

[2024] 12 S.C.R. 358 : 2024 INSC 922

Oachira Parabrahma Temple & Anr.

v.

G. Vijayanathakurup and Ors.

(Civil Appeal No(s). 13708-13709 of 2024)

With

(Contempt Petition (C) No(s). 987-988 of 2023)

03 December 2024

**[Sanjiv Khanna, CJI, Sanjay Kumar and
R. Mahadevan,* JJ.]**

Issue for Consideration

Matter pertains to the dispute as regards administration and management of Oachira Parabrahma temple and its institutions by the Administrative Head appointed by the High Court and the alleged Executive Committee.

Headnotes[†]

Trust and charities – Oachira Parabrahma Temple – Administration and management of temple – Serious disputes in administering and managing the temple and its institutions by the Administrative Head appointed by the High Court and the alleged Executive Committee:

Held: The subject temple is a unique, ancient and historical one – It administers/runs a hospital, a Nursing College and a Nursing School, to cater to the needs of the general public – It is imperative to restore, protect and preserve temples and their properties with utmost care – Thus, it is just and necessary to conduct election under the aegis of a new Administrative Head/Administrator, for the smooth and effective administration of the subject temple and the institutions – Retired Judge of High Court appointed as Administrative Head/Administrator to conduct election – Administrative Head/Administrator to commence the election process strictly in accordance with the Bye-laws of the temple, within the stipulated period – Administrative Head/Administrator/ Advocate Commissioner appointed by the High Court, ceases to exist and thus, directed to hand over the charge/accounts to the

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Oachira Parabrahma Temple & Anr. v. G. Vijayanathakurup and Ors.

newly appointed Administrative Head/Administrator with immediate effect – Newly Appointed Administrator/Administrative Head to manage the affairs of the Temple/Samithis until the elections are held and to handover the charge to the elected body – Existing arrangements relating to the functions/duties/affairs of the subject temple and its institutions to continue, until further orders from the trial court – Trial court to complete the final decree proceedings in the suit filed for framing of Scheme, as expeditiously as possible. [Paras 15, 16]

List of Keywords

Oachira Parabrahma Temple; Administration and management of temple; Administrative Head; Administrator; Executive Committee; Election; Bye-laws of the temple; Advocate Commissioner; Retired Judge of High Court.

Case Arising From

CIVIL APPELLATE JURISDICTION/INHERENT JURISDICTION:
Civil Appeal Nos. 13708-13709 of 2024

From the Judgment and Order dated 02.03.2020 and 07.02.2023 of the High Court of Kerala at Ernakulam in RFA No. 562 of 2010 and IA No. 5 of 2022 respectively

With

Contempt Petition (C) Nos. 987-988 of 2023 In Civil Appeal Nos. 13708-13709 of 2024

Appearances for Parties

Colin Gonsalves, Sr. Adv., Ms. Mugdha, Deepak Kumar Singh, Rameshwar Prasad Goyal, Advs. for the Appellants.

V. Chitambareesh, Thomas P Joseph, Sr. Advs., Koshy John, M.S. Vishnu Sankar, Sriram Parakkat, Ms. Athira G Nair, Ms. Viddusshi, Aditya Santhosh, Ms. Anjali Singh, Anandhu S. Nair, M/s. Lawfic, Anshuman Siddharth Nayak, Rahul Kulhare, Gagan Singh Parmar, Ms. Ekta Choudhary, Ms. Jeba Khan, Anand Krishna, Bijo Mathew Joy, Ms. Gifty Mariam Joseph, Atul Shankar Vinod, R. Krishnaraj, Tom Joseph, Dr. Linto KB, Satyajeet Kumar, Advs. for the Respondents.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****R. Mahadevan, J.**

Leave granted.

2. The appellants, claiming themselves as elected Secretary and President of a temple viz., Oachira Parabrahma Temple situated at Kerala (hereinafter shortly referred to as “the subject temple”), have preferred these Civil Appeals against two orders passed by a learned Single Judge of the High Court of Kerala at Ernakulam viz. one is a final Judgment and order dated 02.03.2020 passed in RFA No. 562/2010 and another is an order dated 07.02.2023 passed in I.A No. 5/2022.

Brief background

3. According to the averments made in the Civil Appeals, the subject temple is a unique, ancient and historical one as there is no building, consecrated idol or deity and sanctum sanctorum. The management of the temple and the institutions being run under it, such as, super speciality hospital, nursing college, etc., are governed by the bye-laws of the temple. As per the Bye-laws, the administration is vested in a system of three-tier elected Committees, viz., Pothubharana Samithi (General Board), Pravarthaka Samithi (Working Committee) and Karya Nirvahana Samithi (Executive Committee). The Appellant Nos.1 and 2 were elected as Secretary and President respectively of the Executive Committee in the election held during May 2017 and thereafter, no election has been conducted so far. However, on 07.04.2022, the Executive Committee, which existed till then, was voted out in a no-confidence motion, and a new committee consisting of 11 members, including the appellants, assumed office.
4. In the year 2006, some devotees filed a suit in OS.No.1/2006 before the 1st Additional District Court, Kollam, seeking to frame a Scheme for administration of the subject temple and the institutions thereunder. By judgment and decree dated 09.04.2010, the trial Court passed a preliminary decree directing framing a Scheme; and further, directed the parties to file a draft Scheme. It was also observed by the trial Court that till the Scheme is framed, the administration of the subject temple would continue as per the Bye-laws of the temple.

Oachira Parabrahma Temple & Anr. v. G. Vijayanathakurup and Ors.

5. Aggrieved by the aforesaid preliminary decree of the trial Court, the defendant Nos.12 and 13 who are Sthanis (Hereditary Trustees) of the temple, preferred a Regular First Appeal bearing No.562/2010 before the High Court of Kerala at Ernakulam, seeking a direction to the trial Court to make adequate safeguards for them, with respect to their share of amounts and their roles to play, in the proposed Scheme. During the pendency of the said RFA, an interim order dated 05.10.2010 came to be passed by a learned Single Judge of the High Court, appointing an Advocate Commissioner viz., Mr.B.Premnath, for the purpose of counting the offerings in the temple. According to the appellants, the Advocate Commissioner so appointed was only to the limited purpose of counting the offerings in the temple and he had not been given any power to administer the subject temple over and above the Committees or to supervise the Committees at any point of time.
6. By the 1st impugned order, the High Court disposed of the aforesaid Regular First Appeal, *inter alia*, directing the trial Court to frame a Scheme for the management of the temple and its institutions and to formulate Rules with respect to their functioning, after giving opportunity to all the parties to produce draft Scheme as expeditiously as possible, but not later than one year from the date of production of copy of the Judgment. