



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 2nd DAY OF JUNE 2021

THE HON'BLE MR. JUSTICE R.SUBBIAH

A. No.2032 of 2021

in

C.S.No.274 of 1899

George V, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas, King, Defender of the Faith Emperor of India.

In the matter of Estate of Maligai Merchant Charities.

1. Santha Chetty Samy Chetty (since deceased),
Black Town Madras.

2. Theetha Chetty Soori Chetty (since deceased),

3. S.C.Alaganatha Chetty (since deceased),
by his legal representative Rajammal
(vide order dated 4.8.1919)

..Plaintiffs.

Vs.

1. Sivagamoo Ammal,

2. M.Manicka Chetty
Minor by his guardian-ad-litem,
A.Viswanatha Chetty

..Defendants.

A.No.2032 of 2021

The Official Trustee of Tamil Nadu,
High Court Campus,
Chennai 600 104.

..Applicant.

Application praying that this Hon'ble Court be pleased to permit the

Official Trustee of Tamil Nadu to donate a periodical payment of Rs.7,000/-



every month with 5% enhancement on every year on the prevailing amount from MM Charities to Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam for Daily Pooja expense and Temple Priest salary with effect from the date of this order in the name of the Temple priest as submitted by the Temple Administrator.

This Application coming on this day before this Court for hearing in the presence of Mr.P. Murugan, The Administrator General and Official Trustee of Tamil Nadu, appearing in person / the applicant herein and upon reading the judge's summons and Report of the Official Trustee of Tamil Nadu filed herein, it is ordered as follows:-

That the Official Trustee of Tamil Nadu, the applicant herein, be and is hereby permitted to donate a periodical payment of Rs.7,000/- (Rupees Seven Thousand only) every month with 5% enhancement on every year on the prevailing amount from MM Charities to Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam for Daily Pooja expense and Temple Priest salary with effect from the date of this order in the name of the Temple priest as submitted by the Temple Administrator

WITNESS THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 2nd DAY OF JUNE 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

// Certified to be true copy//

Dated at Madras this day of 2021.

Court Officer(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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16.06.2021

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A.No.2032 of 2021
in
C.S.No.274 of 1899

ORDER :

DATED :02.06.2021

THE HON'BLE MR.JUSTICE
R.SUBBIAH

FOR APPROVAL:28.07.2021

APPROVED ON: 28.07.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.06.2021

Coram:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Application No.2032 of 2021

in

C.S.No.274 of 1899

The Official Trustee of Tamil Nadu,
High Court Campus,
Chennai-104.

.. Applicant

Application filed and Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court and under Section 25 of the Official Trustees Act 11 of 1913, praying to permit the Official Trustee of Tamil Nadu to donate a periodical payment of Rs.7,000/- every month with 5% enhancement on every year on the prevailing amount from MM Charities to Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam for Daily Pooja expense and Temple Priest salary with effect from the date of this order in the name of the Temple Priest as submitted by the Temple Administrator.



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ORDER

This application is filed praying to permit the Official Trustee of Tamil Nadu to donate a periodical payment of Rs.7,000/- every month with 5% enhancement on every year on the prevailing amount from MM Charities to Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam for Daily Pooja expense and Temple Priest salary with effect from the date of this order in the name of the Temple Priest as submitted by the Temple Administrator.

2. The learned A.G. & O.T. had filed a report dated 31.05.2021 stating as follows:

(a) The office of the Administrator General and Official Trustee of Tamil Nadu [AG & OT] has been administering more than 150 Trust Estates. There are properties to Trust Estates and rental income deriving from it are put it in fixed deposit. Out of the rental and interest income on fixed deposit the Office of the AG & OT has been doing charities, maintenance to the beneficiaries, scholarship to the students, salary to estate staff, making statutory charges to Government, paying income tax, meeting other necessary expenses. Apart from that, as per the orders of this Court, donation by way of things, articles and medical machines etc. have been



given to the NGOs and other institutions based on their request.

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(b) The Trust Estate of Maligai Merchant Charities is being administered by the office of the Official Trustee of Tamil Nadu as per the scheme decree of this Court in C.S.No.274 of 1899, dated 01.03.1932. The trust estate of MM Charities has various properties and fixed deposits. Out of the income generated from it, the charities has been done as per the intention of the Testator and the orders of this Court.

