



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.10.2025

PRONOUNCED ON : 18.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

A.S.No.382 of 2016

and

C.M.P.No.8314 of 2016

and

C.M.P.No.9183 of 2022

1.Arulmighu Pappi Chetty,
Ragaviah Chetty's Charities
Represented by its Trustees having office at
No 39, (Old No. 13), Narayana Mudali Street,
Chennai – 600 001

2.V.Sudhakar

3.V.Shantha Sridhar

4.C.Badrinarayana (Died)

5.JV Perumal

6.YV Harikrishna

7.AS Hariprasad

8.Kota Sudhakar

9.G.V.Balaji

10.K.K.Balu

1/26



A.S.No.382 of 2016

11.M.Krishna Kishore

... Appellants

WEB COPY

(Appellants 9 and 10 are substituted for 4th appellant (Sri.C.Badrinarayana) and 3rd Respondent (Sri.V.Govaradhan) vide Court order dated 10.09.2025 made in CMP.No.9186/2022 in A.S.No.382/2016)

(11th Appellant is transposed from 4th Respondent vide Court order dated 10.09.2025 made in CMP.Nos.9186 and 9184/2022 in A.S.No.382/2016)

VS.

1.The Commissioner

Hindu Religious and Charitable Endowments Department
Office at Uthamar Gandhi Salai
Chennai – 600 034

2.The Joint Commissioner

Hindu Religious and Charitable Endowments Department
Office at Uthamar Gandhi Salai
Chennai – 600 034

3.V.Govardhan

... Respondents

PRAYER: First Appeal is filed under Section 96 of the Code of Civil Procedure, to set aside the Judgment and Decree made in O.S.No.1327 of 2014, dated 10.03.2016 on the file of the V Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr.D.Rajagopal

For R1 and R2 : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR and CE)



J U D G M E N T

WEB COPY

The unsuccessful plaintiffs are the appellants herein. They filed a statutory suit under Section 70 (1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 'HR and CE Act' for the sake of brevity) seeking to set aside the order passed by the 1st respondent/1st defendant dismissing the application filed by the appellants under Section 63(a) of HR and CE Act for declaration that performance of endowment as contemplated under Schedule 'H' to the Trust Deed dated 24.07.1912 of the Trust popularly known as 'Pappi Chetty Ragaviah Chetty's Charities' will not come under the purview of HR and CE Act, 1959 (22 of 1959). The appellants also sought for a declaration that the above said Trust was a Private Institution, not coming within the purview of HR and CE Act. The Trial Court dismissed the suit holding that the above said Trust will come under the purview of HR and CE Act. Aggrieved by the same, the plaintiffs has come by way of this appeal before this Court.

Averment contained in the Plaint:-

2. The 1st Plaintiff-Trust namely 'Arulmighu Pappi Chetty Ragaviah Chetty's Charities' was created by one Sri Pappi Chetty Raghava Chetty



under a Trust Deed marked as Ex.A1, dated 24.07.1912. According to the plaintiffs, the Items 1 to 13 in 'H' Schedule to the Trust Deed was relating to the performance of certain endowments in Temples and other activities mentioned thereon were secular in nature. The plaintiffs contended that no property was endowed or dedicated for the performance of religious, charitable and secular activities contemplated under the Trust Deed. It is stated that a perusal of the Trust Deed would indicate that 'H' Schedule contains various performance of secular activities and only few of the activities are religious in nature and in such circumstances, the 1st Plaintiff-Trust cannot be treated as a specific endowment within the meaning of Section 6 (19) of HR and CE Act. Therefore, in the light of the clauses contained in Ex.A1-Trust Deed, the character of institution shall be determined under Section 63 (a) of HR and CE Act. The respondents 1 and 2, in an application filed under Section 63 (a) of HR and CE Act, seeking declaration that the 1st Plaintiff-Trust would not come within the purview of HR and CE Act, erroneously rejected the prayer by referring to earlier proceedings mentioned in Ex.A6-Legal Opinion marked by the plaintiffs and hence, the plaintiffs are entitled to declaration as prayed for.



