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The Curious Case of Sri Renganathaswamy's Investment

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ABSTRACT

The Tamil Nadu Hindu Religious and Charitable Endowments Act was enacted in 1959 and had come into force in a phased manner. Its purpose is to consolidate laws relating to the administration and governance of Hindu religious institutions and charitable endowments in Tamil Nadu. There are particular types of endowments that are specially governed by the Act, one such being specific endowment. This paper defines the nature and characteristics of specific endowments and its association with religious charity. It has still been an ambiguous provision of wide import that differs on a case-to-case basis. This position was rightfully adjudicated by the Supreme Court in the case of Idol of Sri Renganathaswamy v. Thoppulan Chettiar in February 2020. This paper aims to explain the exact focus of Supreme Court by stating and testing the specific issues and substantiating with the help of its own legal precedents. The impact of the judgement is also highlighted. It has been made to clarify the position regarding endowments and simplify the provisions of administration of endowments with respect to the wide interpretations and highly dynamic circumstances in this contemporary world.

Keywords: Religious endowments, specific endowments, religious charity, settlement deed, religious festival, Deity

I. INTRODUCTION

It was an interesting judgement delivered by the Supreme Court in February 2020 that has manifested a new perspective in the nature and characteristics of religious endowments. It has been a long legal battle for the Hindu Religious and Charitable Endowments Department of Tamil Nadu that lasted over a decade, taking strenuous efforts to protect the endowment made to Sri Renganathaswamy and to his temple in Srirangam, one of the spiritual capitals of India, situated in the southern part of Tamil Nadu. The temple is considered as one of the world's biggest active and functional Hindu temple, covering a vast area of about 6.31 lakh square metres with a perimeter of 4 km. The enormous temple complex spans around 156

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acres with seven wide enclosures with thick rampart walls running around the sanctum and 21 magnificent towers around the temple. This temple town is situated on an islet formed by the rivers Cauvery and Coleroon, proving it to be one of the richest and prosperous parts of Tamil Nadu. The battle was not just a mere fight for ownership of private property by the temple or the State but a larger issue on the interpretation of specific endowment with respect to the usage of a particular property administered by a private trust. It was not just a case of conferment of certain rights on the property to the temple by the Supreme Court but it is the one that also inferred the way in which specific endowments to Hindu temples are dealt and offered with. It went unnoticed due to the nature of dispute as it was regarded more as a civil dispute concerning title and ownership of property rather than that which has an important substantial question of law, the answer to which places it in a unique position and makes it applicable not only to endowments made to this temple or in the State of Tamil Nadu but to all endowments of similar nature made to different temples all over India wherever such types of endowments are entertained, thereby making a significant case to look upon in matters of religious endowments.

II. NATURE OF TRUSTS AND ENDOWMENTS

The term “endow” means to bequeath a thing or property. An endowment is a gift of money made to an institution for the provision of an annual income.

According to Section 6(16) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 (hereinafter referred to as “TNHRCE Act” or “the Act”), to which the President assented on 19th November 1959, religious charity is a public charity related to a Hindu festival or that which is observed with respect to a religious character, irrespective of its nexus or relation with a math or temple. Specific endowment is defined as any such property or money endowed for performing any specific service or other religious charity in a temple or other religious institutions.³ The legal rationale for the control, management and administration of such properties, monies and endowments to Hindu temples is based on Article 25(2) in which sub-clause (a) empowers the State to enact any law to regulate or restrict any economic, financial or other secular activity which is closely linked or associated with a particular religious practice, though such religious practices are protected and guaranteed by the preceding clause of the same Article, which is also, at the same time, subject to public order, morality and health of the citizens of the country.

The definition of the term “trust” is made out under Section 3 of the Indian Trust Act 1882,

³ Tamil Nadu Hindu Religious and Charitable Endowments Act 1959, sec 6(19)

which describes an obligation connected to the ownership of property that arises out of confidence reposed and accepted by the owner for his and others' benefits. It is simply known as a transfer of property by a particular person to another who manages it for benefitting the latter or someone else. There are two types of trusts: public and private trusts.

