



CMA.No.432 of 2024

In the High Court of Judicature at Madras

Reserved on : 24.6.2024	Delivered on : 26.6.2024
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Civil Miscellaneous Appeal No.432 of 2024
& CMP.Nos.4504 & 4505 of 2024

G.Prem Anand

...Appellant

Vs

The Additional Chief Secretary,
Tourism, Culture & Endowments,
Fort St.George, Chennai-9.

...Respondent

APPEAL under Section 53(5-A) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 against the order dated 01.2.2024 passed by the respondent in G.O.(Standing) No.45, Tourism, Culture and HR & CE Department Endowment.

For Appellant : Mr.R.Abdul Mubeen
For Respondent : Mr.N.R.R.Arun Natarajan,
SGP (HR & CE)

JUDGMENT

This is an appeal filed by the appellant challenging the proceedings of the respondent in G.O.(Standing) No.45, Tourism, Culture and HR & CE Endowment Department removing the petitioner



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from his position as the hereditary trustee of Sri Vengeeswarar, Azhagar Perumal and Nagathamman Koil Devasthanam, Vadapalani, Chennai-26 (hereinafter called the Devasthanam).

2. Heard the learned counsel for the appellant and the learned Special Government Pleader appearing for the respondent.

3. The facts leading to filing of this appeal are as follows :

(i) The appellant was the hereditary trustee of the Devasthanam. Initially, the father of the appellant was the hereditary trustee and he was removed from the trusteeship in the year 1987. Till the year 1990, the vacancy was not filled up and the Devasthanam was under the charge of an Executive Officer appointed by the Hindu Religious and Charitable Endowment Department (for brevity, the Department).

(ii) The charge as the hereditary trustee of the Devasthanam was handed over to the appellant with effect from 26.1.1990. After the appellant assumed charge, he undertook various measures, which included improving the revenue of the Devasthanam and upgrading the status of the Devasthanam since the income level reached Rs.10 lakhs per annum. The appellant also conducted Kumbabishekam for the Devasthanam in the year 2015. The audit was also regularly carried out by the Department and no adverse reports were submitted



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against the appellant.

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(iii) While so, the appellant received a communication from the Assistant Commissioner concerned on 13.1.2011 informing the appellant that an inspection was going to be conducted and the appellant was directed to keep the records ready in order subject the same for inspection. Pursuant to that, the inspection was conducted and a show cause notice dated 05.3.2012 came to be issued by the Commissioner of the Department by framing four charges against him, for which, the appellant offered his explanation on 13.4.2012.

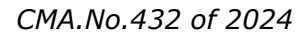
(iv) Subsequently, two more charges were framed against the appellant through communication dated 28.5.2013 and the appellant gave his explanation for these two charges also through letter dated 06.6.2013. Once again, the appellant received a show cause notice dated 07.11.2013 issued by the Principal Secretary to Government of Tamil Nadu, Tourism, Culture and Endowment Department, Secretariat, Chennai-9, which contained all the six charges and once again, the appellant gave an explanation dated 16.11.2013 refuting the charges that were framed against him with necessary particulars. Further, G.O.(Standing) No.238 dated 12.10.2015 came to be passed by the respondent removing the appellant from his position as the hereditary trustee of the Devasthanam after holding that except charge No.3, all the other charges were proved.



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(vi) Pursuant to the said judgement of this Court dated 01.8.2022 in CMA.No.3442 of 2021, the appellant once again gave a detailed explanation dated 13.12.2022 to the respondent. The respondent also conducted an inquiry, came to the conclusion that charge Nos.1, 2, 4, 5 and 6 have been made out against the appellant and by the impugned order, directed the removal of the appellant from his position as the hereditary trustee. This is put to challenge in this appeal filed under Section 53(5-A) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for short, the Act).

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record. This Court has also carefully considered the impugned order passed by the respondent.



