

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Tuesday the Sixth day of March

One thousand nine hundred and seventy nine

PRESENT

The Honourable Mr. Justice Ramanujam

C. R. P. No. 1547 of 1976

Veepankadu Maricair Trust by its
Trustee V.R. Mohammed Chouse Maricair

...

Petitioner
(Objector)

-Vs-

The State of Tamil Nadu by the
Collector of Thanjavur

...

Respondent
(Nil)

Petition under section 82 of Tamil Nadu Act 58/61 praying the High Court to revise the order of the Court of the Land Tribunal, Nagapattinam dated 8-3-76 and made in CMA (LT) No. 85 of 75.

(M. R. I. No. 272/Trust/NGT/A3 Authorised Officer,
(Land Reforms, Nagapattinam))

ORDER: This petition coming on for hearing on this day upon perusing the petition, the order of the Lower Court and the record in the case and upon hearing the arguments of Mr. K. Chandramouly, Advocate for the petitioner and of Mr. K. Venkatasami, Additional Government Pleader on behalf of the respondent, the Court made the following order:-

This revision is directed against the order dated 8th March 1976 of the Land Tribunal, Nagapattinam dismissing the appeal filed by the petitioner against the order of the Authorised Officer (L. Ref). Nagapattinam, holding that the petitioner trust is a public-trust of charitable nature as defined under Section 36 AAA of Section 3 of the Tamil Nadu Act 58/61 as amended by Act 37/1972 and therefore it is entitled to hold only five standard acres.

The petitioner trust owned 8.86 standard acres as on 1.3.1972. During the enquiry under section 9(2)(b) of the Act, it was contended before the Authorised Officer that the trust was created by one

Vapakkandu Maricair as per two documents the dated 6-1-1916 and 2-9-1916, that under the said two documents the properties have been given to Nagore Andavar Dharga and that the beneficiary of the founder of the trust has no share in the income of the properties and that as such the petitioner trust should be taken to be a religious trust of public nature exempted from the provisions of the Act by Section 2(1) of the Tamil Nadu Land Reforms Act. The Authorised Officer however found that the property has not been dedicated to God Almighty as alleged by the petitioner and that the properties of the trust have been dedicated only for purposes of certain charties. After analysing the oral and documentary evidence adduced before him, he took the view, the recitals in Exhibits P 1 and P 2 the documents under which the properties have been endowed clearly show that the purpose of that trust was only charitable and no religious significance can be simply because the beneficiaries are the descendant of Nagore Andavar. This view of the Authorised Officer has been upheld by the Land Tribunal.

The petitioner now questions before this Court the concurrent view taken by the Authorities below that the petitioner trust is only charitable trust of a public nature.

The relevant portion of the trust deed dated 6-1-1916, marked as Ex P1 is as follows:

இதனடியில் கடை நிலங்களை நானும் எனக்கு பிற்காலம் என்னுடைய
ஆல் வாரிசுக்கும் சேர்ந்த சிரமப்படி மேற்படி தர்மத்திற்கு டிரஸ்டிகளாக
இருந்த மேற்படி நிலங்களை பரிபாலனம் செய்ஜம் அதன் வரும்படியில்
சாகுபடி செலவு மராமத்தி வாரம்பி சர்க்கார் கிஸ்தி முதலிய செலவுகள்
போக பாக்கி இருக்கிற ஐவேஜியை நாகரில் இருக்கிற உற ஜரத் தர்கா
ஆல்ஜவர் ஐபர்கள் தர்கா வரும்படியில் பங்கில்லாமல் இருக்கின்ற சாகிப்தார்களுக்கு
பின்னும் அவசியமாகதோன்றுகிறவர்களுக்கும் கொடுத்த தர்மம் நடத்தி
வரவேண்டியதற்காக இந்த டீஸ்ட் ரெக்ளரேஷன்பதிதிரம் எழுதி வைத்திருப்பதால்,

The above extract indicates that the net income from the properties has to be given to those descendants of Nagore Andavar who are not entitled to any share in the income from Nagore Dharga and also to such of those whom the trustee considered fit to get the benefit from the trust. Same receipts find a place in the later deed Ex-P2 dated 28-9-1916. The objects referred to in the trust deeds have nothing to do with any religious trust. The mere fact that some beneficiaries of the trust are the descendants of Nagore Andavar does not make the trust a religious trust or a trust connected with Nagore Dharga. What the document contemplates that the benefit of the trust should go to the descendants of Nagore Andavar who have no shares in the income of the Nagore Dharga. It also provides that other members of the public as deemed fit may also be considered as beneficiaries of the trust. In this view of the matter, there is no escape from the position that the endowment constructed by the said two documents can only be charitable and has nothing to do with religion at all.

Learned counsel for the petitioner would say that the beneficiaries are only the members of the Muslim Community and therefore it can be taken to be of a religious nature. It is not possible to accept this contention. As already stated, the recitals in the trust deeds classified the beneficiaries into two categories, one, as the Sanidsmars who have no share in the income of the Dharga at Nagore and two, such of those other persons who need help. Though the first category of persons may belong to Muslim community, the second category is not confined to persons from Muslim faith alone. Therefore, this additional recital bringing in persons who deserve charity would show that the trust deed to be of a public trust of charitable nature.

In this view of the matter, the concurrent orders of the Authorities have to be upheld and the civil revision petition has to be dismissed. Accordingly the civil revision petition is dismissed. No order as to costs.

Sd/- K. V. Ramachandran,
Assistant Registrar.