They can be distinguished in a number of ways but it can be simply identified with the help of its beneficiaries. If the general public are the beneficiaries of a particular trust, then it is said to be a public trust. When the beneficiaries are incapable of being ascertained, the Trust is a Public one.⁴ However, if the beneficiaries are narrow and includes only the trustees and their circles, then it is said to be private trust. It is one of those broad classifications that precisely define and categorise the nature of a trust. Similarly, when there is no evidence to show that any member of the public had participated in the Management, the Trust is only a private Trust and not Public Charitable Trust.⁵

Every endowment done by a trust cannot be termed as religious or specific endowment. It constantly differs on a case-to-case basis. A particular event of feeding 300 Brahmins during Thirukalyanam and Car Festival was recognised as a religious charity due to its public presence and religious character despite its lack of contact with any trust, mutt or temple.⁶ The same event was not said to be a religious endowment as the particular event was not associated with the Festival of the temple and it is done at a place away from the temple.⁷

Thus, the endowments should be analysed based on the nature of trusts and the specific activity for which the endowment is made available to the temple, as carefully scrutinized accordingly by the Courts in various cases through dynamic judgements that essentially studies the trusts, in general, and the endowments, in particular, to entitle the suit property accordingly to the concerned parties.

III. OBSERVATIONS AND RULING OF SUPREME COURT

The observations of Hon'ble Supreme Court are of paramount importance to explain the facets of religious endowments and its nexus with the nature of trusts. The attention of the Court to such a matter of significance was invited in **The Idol of Sri Renganathaswamy v. P K Thoppulan Chettiar**.⁸

In this particular case, P K Thoppulan Chettiar was a Trustee of Ramanuja Koodam

⁴ The Commissioner, HRCE v. C V Sudharsan, 2000 (II) CTC 559

⁵ Sri Krishnavilas Bajanai Madam v. Commissioner, HRCE, 2007 (2) MLJ 15

⁶ The Commissioner, Madras HRCE v. Narayana Ayyangar, AIR 1965 SC 1916

⁷ The Commissioner, HRCE v. S Ramasami Iyer, 2001 (2) LW 654

⁸ AIR 2020 SC 247

Annadhana Trust in Srirangam, Tamil Nadu. The suit property was initially bought by him and he had constructed a Stone Mandapam for the deity of Sri Renganathaswamy to invite and receive His blessings during the Hindu festival months. In addition, he also supplied drinking water and millet porridge for a period of three days during Gajendra Moksham and 18 Padi festivals from the Mahimai fund (God's account) established from his granary business.

After 14 years of carrying on these charitable activities, he executed a Settlement Deed to prohibit the sale or mortgage of the property in the near future and had also directed his descendants to continue carrying out these activities upon his death from the income of their business. The property was leased out for 20 years to Sri Renga Fibre, which further sub-let to various third parties, on whom the Trust had filed an eviction suit for alleged encroachments by them. Due to the difficulties in efficiently maintaining the property and also in preventing illegal encroachments, the Trust had sought to sell the property measuring 20,865 square feet, leaving aside the portion where the Stone Mandapam was situated. The purpose of the sale was to utilise the interest from the sale consideration to carry on the charity.

A civil suit was filed before the lower Court seeking permission for sale, which was resisted by the idol of Sri Renganathaswamy represented by its Executive Officer as the particular trust had no right to alienate the property which was entirely dedicated to the idol for the performance of charitable activities. The appellant alleged that it is a public religious trust and therefore the suit property constituted a specific endowment, granting only the HRCE Commissioner the power to grant sanction for alienation of the suit property.⁹ But it was held that the Deed of Settlement did not vest it in the appellant as it was not mentioned in the register of properties. Accordingly, the TNHRCE Act cannot be applied and the sanction for the sale could be granted only by a civil court. On a subsequent appeal, the same was upheld by the Madras High Court, against which, a civil appeal was sought before the Supreme Court.

