (XII) supra. There shall be no order as to costs.

14.09.2020

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
kan

सत्यमेव जयते
WEB COPY

C.S.No.571 of 2018

P.T. ASHA. J.

kan



Pre-delivery Judgement

in

C.S.No.571 of 2018

WEB COPY

14.09.2020