

EXECUTIVE OFFICER, TTD, TIRUPATI
v.
A.S. NARAYAN DEEKSHITULU AND ORS.

MAY 9, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 :

Thirumala Tirupati Devasthanams—Archakas and other officers—Abolition of hereditary right to appointment—Payments made to Archakas and other officers—Application by TTD for recovery of excess payment—Direction by Supreme Court to Additional District Judge, Tirupati to appoint a Commissioner for perusal of accounts and determination of respective entitlements.

While upholding the constitutional validity of various provisions of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 this Court held that abolition of hereditary rights of archakas and other office holders was not unconstitutional. * The Executive Officer of the Thirumala Tirupati Devasthanams was also permitted to work out the payments made to the archakas and other officers. The present application has been filed by him stating that they have received more than what was due to them. Consequently he sought (i) directions for refund of amount paid to archakas, gamekars, jeeyamgars and other mirasidars as well as rendering of account of offerings received by them; (ii) directions to Additional District Judge, Tirupati to credit the cash securities furnished by gamekars to TTD account and; (iii) orders directing archakas to refund cash to TTD equal to the immovable property securities furnished by them.

Disposing the application, this Court

HELD : This matter cannot be dealt with adequately unless accounts are perused and respective entitlements are determined. Therefore the appropriate course would be that the Additional District Judge, Tirupati should appoint an Advocate as Commissioner. TTD shall place all the records relating to the payments made to various persons before the Advocate-Commissioner. The Commissioner shall give notice to all the mirasidars and gamekars and assess their respective entitlements and the

A liabilities. The report shall be placed before the Additional District Judge who before accepting the report of the Commissioner, would also give notice to all the persons to appear before him and after hearing their objections, if any, pass the order of refund, if any, to be made by the respective mirasidars/gamekars. In case the amount to be refunded is substantial and in case the mirasidars/gamekars are not seeking any appointment under the service of the petitioner, after realising the amounts from the security furnished by them, the balance amount shall be recovered as if it is a decree passed by this Court and the same may be realised in accordance with the procedure prescribed for execution of the decrees in Order XXI, CPC. In case the archakas/gamekars should seek appointment in the service of the petitioner and in case they do not possess any substantial immovable property, the same may be recovered in easy instalments from part of the emoluments payable to them. [373-A-G]

**A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Ors., [1996] 9 SCC 548, referred to.*

D CIVIL ORIGINAL JURISDICTION :

I.A. No. 12

IN

E Writ Petition (C) No. 638 of 1987

(Under Article 32 of the Constitution of India.)

F D.D. Thakur, P.P. Rao, Hardev Singh, Dr. Gauri Shankar, C. Mukund, T.V. Ratnam, B. Kanta Rao, K. Ram Kumar, C. Balasubramaniam, Mrs. Asha Nair, V. Balaji, N. Ganpathy, A.T.M. Sampath, Ms. Madhu Moolchandani, S. Markandeya, Mrs. Chitra Markandeya, Ms. Meenakshi Aggarwal, A. Subba Rao, A.D.N. Rao, V. Balachandran, Jain Hansaria & Co., P.N. Ramalingam, B. Parthasarthy, Y.P. Rao, Ms. Sadhana Ramachandran, Ms. B. Sunita Rao and Ms. H. Wahi, for the

G appearing parties.

The Judgment of the Court was delivered by

H **K. RAMASWAMY, J.** I.A. No. 12/97 in Writ Petition No. 638/87 has been filed by the TTD Executive Officer, Tirupati for the following directions :

"(a) To direct Archakas, Gamekars, Jeeyamgars and other Mirasidars to refund the amount paid to them besides rendering account of the offerings both in cash and kind the value thereof received by them as their remuneration, salary and perquisites, to the Executive Officer, T.T.D. Devasthanams.

(b) To direct the Additional District Judge, Tirupati to credit the cash securities furnished by the Gamekars of Tirumala Temple to the T.T. Devasthanams account in view of the fact that they are paid heavy amounts subject to finalisation of payments of emoluments paid to them from 22.6.1987 to 21.3.1996 on the result of the judgment in W.P. No. 638 of 1987 etc.

(c) To direct the Additional District Judge, Tirupati to pass orders directing Archakas of Tirumala Temple, Tirumala to refund Cash to the T.T. Devasthanams equal to the immovable property securities furnished by them in view of the fact that they are paid heavy amounts subject to finalisation of payments of emoluments paid to them from 22.6.1987 to 21.3.1996, on the result of the Judgment in W.P. No. 638 of 1987 etc., and

(d) To pass such further or other order or orders as may be just and necessary under the circumstances of the case." .