When the Supreme Court was approached to adjudicate on this matter, it had first sought to answer the question of whether the settler intended the religious purpose to be the main object subject to a charge in favour of his legal heirs, or whether the heirs were the primary beneficiaries subject to a charge towards the continuation of the charitable purpose. In **Menakuru Dasaratharami Reddi v. Duddukuru Subba Rao**,¹⁰ it was held by the

⁹ Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, s.34

¹⁰ AIR 1957 SC 797

Constitutional Bench of the Supreme Court that a trust favouring public charity is created if the dedication made is complete. If the same is partial, there is no trust but a charge in favour of the charity is attached to the property, retaining its private and secular character. To know whether the dedication is complete or not, the true intent of the parties should be ascertained which can be found on a fair and reasonable construction of the document.¹¹ Thus, on a full reading of the Settlement Deed it is clear that the settlement was created for the primary purpose of charity and obligates the legal heirs to continue the charitable activities at the suit property.

Then, the Court had turned on to the question of whether the above mentioned endowment is a specific endowment under Section 6(19) of TNHRCE Act. Specific Endowments involve both charity done only to a particular temple and religious charity. To constitute a religious charity, it must be a public charity and it must also be associated with a Hindu festival or observance of a religious character. The difference between public and private charity was made out in **Mahant Ram Saroop Dasji v. S P Sahi**,¹² in which it was stated that the beneficial interest in a public trust is vested in an uncertain multitude and fluctuating body of people who constitute either the general public or a considerable portion of them, but whereas in a private trust the beneficiaries are definite and ascertained individuals within a definite time. This test has been followed by the Court with utmost consistency and has recently been used in **M J Thulasiraman v. Hindu Religious and Charitable Endowment Administrator**.¹³ In the instant case, it is stated in the Settlement Deed that the charity should be done for the benefit of the devotees visiting on certain Hindu religious festivals. It benefits the public and it is clear that the beneficial interest is created in an uncertain body of persons. As the devotees are not definite as a particular class of beneficiaries, the trust managed by the respondent is a public trust.

The next condition is the association of the charity with a Hindu festival or observance of a religious character. The test is whether there exists a nexus between the charitable work and the occurrence of the festival. It is not necessary to ascertain whether the particular temple or authority administering the festival exercises any control over the activities of the charity. This aspect was examined by the Court in **Commissioner, Madras Hindu Religious and Charitable Endowments v. Narayana Ayyangar**,¹⁴ where a fund for performing charity related to feeding Brahmins attending the Sri Prasanna Venkatachalapathi Swamy temple on

¹¹ Sappani Mohamed Mohideen v. RV Sethusubramania Pillai, AIR 1974 SC 740

¹² 1959 Supp. (2) SCR 583

¹³ (2019) 8 SCC 689

¹⁴ *Supra* Note 4

the occasion of Rathotsavam festival was held to be a religious charity. Similarly, offering food to people on the occasion of a deity passing through a river on a specific festival was also held to be a religious charity.¹⁵ Therefore, as the activities of the Trust managed by the respondent are closely related with Chithirai Gajendra Moksham and Eighteen Padi festivals and it is to be done for the benefit of the devotees of Sri Renganathaswamy temple in Srirangam, the above settlement made by Thoppulan Chettiar constitutes a specific endowment under Section 6(19) of the Act.

Same ruling can be found in **M. Radhakrishna Gade Rao Sahib v. State of Madras**,¹⁶ where the provision of a specified sum made out of the properties by the predecessors of the appellants for certain charities and the balance was to be taken by the family members was held to be a specific endowment by the apex Court. As this particular settlement is a specific endowment, it was held that the HRCE Commissioner is the appropriate authority, under Section 34 of the Act, to approve the proposed sale of the suit property by the Trust managed by the respondent and the provisions of the Act are applicable to them as any dispute regarding administration of religious institutions and management of charitable endowments is governed according to the provisions of the Act.