The averment contained in the Written Statement filed by the respondents 1 and 2/defendants 1 and 2:-

3. The suit prayer was opposed by the Official Defendants on the ground that the character of institution was decided by Hindu Religious and Charitable Endowments Board as early as 07.02.1948 under Madras Act 2 of 1927 and the said decision had become final and binding on the plaintiffs. It was also stated that the 1st Plaintiff-Trust filed a suit in O.S.No.1985 of 1954 on the file of the City Civil Court, Madras for a declaration that Items 1 to 31 in the Schedule 'H' in the Trust Deed were not specific endowments and hence, HR and CE Act 19 of 1951 would not apply to the said Trust and the said suit was dismissed by the City Civil Court holding that the religious activities contemplated under Schedule 'H' were specific endowment. The said decision had attained finality and in view of the same, the appellants cannot reopen the said findings. It was also stated that considering the earlier findings referred to in Ex.A6, the Joint Commissioner rightly dismissed the application filed by the plaintiffs under Section 63(a) of HR and CE Act. The said decision was confirmed by the Commissioner in the appeal filed by the plaintiffs. Therefore, it was stated that the plaintiffs are not entitled to reopen the settled question and seek fresh declaration under HR and CE Act, 1959. On these pleadings, they sought for dismissal of the suit.



4. The Trial Court based on the pleadings of the parties, framed the following issues:-

- 1. Whether the plaintiffs are entitled for the relief to set aside the order passed by the first defendant in A.P.No.51/2012 dated 01.10.2013?*
- 2. Whether the plaintiff is entitled for the relief of declaration as prayed for?*
- 3. To what other relief the plaintiff is entitled to?*

5. Before the Trial Court, on behalf of the appellants, the 9th plaintiff, one of the Trustees of the 1st Plaintiff-Trust was examined as PW.1 and through him 6 documents were marked as Exs.A1 to A6. On behalf of the Official Respondents, an Inspector of HR and CE Department was examined as DW.1 and no documents were marked.

6. The Trial Court on consideration of evidence available on record came to the conclusion that the plaintiffs were not entitled to declaration sought for by them and dismissed the suit. Aggrieved by the same, the instant first appeal has been filed.



7. Mr.D.Rajagopal, learned counsel appearing for the appellants by taking this Court to Ex.A1-Trust Deed submitted that under Ex.A1-Trust Deed, no property has been dedicated in favour of any religious institution and therefore, the 1st Plaintiff-Trust will not come within the purview of HR and CE Act and the Trial Court committed an error in not appreciating the same. The learned counsel further submitted that at the most, the Hindu Religious and Charitable Endowment Department can only have charge over the income derived from the properties to the extent of 1/5th share as held in Original Application No.344 of 1946, dated 07.02.1948 and hence, the Trial Court committed an error in dismissing the suit. The learned counsel further submitted that some material documents which are essential to support the case of the plaintiffs were not filed before the Trial Court and hence, a petition has been filed for raising additional evidence in C.M.P.No.9183 of 2022 and the same shall be allowed. The learned counsel advanced the above said arguments based on the following additional documents filed along with the petition to raise additional evidence:-

- (i) Annexure to Board's Order No.427, Board of Commissioner, HR and CE Department, Chennai-6 dated 07.02.1948.



(ii) Annexure to Order No.59/1954 dated 16.04.1954, Deputy

Commissioner, HR and CE Department, Coimbatore.

(iii) Board Order dated 07.02.1948 in O.A.No.344 of 1946.

(iv) Judgment and Decree passed in O.S.No.1985 of 1954 by the City Civil Court, Madras, dated 24.09.1955, which are filed in the typed-set of papers, dated 17.05.2016.

8. Though as many as 18 documents were filed along with the petition to raise additional evidence, the learned counsel relied only on the above said 4 documents. The other documents were not referred to at the time of argument. In the light of the above said submission, the learned counsel appearing for the appellants seeks allowing of the appeal.

9. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR and CE) appearing for the respondents 1 and 2 submitted that the 1st Plaintiff-Trust has been declared to be a specific endowments coming within purview of HR and CE Act by the order passed by Board as early as 07.02.1948 and also in the judgment passed by the City Civil Court in O.S.No.1985 of 1954 and therefore, the plaintiffs cannot be permitted to argue that the performance of charitable services mentioned under

8/26



‘H’ Schedule cannot be treated as a specific endowment and therefore, the Trust will not come under the purview of HR and CE Act. The learned Special Government Pleader (HR and CE) further submitted that the appellants cannot be permitted to reopen the issues which were settled nearly 70 years back by the Statutory Authority and also the Civil Court. Therefore, he sought for dismissal of the appeal by confirming the judgment and decree passed by the Trial Court.

10. Based on the pleadings of the parties and arguments advanced by the learned counsel for either side, the following points are arising for consideration:-

- (a) Whether the appellants/plaintiffs are entitled to a declaration that 'Pappi Chetty Ragaviah Chetty Charities' is a Private Institution not coming within the purview of HR and CE Act?
- (b) Whether the order passed by the 1st defendant confirming the order of the 2nd defendant is liable to be set aside or not?
- (c) Whether the petition for raising additional evidence filed in C.M.P.No.9183 of 2022 is to be allowed?



petitioners/appellants have not stated in what way those documents are relevant to decide the main controversy involved in the appeal. Further, as mentioned earlier, the learned counsel appearing for the appellants has not relied on Document Nos.2 and 7 to 18 while addressing the argument before this Court. Infact, those documents were not at all included in the typed-set of papers filed before this Court. Further, no convincing reasons have been adduced for failure of the appellants to produce these documents before the Trial Court. In such circumstances, I have no hesitation in coming to the conclusion that the petition for raising additional evidence is liable to be dismissed in respect of Document Nos.2 and 7 to 18 as it was not relied on before this Court and the ingredients of Order 41 Rule 27 are not satisfied. As far as Document No.6 is concerned, the copy of the same was already marked before the Trial Court as Ex.A6 and therefore, it need not be marked again as additional evidence. Hence, the petition is dismissed in respect of Document No.6 also.

13. In view of the above discussion, C.M.P.No.9183 of 2022 is allowed in respect of Document No.1 (Annexure to Board's Order No.427, Board of Commissioner, HR and CE Department, Chennai-6 dated 07.02.1948), Document No.3 (Annexure to Order No.59/1954 dated 11/26



16.04.1954, Deputy Commissioner, HR and CE Department, Coimbatore),

Document No.4 (Board Order dated 07.02.1948 in O.A.No.344 of 1946) and Document No.5 (Judgment and Decree passed in O.S.No.1985 of 1954 by the City Civil Court, Madras, dated 24.09.1955), which are filed in the typed-set of papers, dated 17.05.2016 and those documents are marked as Exs.A7 to A10 in this appeal. C.M.P.No.9183 of 2022 is dismissed in respect of Document Nos.2 and 6 to 18.

Discussion on Point Nos. (a) and (b):-

14. It is the main contention of the appellants that there is no dedication of property in favour of any religious institution under Ex.A1 and therefore, the 1st Plaintiff-Trust will not come within the meaning of specific endowment as defined under Section 6 (19) of HR and CE Act. A close scrutiny of Trust Deed dated 24.07.1912 would indicate that the Founder conveyed his interest over the properties described in Schedule-A to D in the Trust Deed in favour of the Trust and the trustees shall hold the same in Trust for the uses and purposes set out and described in Schedule-E, F, G and H. The relevant provision of Trust Deed reads as follows:-

“NOW THIS INDENTURE WITNESSETH that for the



WEB COPY



A.S.No.382 of 2016

purpose of effectuating the said intentions of the Founder, the Founder does hereby GRANT CONVEY AND ASSIGN unto the Trustees above named and to their and each of their successors appointed in manner herein after provided all the rights, title and interest of the Founder as beneficial owner in all and singular the hereditaments and premises set out and described in Schedule A and all the right, title and interest of the Founder as mortgage or pledgee in all and singular and mortgages and pledges set out in Schedule B, the movable properties set out in Schedule C, and all the outstanding unsecured debts set out in Schedule D.