(c) One Mr.D.Rajagopal, Administrator, Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam, No.1, 3rd Street, D-G, Sai Jyothi Flats, Satyavathi Nagar, Officer's Colony, Padi, Chennai-50 has sent a letter dated 22.02.2021 requested for Temple charity. After inspection of the said temple, an Application Nos.835 to 837 of 2021 filed by the Official Trustee, this Court was pleased to permit the Official Trustee by order dated 03.03.2021 to donate the temple in three aspects of temple renovation, fixing of CCTV Camera and for Kumbhabhishekam. Thereafter, except Kumbhabhishekam amount other amounts have been paid to the contractors. Then the Temple Administrator has sent a letter dated 17.05.2021 by expressing his gratitude and loyalty towards Office of the AG & OT for extending the funds for the consecration works that had been carried out viz civil construction, carpentry, steel works and installation of CCTV Cameras and completed in the temple entirely.



(d) He further stated that the Kumbhabhishekam which was scheduled to get conducted on 18.04.2021, has been postponed due to the State Government's restriction in respect of Covid-19 surge and the auspicious date will be finalized after the normalcy returns. He further requested for periodical payments for the temple daily expenditure in respect of Nithyakala Poojai, Prasatham and flower etc., comes around Rs.250/- thereby totaling Rs.7,500/- per month besides the Temple's Priest monthly salary of Rs.8,000/-, altogether, Rs.15,000/- per month required for the priest salary and temple Pooja expenses.

(e) In the meantime, the said Temple Administrator has given another letter dated 28.05.2021 stating that the temple Kumbhabhishekam amount of Rs.1,54,240/- may be given in the name of Temple priest Mr.N.Jagannathan for the reason when the Kumbhabhishekam is scheduled it will be easy for them to make advances to the pooja article suppliers and purchase other things. They already fixed Velvi Asiriyar, who is residing at Madhuranthagam, Chengulput district and for convenient purpose, the Kumbhabhishekam amount already ordered may be paid in the name of Temple priest Mr. N.Jagannathan instead of Velvi Asiriyar Mr.Ellappan. The order passed in A.No.836 of 2021 in C.S.No.274 of 1899 dated 03.03.2021 is required to be modified permitting the Official Trustee to pay



2016-2017 to Mr.N.Jagannathan, temple priest of Arulmighu Sri Anandhavalli Udanurai Kailasanathar Temple, Tharapakkam, Chennai-122 instead of Thiru. P.Ellappan, Velvi Asiriyar, Sirudhamur Village & Post, Madhuranthakam Taluk, Chengulput-603 307 to conduct Kumbhabhishekam to the said Temple after lock-down relaxation. After the Kumbhabhishekam be conducted, a report will have to be submitted by the Temple Administrator.

(f) On hearing him and to know and verify the same, his request may not be rejected and it may be considered to pay periodical payments to the said temple for a sum of Rs. 3,000/- per month for temple daily Pooja and Rs.4,000/- for Temple Priest salary, totally Rs.7,000/- per month with 5% enhancement on every year on the prevailing amount. This amount may be paid in the name of Temple Priest. Whenever, the Temple Priest is changed, his name and other particulars shall be furnished by the Temple Administrator to the Office of the AG & OT for making periodical payment without any hindrance.

(g) There are various Trust Estates under the administration of Official Trustee of Tamil Nadu. One among the same is MM Charities. In the said Trust Estate, various religious charities to the Shiva Temple have been carried out, since the Trust Estate vested with the Official Trustee. In



salary to the estate staff, cess, and religious charity as per the Scheme Decree etc. Considering the request made by Mr.D.Rajagopal, the expenditure Rs.7,000/- may be meted out from MM Charities Trust.

(h) In the Trust Estate of MM Charities, there is a clause for doing religious charities to the poor people and Temples. The objects of the charities may be expanded to include within its ambit to donate funds to daily pooja and priest salary to the Arulmigu Sri Anandavalli Udanurai Sri Kailasanathar Thirukkoil, by invoking the “doctrine of cypress’.

Hence, this application is filed for the relief stated supra.

3. This Court heard the submissions made by the learned A.G. & O.T. and perused the materials available on record.

4. Taking into consideration the above report submitted by the learned A.G. & O.T., and on a perusal of the same, this Court accepts the above said report of the learned A.G. & O.T. Accordingly, this application is ordered as prayed for.

Sd/-R.P.S.J.

02.06.2021

// Certified to be true copy//
Dated at Madras this day of 2021.

Court Officer(O.S.)