Similar ruling by the Supreme Court can also be found in **W N Allal Sundaram v. The Commissioner, HRCE Administration Department**,¹⁷ which disputed the interpretation of Settlement Deed and the dedication of property through it as a specific endowment. The apex Court had upheld the decision of the Court and had set aside the appeal stating that the property was specifically endowed for performing religious charity in Shree Agastheeswara Swamy Devasthanam Temple and was covered within the scope of definition of “specific endowment” in Section 6(19) of the Act. It was stated in the Settlement Deed that initially the trustees settled a plot of land for constructing a choultry, which was connected with those activities undertaken by the Devasthanam. Later on it was found to be inadequate to meet the devotees’ requirements during religious festivals. Thus, another deed was executed which made Bagyammal obligatory to construct an additional choultry. It was to be utilised particularly for the purpose of extending facilities to pilgrims visiting the temple. The creation of an encumbrance on the choultry or land was restricted by the deed. The choultry was to be put at permanent public use. Bagyammal can claim no right on the choultry which should be maintained by her descendants or nominees. As a result of the clear terms emerging from the deed, the definition of the expression “specific endowment” in Section 6(19) was

¹⁵ K S Soundararajan v. Commissioner, Hindu Religious & Charitable Endowments, (2016) 15 SCC 597

¹⁶ AIR 1966 SC 653

¹⁷ AIROnline 2019 SC 1549

attracted and hence, was declared the same.

IV. DIFFERENCE OF RULING IN MADRAS HIGH COURT

The High Court had differed in the context of ownership. The Deed reveals that Thoppulan Chettiar retained title and control over the suit property with him. He did not divest the title either to Deity or to the appellant Temple. There is no dedication, including the 'Stone Mandapam' to the Idol or to the appellant Temple. The High Court was also clear that Thoppulan Chettiar has also not created any charge or encumbrance over the suit property for carrying out charity, which is done outside the Temple by inviting the Deity to the 'Stone Mandapam' in the suit property to do worship and receive the first Honour. The Temple authorities have no control over the suit property or the Trustees. Only when the Trustees apply to the Temple authorities inviting the Deity to 'Stone Mandapam' and pay necessary charges, the Deity will be taken to 'Stone Mandapam' and the Trustees will worship and receive Honour. The Temple authorities cannot compel the Trustees to invite the Deity or perform Charity as mentioned in the settlement deed. Thus, it was concluded by the High Court that the endowment was not specific and the trust is a Private Trust and thereby cited some cases as not applicable. Those are **Kalia Pillai v. Kathayee Ammal Dharmam (Charities)**,¹⁸**Thayammal v. Kanakammal**,¹⁹**K S Soundararajan v. Commissioner of HR&CE**,²⁰ **Sri Madhavaperumal Devasthanam v. Dhanalakshmi**,²¹ **A A Gopalakrishnan v. Cochin Devaswom Board**²² and **Joint Commissioner, Hindu Religious and Charitable Endowments Administration Department v. Jayaraman**.²³ The facts of the present case are squarely applicable to the facts laid down in the case of **A M Ponnuswamy Nadar v. State of Tamil Nadu**.²⁴

They have also validated various rulings with regards to the nature of charity undertaken by the Trust. The reliance placed by the Senior Counsel appearing for the Trust on **The Commissioner, HRCE Administration Department v. S Ramasami Iyer**,²⁵ in which feeding 300 Brahmins during a particular festival was not said to be a religious endowment due to its disassociation with the Festival and it is done at a place away from the temple, was validated by the High Court, thereby terming such acts secular. The same holding can also be

¹⁸ 2003 (3) LW 380

¹⁹ 2005 (1) SCC 457

²⁰ 2015 (O) SC 1075

²¹ 1996 (1) LW 231

²² 2007 (7) SCC 482

²³ AIR 2006 SC 104

²⁴ 1985 (II) MLJ 492

²⁵ *Supra* Note 5

found in **State of Madras v. The Urumu Seshachalam Chettiar Charities, Tiruchirapalli**.²⁶ It was also held in that case that the noble intention of Hindus to provide Thaner Pandal and feeding to people belonging to all religions is well known and has been recognised by Courts. Thus, the facts and ruling of this present case was not made applicable to that of **Commissioner, Madras Hindu Religious and Charitable Endowments v. Narayana Ayyangar**.²⁷