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5. The six charges that were framed against the appellant are as follows :

(i) *The appellant left out certain properties belonging to the Devasthanam from the old property register while preparing the new property register and had also kept away the old property register and thereby failed to comply with the mandatory requirement under Sections 29 and 30 of the Act.*

(ii) *The appellant leased out the properties belonging to the Devasthanam to nearly 27 persons, out of which, for 10 persons, no prior permission was obtained from the Commissioner and therefore, committed a violation of the requirement under Section 34 of the Act.*

(iii) *The 12 plots in S.No.37/1 belonging to the Devasthanam were sold by the appellant without obtaining the permission.*

(iv) *The appellant collected donations in the name of Sri Pradosha Bakthargal Sabha for the Kumbabishekam and carried out renovation work without getting the authorization of the Department, which is in violation of the provisions of the Act and the relevant Rules framed thereunder.*



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(v) The appellant failed to respond to the notices issued by the State Information Commissioner on the ground that the appellant was not a Government servant and thereby disregarded the orders of the State Information Commissioner.

(vi) The appellant, by not appearing before the State Information Commissioner as the Public Information Officer for inquiry, the concerned Joint Commissioner (HQ), the Under Secretary concerned and the Manager of the Joint Commissioner concerned had to participate in the inquiry and it created a huge embarrassment to the Department.

6. The respondent, after considering the explanation given by the appellant, came to the conclusion that charge No.3 must be dropped and that all the other charges have been made out against the appellant.

7. The Devasthanam comes within the definition of the word '**temple**' under Section 6(20) of the Act and it has been included in the List published in Clause (iii) of Section 46 of the Act as the annual income is more than ten lakh rupees. The office of the trusteeship has been declared as hereditary and the appellant was also functioning as



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a hereditary trustee. For the sake of completion of facts, it must be stated here that after the appellant was removed from his position as the hereditary trustee, the wife of the appellant assumed the said position and she also resigned later. As on date, the Devasthanam is under the charge of the Executive Officer.

8. Section 53 of the Act provides for the power to suspend, remove or dismiss trustees and Clause (1)(a) extends such power even to a religious institution included in the List published under Clause (iii) of Section 46 of the Act. This provision stipulates various contingencies where this power can be exercised for suspension/removal/dismissal of a trustee.

9. In the considered view of this Court, charge Nos.1, 2 and 4 assume importance since, if these charges are proved, it will result in the appellant being removed or dismissed from his position. Charge Nos.5 and 6 are not very serious charges to the extent of removing a hereditary trustee. Therefore, this Court will mainly focus on charge Nos.1, 2 and 4.

10. The first charge pertains to non mentioning of certain properties belonging to the Devasthanam in the new property register



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of the Devasthanam. This charge also includes non submission of the old property register, for which, a proper explanation was not given.

11. Section 29 of the Act provides for preparation of a register and maintaining the same in such form prescribed. It is seen that a register was maintained by the erstwhile trustee showing the list of properties belonging to the Devasthanam and it was also approved by the then Deputy Commissioner of the Department through proceedings dated 17.2.1966. It totally contained 34 items of properties covered under various survey numbers. The subsequent register under Section 31 of the Act was prepared by the appellant and it contained only 27 items of properties. The properties in S.Nos.5/1, 91/1, 102 and 192/1 totally measuring an extent of acres 12.88 cents were deleted/not shown in the register that was prepared by the appellant.

12. The statements showing alterations, omissions or additions required in the register approved under Section 29 of the Act have to be prepared every year under Section 30 of the Act. This register is called as 'addition and deletion register' with respect to the original register that was prepared under Section 29 of the Act. For every ten years, after consolidating all the contents of 'addition and deletion register', a new register has to be prepared and it must be approved



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by the appropriate authority under Section 31 of the Act.

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13. The appellant, in his explanation, stated that the prepared register was updated by making additions and deletions as was available on record after the earlier trustee had vacated the office and the approval was also obtained from the Commissioner of the Department through proceedings dated 31.7.1998.

14. This explanation given by the appellant does not really answer the issue as to why the four properties did not form part of the subsequent register under Section 31 of the Act. The appellant seems to be under the impression that once the Commissioner of the Department approves the register, no questions can be asked regarding the deletion/non inclusion of certain properties. Such an impression in the mind of the appellant is unsustainable since the properties that have suddenly vanished from the register measure an extent of acres 12.88 cents covering four survey numbers.