In paragraph 136 of the judgment in *A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Ors.*, [1996] 9 SCC 548, this Court has reiterated the interim directions passed by this Court from time to time. In paragraph 138, it is stated as under :

"In view of the fact that writ petitions and transfer cases are being disposed of, it would be open to the Executive Officer of TTD etc. to work out the payments made to the Archakas, mirasidars and gamekars etc. and also the rights consistent with the law and would take action accordingly."

The interim directions were extracted in paragraph 136. It is not necessary to reiterate the same. In the application, it is stated in paragraph 7 that emoluments paid in cash and kind are worth about Rs. 23 crores by the TTD to the Archakas and gamekars of the TTD from June 1987 to January 1996. However, the Archakas and gamekars failed to give proper

A and full security by way of bank guarantee to the Additional District Judge. The Bank guarantee given between 1989 to 1992 was not renewed. Thereby, they have disobeyed the orders of this Court. The Archakas had furnished only immovable properties security for an amount of Rs. 20 lacs to the Additional District Judge as per the order dated August 25, 1987; but they have not complied with the directions dated November 7, 1989. Now, they have furnished bank guaranteed only for Rs. 5 lacs. The total amount paid to the various persons is as under :

	"Archakas	Rs.10,29,51,634.23
C	Gamekars	Rs. 12,49,55,058.36
	Pedda Jeeyangar	Rs. 2,07,11,919.57
	Chinna Jeeyangar	Rs. 2,05,90,609.16
	Purohitham Vedyar	Rs. 23,20,179.34
D	Thallapakam	Rs. 8,58,959.00
	Total	<u>Rs. 27,23,88,359.66</u>

E Similar shares were also paid to the Archakas of Shri Padmavathi Ammavaru Temple, Tiruchanoor which are also substantial."

F The amount, thus, paid is Rs. 27,23,88,359.66. It is stated that similar shares were also paid to the Archakas of Shri Padmavathi Ammavaru Temple. In spite of the directions given by this Court, they have not rendered any account for the emoluments received by them since they have received more than what was due for them. In spite of the notice given to them to render account of the emoluments received by them they have been avoiding to render account in terms of the directions of this Court. In spite of the notice given for joining, many of them have not responded. It is stated as under :

G "The Mirasidars knew pretty well that the emoluments received by them towards remuneration and perquisites for the services rendered by them are heavy amounts when compared with the worth of services rendered by them. They are liable to repay, the excess amount which they have drawn, to the Institution with effect from 22.6.1987."

H

Accordingly, they sought directions for repayment in terms of the interim directions. The Mirasidars have not filed any counter to this application, though it was filed on February 11, 1987. We think that we cannot adequately deal with this matter unless accounts are perused and respective entitlements are determined. We think that the appropriate course would be that the Additional District Judge, Tirupati should appoint an Advocate as Commissioner. The petitioner shall bear the fees of the Advocate-Commissioner. TTD shall place all the record relating to the payments made to all the mirasidars and gamekars etc. from time to time after the date of the interim direction dated June 27, 1987 till the date of the judgment. TTD also shall give particulars of the payments made to various persons to the Advocate-Commissioner. The Commissioner shall give notice to all the mirasidars and gamekars or whose names are furnished by the petitioner. They shall appear on a date fixed by the Commissioner. In case they do not appear either in person or through counsel, the Advocate-Commissioner would be at liberty to assess the respective entitlements and the liabilities. In case the amount paid by the TTD as per the interim directions is in excess of the amount, the same shall be determined. The Commissioner shall place the report before the Additional District Judge. The Additional District Judge, before accepting the report of the Commissioner, would also give notice to all the persons to appear before him and after hearing their objections, if any, pass the order of refund, if any, to be made by the respective mirasidars/gamekars. In case the amount to be refunded is substantial and in case the mirasidars/gamekars are not seeking any appointment under the service of the petitioner, after realising the amounts from the security furnished by them, the balance amount shall be recovered as if it is a decree passed by this Court and the same may be realised in accordance with the procedure prescribed for execution of the decrees in Order XXI, CPC.

In case the archakas/gamekars should seek appointment in the service of the petitioner and in case they do not possess any substantial immovable property, the same may be recovered in easy instalments from part of the emoluments payable to the archakas/gamekars appointed in accordance with their designation approved in the companion order.

The application is accordingly disposed of.

T.N.A.

Petition disposed of.