V. IMPACT OF THE JUDGEMENT ON HINDU CHARITABLE ENDOWMENTS

The fiduciary duties of endowments are similar to that of other trust funds. However, fiduciaries of endowments have an additional duty of obedience to the unique charitable mission of the organisation. The charitable endowments bring along the five main duties to be followed for its preservation, viz., duties of prudence, investigation, loyalty, obedience and cost minimisation. In this instant case, the main task for the Court is to determine the nature of transfer or specific transactions that can be classified as an endowment in itself.

Though the concept of charitable endowments has a long standing history, its importance has been made clear and conspicuous by the landmark ruling of the Supreme Court in **Yogendra Nath Naskar v. Commissioner of Income Tax**²⁸, where it was held that the idol of a temple was also declared “person” under Section 11 of Indian Penal Code and all other relevant Acts and it should be duly considered as a juristic person. This is also one of the factors and the deep-rooted reason that led to people transferring their property as charitable endowments to temples in the name of God. The overarching proposition of juristic personality attributed to idols in temples was also highlighted and discussed upon in **Indian Young Lawyers Association v. State of Kerala**²⁹, popularly known as the **Sabarimala case**.

There is a settled law with respect to charitable endowments from **Iswari Bhubaneshwari Thakurani v. Brojo Nath Dey**³⁰ and other related cases that the dedication of property must be absolute or partial. The judgement of this instant PK Thoppulan Chettiar case has pumped in a new perspective in this area, albeit the facts and crux of the case is as old as the TNHRCE Act itself. The judgement has made it clear, in certain respects, that a specific amount of money earmarked for the purpose of charity in a pious and religious way is classified to be a specific endowment irrespective of the nature of trust in which the money is generated. This is a welcoming trend in charitable endowments as it deals not only with the

²⁶ 1960 (II) MLJ 591

²⁷ *Supra* Note 4

²⁸ AIR 1969 SC 1089

²⁹ AIR 2018 SC 243

³⁰ 64 IA 203

allocation of money through the income generated from a particular property but also the nature of trust managing it by a specific group of individuals, who are the beneficiaries to the rights, income and interests created by holding or maintaining the property.

It has also focussed on driving away the shadow eclipsed on specific endowments by the nature of public events and festivals held in connection to a religious day or month. Though the provision weighs heavily on the conduct of public charity, it is relied on the religious festival or purpose for which the endowment is made rather than the charity itself. Thus, a particular activity or charity can be said to be a religious one when it is conducted regularly on a particular day or month in relation to a religious event of a Hindu temple, like the Gajendra Moksham festival in Srirangam in this case, even though the trust is created for secular purposes.

Thus, the judgement rendered by the Supreme Court has made necessary changes and is a significant development in the study of endowments and will prove to be an effective proposition in addressing and tackling such loopholes in this field concerning Hindu temples and the nature and characteristics of Religious and Charitable Endowments.

VI. CONCLUSION

The Act is conducive in handling endowments and other religious charities done by specific individuals for the performance of festivals in specific temples or for the larger use of the general public. The definition of endowments, according to various contexts and also as legally recognised by the courts for long, includes those properties that are set apart or dedicated by gift for the worship of a particular deity or for managing religious and charitable institutions. In this case, the allocation of funds from the income from the suit property for the performance of charity during the festival dedicated to Sri Renganathaswamy temple in Srirangam was clearly ruled to be a specific endowment given for the purpose of pious or religious charity. It has been made unambiguous on Hindu religious and charitable endowments and useful for charitable purposes for a better and wide public interest rather than relying solely on to the religious aspect or the nature of trust which is managed by a set of individuals with respect to cultivating the benefits of the trust for their own vested interests and it also directs the private resources, albeit in a religious perspective, for public charity and other necessary activities and schemes that benefit the people.