TO HAVE AND TO HOLD the same and any further or other properties which the Trustees may hereafter acquire hold or become possessed by virtue of these present in trust for the uses and purposes set out and described in schedule E, F, G, and H and for such further or other uses and purposes which under the provisions hereinafter contained the Founder or the Trustees may from time to time and all times determine.”

15. Therefore, it is clear that the Founder of the Trust was divested of his interest over the properties mentioned in Schedule-A to D in the Trust Deed. The Trustees have been directed to hold the said properties in trust for the purposes and uses set out in Schedule-E, F, G and H to the Trust Deed. In such circumstances, I am unable to accept the submission made by the

13/26



learned counsel appearing for the appellants that there is no dedication of property to the Trust and only charge has been created.

16. It is seen from Exs.A7 to A10 marked in this appeal as additional evidence, as early as 1946, the 1st Plaintiff-Trust in an enquiry under Section 77 of Old HR and CE Act, 1927 had taken a stand that the 1st Plaintiff-Trust could not be treated as a religious endowment as Founder directed not only religious charities but also certain secular functions. The Board of Commissioner for HR and CE, Madras in its order dated 07.02.1948 categorically held that there was dedication of property for religious and secular purposes and 1/5th of the gross income of the Trust shall be allocated to the religious uses and to that extent, it forms a religious endowment and provisions of the Act would apply. The relevant portion of the order reads as follows:-

“We may now pass on to examine the question applicability of section 77 to a matter of this kind. That we have before us is a certain group of properties the income from which is spent partly for religious purposes and partly for secular purposes. The latter portion of section 77 refers to a case of this type. To call these expenditure a charge on the property is an attempt to get them outside the scope of section



WEB COPY



A.S.No.382 of 2016

77 of the Act. As there is a deed dedicating the properties for the due discharge of both religious and secular charities, we hold that an order under section 77 is called for. Since a working estimate has been furnished by the trustees, we think we may adopt the same and hold that one fifth of the gross income from the endowments created by the trust deed dated 24.7.1912 and the will dated 22.2.1914 of Sri Pappi Chetty Ragaviah Chetty shall be allocated to religious uses and form a religious endowment to which the provisions of the Act will apply.”

17. Section 77 of Old HR and CE Act of 1927, empowered Board to decide the dispute as to whether institution or endowment is the one to which Section 77 (1) applies. The said dispute shall be decided by Board. In the case on hand, as stated supra Board decided that 1/5th of the gross income of trust shall be allocated to the religious uses and to that extent, it form a religious endowment and provisions of the Act would apply. The said decision has not been challenged by 1st Plaintiff-Trust and it attained finality.

18. Then HR and CE Act of 1927 was subsequently repealed and New HR and CE Act of 1951 came into force. Section 57 of HR and CE Act of 1951 was similar to Section 63 of present HR and CE Act of 1959. Under



Section 57 of HR and CE Act of 1951, the Deputy Commissioner of HR and CE Department was empowered to decide such questions enumerated therein. Taking advantage of the said new enactment, the 1st Plaintiff-Trust moved an application before the Deputy Commissioner for HR and CE Department under Section 57 of the Act seeking declaration that Items 1 to 31 mentioned in Schedule-H of the Trust Deed were not specific endowment and therefore, the provisions of HR and CE Act would not apply. The cause of action for filing the said application was a memo issued by the Deputy Commissioner of HR and CE Department, dated 11.08.1953 following the order passed on 07.02.1948. The Deputy Commissioner on consideration of the contentions raised by the 1st Plaintiff-Trust came to the conclusion that he was bound by the earlier decision rendered by Board of Commissioner on 07.02.1948 and consequently, held that 1/5th of the income of the 1st plaintiff-Trust constitutes a religious endowment. Therefore, the contentions of the 1st plaintiff-Trust that provisions of HR and CE Act, 1951 would not apply to it was rejected.

