IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday, the Twelth day of April

One thousand nine hundred and seventy nine

PRESENT

THE HON'BLE MR. JUSTICE VENUGOPAL

Civil Revision Petition No.2774 of 1976.

Tuticorin Arumugasamy Andu Asiramam Sangam though its Secretary C.Shanmugakani — Petitioner /Land holder

Vs.

The Authorised Officer (L.Ref) Ramanathapuram District at Madurai — Respondent/Respondent.

Petition under Section 83 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 praying the High Court to revise the order of the Land Tribunal (Prl.Subordinate Judge) Ramanathapuram at Madurai dated 2-4-1976 and made MRI/16A/SAT.

JUDGMENT: This petition coming on for hearing on Monday, the 9th day of April, 1979 and this day upon perusing the petition and the record in the case and upon hearing the arguments of Mr.P.Pandi, Advocate for the petitioner and of Mr.A.Sivaji for the Additional Government Pleader on behalf of the respondent the Court made the following order:-

This is a civil revision petition for revising the order made in L.R.A.No.7 of 1976 on the file of the Land Tribunal(Prl.Subordinate Judge) Ramanathapuram at Madurai dated 2-4-1976 and made in MRI/16A/SAT. The petitioner herein is the land holder and appellant before the lower Court. The Authorised Officer (L.Ref) is the respondent before this court. The petitioner Sangam was found to be owing 117-42 Ordinary acres equivalent to 63-93 std. acres both in Ramanathapuram and Tirunelveli districts as on 1-3-1972. The petitioner was called upon to file a return and the prespondent held an enquiry and came to the conclusion that the petitioner is a charitable institution coming under the category of Orphanage which is entitled to hold only 25 standard acres and directed the pttitioner that the surplus extent of 38.93 standard acres should be offered within ten days from the date of

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receipt of the order. The petitioner thereafter filed an appeal to the Land Tribunal. The Land Tribunal held that

1. The Object of the petitioner-sangam is only to provide facilities for the religious propaganda either within the sangam or outside and the petitioner-sangam by itself is not intended to do any religious propaganda;

1. Even if the onjects of the petitioner should be construed as making the sangam a religious trust of a public nature, the objects have not been carried out and the petitioner-sangam cannot fall within the ambit of Section 2 of the Tamil Nadu Reforms (Fixation of Ceiling on Land) Act 1961 (Herein after to be referred to as Act LVIII of 1961).

Aggrieved against the order of the land tribunal the Petitioner has come up by way of revision before this Court.

It is contended for the petitioner that it is a public trust in existence on the date of commencement of Act LVIII of 1961 and has been created for a public purpose of a religious nature and Act LVIII of 1961 will not apply to such an institution in view of Section 2(3)(a) of the said Act. It is contended for the respondent that the claim of the petitioner-Sangam is that it is a public trust of a religious nature and even granting for argument's sake that from the objects of the petitioner-Sangam it can be spelt out that it is a public trust created for a public purpose of a religious nature, the objects have not been carried out by the petitioner, as seen from the statement filed before the Authorised Officer, It is further contended that the petitioner-Sangam is an orphanage intended for school going boys and girls, and it is only a charitable institution falling under the category of orphanage and it has been rightly held that is is entitled to hold only 25 standard acres. The petitioner-Sangam has been registered under the Societies Registration Act No.21 of 1960 on 13-8-1955. It is therefore, evident that the petitioner-sangam was in existence as on 1-2-1972 and the income derived by it is utilised for public purposes. The public character of the petitioner sangam is not disputed. Clause 2(q) of the Memorandam of Association and Rules and Regulations of the petitioner-sangam

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shows that its main object is to impart education and Hindu religious instructions to 50 orphans residing in the Orphange conducted by the Asiramam. Clause 2(d) ensures that the conduct of the students studying in the orphange should be in confirmity with the Hindu tradition and beliefs. Clause 2(e) provides that the petitioner-Sangam should provide facilities for propagation of Hindu Religion. The decision of the Bombay High Court in Baid Hirbai and Kesarbai Charitable and Religious Trust vs. Commissioner of Income Tax 1968 (68) ITR 821) and the decision of the Madras High Court in Sattar Ismail Vs.Hamid Sait (A.I.R.1964 Madras 504) Lay down that where a trust has been created for the purpose of running a madarsa for teaching koran and for giving other religious instructions to Muslim boys and girls the trust should be taken to be of a religious character. In an unreported judgment of this court dt.1st November, 1978 in A.K.Vayalevvai Maricair Dharmam Vs. The State of Tamil Nadu (C.R.P.No.1628 of 1976) this court has held that when a trust has been created with the object of running a madarsa where in religious instructions are to be imparted to Muslim boys and girls and also teaching of Koran to the boys and girls it is a Public Trust of a religious nature and will come within the exception provided under section 2of Act LVIII of 1961. In the present case, the object of the Sangam is to impart religious instructions to the students studying in the Orphangge run and maintained by the petitioner-Sangam. The Sangam also ensures that the conduct and behaviour of the students studying in the Orphangge should be in confirmity with the Hindu traditions and beliefs. The Sangam has also undertaken to provide facilities for probagation of the Hindu Religion. The above mentioned objects clearly establish that the petitioner sangam is a Public Trust created for a Public purpose of a religious nature. It is contended for the respondent that the Statements filed by the Secretary of the Sangam before the Authorised Officer do not show that the objects of the Sangam are being carried out and hence the petitioner is not being carried out and hence the petitioner is not entitled to exemption under Section 2 of Act LVIII of 1961. As pointed out by the unreported judgment of this court referred to supra, We have to decide the nature of the trust only with reference to the objects specified therein, and not with reference to the objects actually performed. In this view, the contention urged on behalf of the respondent lacks

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substance and is, accordingly nagatived. As the petitioner is a Public Trust of a religious nature, it will come under the exemption provided under section 2 of the Act. The Civil Revision Petition is allowed. There will be no order as to costs.

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

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