15. While filing this appeal and during arguments, an attempt was made by the learned counsel for the appellant so as to give an impression that some of the properties have been acquired and that the other properties were not in the control and occupation of the



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appellant.
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16. This explanation is far from satisfactory and the appellant ought to have given proper explanation regarding the same with necessary particulars, which he failed to do so. The appellant also had not given any explanation as to why he was not able to submit the old property register. Rather, he vaguely stated that it was filed before some court without giving the details of the court proceedings. The explanation given by the appellant was taken into consideration and the respondent came to the conclusion that the appellant had not given proper explanation regarding the properties belonging to the Devasthanam and consequently held that the appellant violated Section 53(2)(b) of the Act. Such finding rendered by the respondent does not suffer from illegality or infirmity.

17. The next charge pertains to transferring 10 shops in the names of private individuals without getting the permission of the Commissioner of the Department.

18. The explanation that was given by the appellant was that the lease was actually standing the names of the original lessees, that on their demise, the lease was granted in the names of the legal heirs of



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the deceased lessees, that fair rent was also fixed by the appellant, that the rents were collected from the tenants and that the details were submitted for approval before the concerned authorities.

19. The relevant provisions to be taken into consideration are Section 34 of the Act and Rules 8 and 11 of the Religious Institutions (Lease of Immovable Property) Rules, 1963. The appellant was expected to first verify whether the period of lease was subsisting or it had already expired. In case of expiry of lease, the appellant was again expected to get the approval of the competent authority before effecting the name transfer in the tenancy records of the Devasthanam.

20. Even though it was submitted on behalf of the appellant that such permission must be taken if the period exceeds five years, the fact remains that the occupation of the tenants was continuing for quite a long period. This is in violation of Sub-Sections (c) and (i) of Section 53 of the Act. The explanation offered by the appellant was found not satisfactory by the respondent and the respondent reached a conclusion that the second charge has also been proved against the appellant. In the considered view of this Court, this finding of the respondent also does not suffer from any illegality or infirmity.



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21. The next serious charge that has been put against the appellant pertains to collection of donations to carry out 'Thiruppani work' of the Devasthanam. The sanction was granted for a sum of Rs.2,40,000/- by the Joint Commissioner concerned to carry out the Thiruppani work. However, a printed pamphlet was issued stating that the trustee of the temple was requesting for contribution of funds from the devotees for conducting Kudamuzhakku.

22. Rule 2(d) of the Management and Preservation of Properties of Religious Institutions Rules provides that the Joint Commissioner, subject to revision or cancellation by the Commissioner, can sanction for accepting donations for Thiruppani work. However, this is subject to Rules 53 and 56, which specifically provide that such donations can be received from the public only by formation of a Thiruppani committee and they also give a procedure to be adopted for collecting such donations.

23. Rule 5-A of the Collection of Income and the Incurring of Expenditure Rules prohibits improper collection of money or donation.

24. In the case in hand, the appellant, in his explanation, stated that he was not aware as to whether the Sabha, which issued the



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pamphlet, was a registered one, that he was not aware about the amounts collected and that he was not aware as to whether the amounts so collected were accounted.

25. This explanation given by the appellant was found to be not satisfactory and therefore, the respondent came to the conclusion that this charge has also been made out.

26. In the considered of this Court, the respondent properly considered the explanation submitted by the appellant for the above three charges and reached a conclusion, which does not suffer from any illegality. For all the above reasons, this Court is not inclined to interfere with the impugned order passed by the respondent.

27. Accordingly, the above civil miscellaneous appeal is dismissed. No costs. Consequently, the connected CMPs are also dismissed.

26.6.2024

RS



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N.ANAND VENKATESH,J

RS

To
The Additional Chief Secretary,
Tourism, Culture & Endowments,
Fort St.George, Chennai-9.

P.D.JUDGMENT IN
CMA.No.432 of 2024 &
CMP.Nos.4504 & 4505 of
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