19. Aggrieved over the above decision rendered by the Deputy Commissioner in a proceeding under Section 57 of HR and CE Act, 1951, the 1st Plaintiff-Trust filed an appeal before the Commissioner of HR and CE

16/26



Department and the said appeal was dismissed on 30.07.1954 by confirming the order passed by the Deputy Commissioner. Aggrieved over the said order, the 1st Plaintiff-Trust instituted a suit before the Civil Court in O.S.No.1985 of 1954 on the file of the City Civil Court, Madras. The plaintiffs prayed for a declaration that Items 1 to 31 of Schedule 'H' in the Trust Deed were not a specific endowment and as such, the 1st Plaintiff-Trust could not be treated as a Religious Institution to which the provisions of HR and CE Act, 1951 would be made applicable. The 1st Plaintiff-Trust also sought for cancellation of the order passed by the Commissioner, dated 30.07.1954.

20. The above said suit filed by the 1st Plaintiff-Trust was dismissed by the Civil Court holding that the 1st Plaintiff-Trust was a specific endowment within the meaning of HR and CE Act of 1951. The relevant finding rendered by the Civil Court reads as follows:-

“13. This decision, if I may say so with respect, answers all the objections raised by the learned counsel for the plaintiffs, and it is no more open to them to contend that the Endowments Board had no jurisdiction to pass the order declaring that the endowments now in question are in the nature of religious endowments as defined in the Act. Whatever



WEB COPY



A.S.No.382 of 2016

it may be, they, not only not having challenged the said order but also having positively acquiesced, by their conduct, in submitting to the jurisdiction of the Board, cannot now be heard to contend that the Board had no jurisdiction to pass an order in respect of the suit endowments. It is clear that they are now trying to circumvent the prior order by taking shelter under some supposed change in the provisions of the new Act, merely because they find it cumbersome to submit the accounts, “dittams” or the budget estimates.

14. I am distinctly of opinion that in any view of the matter, these endowments do come within the meaning of ‘specific endowment’ under the new Act and, as such, the Board has ample jurisdiction to exercise its control; and I therefore find these issues against the plaintiffs and in favour of the defendant.”

21. The judgment passed by the Civil Court in O.S.No.1985 of 1954 had attained finality and the same has not been challenged by way of filing any appeal. Therefore, the finding rendered by the Civil Court that the 1st Plaintiff-Trust was a specific endowment had attained finality.

22. Thereafter, the present HR and CE Act, 1959 came into force. Taking advantage of the same, the 1st Plaintiff-Trust filed yet another application under Section 63 (a) of present HR and CE Act, 1959 before the



Joint Commissioner. In the present application, the 1st Plaintiff-Trust sought for a declaration that performance of endowment as contemplated under H-Schedule of Trust Deed by the 1st Plaintiff-Trust would not come under the purview of New HR and CE Act of 1959. It is pertinent to mention that Section 63 of HR and CE Act of 1959 is a verbatim reproduction of Section 57 of HR and CE Act of 1951. The 1st Plaintiff-Trust already filed application with similar prayer before the Deputy Commissioner, who was the Competent Authority under Section 57 of HR and CE Act of 1951 and he dismissed the application by giving a categorical finding that the 1st Plaintiff-Trust was a specific endowment. The said decision was confirmed by the Appellate Authority namely the Commissioner of HE and CE Department and then the finding was confirmed by the Civil Court in a Statutory Suit filed by the 1st Plaintiff-Trust under Section 62 of HR and CE Act of 1951. Taking advantage of the introduction of New Enactment, the plaintiffs filed very same application again before the Joint Commissioner under Section 63 of HR and CE Act of 1959. The Joint Commissioner rightly that found the earlier decisions rendered by the then Deputy Commissioner as confirmed by the Civil Court are binding on the plaintiff and dismissed the application. The said decision was rightly affirmed by the Commissioner and also by the Trial Court in its judgment, which is under challenge before this Court.



Certainly, the second round of litigation initiated by the plaintiffs taking advantage of the new enactment is nothing but a relitigation.

23. Section 6 (16) of the Madras Hindu Religious and Charitable Endowments Act, 1951 defines the expression 'specific endowment' as follows:-

*“6. (16) “**specific endowment**” means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (14).”*

24. For the sake of convenience, the Explanation (1) in Sub Section 14 of Section 6 of the Madras Hindu Religious and Charitable Endowments Act, 1951 is also extracted, which reads as follows:-

*“**Explanation.(1)**-Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be a religious endowment.”*



WEB COPY

25. The expression ‘specific endowment’ is defined under Section 6 (19) of the present Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, reads as follows:-

“6. (19) “specific endowment” means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (17).

Explanation.-(1) *Two or more endowments of the nature specified in this clause, the administration of which is vested in a common trustee, or which are managed under a common scheme settled or deemed to have been settled under this Act, shall be construed as a single specific endowment for the purposes of this Act;*

Explanation.-(2) *Where a specific endowment attached to a math or temple is situated partly within the State and partly outside the State, control shall be exercised in accordance with the provisions of this Act over the part of the specific endowment situated within the State;”*



26. The Explanation 1 to Sub Section 17 of Section 6 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, reads as follows:-

“Explanation.—(1) Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee, but shall be deemed to be a religious endowment.”

27. A perusal of the above definition in both the enactments would make it clear that the definition of the expression 'specific endowment' in both the enactments are one and the same, there is no material difference. Infact, the explanation-I and II added to Section 6 (19) of 1959 Act gives more clarity to the definition in respect of certain specified contingencies. The same will not alter the scope of the definition.

28. In such circumstances, the finding rendered in earlier proceedings including the judgment passed by the Civil Court that the 1st Plaintiff-Trust was a specific endowment and therefore, it would come under the purview of HR and CE Act cannot be reopened by the plaintiffs. If the 1st Plaintiff-

22/26



Trust was aggrieved by the findings rendered by the Civil Court in the earlier litigation, it ought have challenged the findings in the manner known to law by filing an appeal. However, it failed to do so. Therefore, certainly the decision rendered in earlier suit in O.S.No.1985 of 1954 is binding on the plaintiffs and it is not entitled to reagitate the same by filing another suit, merely because, New HR and CE Act has been enacted by the Legislature, especially when there is no material change in the definition for the expression 'Specific Endowment' in the new enactment.

29. In view of the above discussions, this Court holds that the Trial Court is justified in rejecting the prayer sought for in the suit and accordingly, the Point Nos.(a) and (b) are answered against the appellants.

30. In view of the conclusion reached in Point Nos. (a), (b) and (c), the appeal suit stands dismissed by confirming the judgment and decree passed by the Trial Court. Taking into consideration, the finding with regard to the character of the Plaintiffs' Institution, which attained finality has been reagitated by the Plaintiffs-Trust, I feel that it would be appropriate to direct the Appellants-Trust to pay the cost of the appeal.



A.S.No.382 of 2016

In Nutshell:-

WEB COPY

(i) The First Appeal stands dismissed with a direction to the appellants to pay cost of the appeal to the respondents 1 and 2.

(ii) Consequently, the connected civil miscellaneous petition in C.M.P.No.8314 of 2016 is closed.

18.12.2025

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
dm



A.S.No.382 of 2016

To

- 1.The V Assistant Judge,
City Civil Court, Chennai.
- 2.The Commissioner
Hindu Religious and Charitable Endowments Department
Office at Uthamar Gandhi Salai
Chennai – 600 034
- 3.The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Office at Uthamar Gandhi Salai
Chennai – 600 034



WEB COPY



A.S.No.382 of 2016

S.SOUNTHAR, J.

dm

Pre-delivery judgment made in
A.S.No.382 of 2016

18.12.2025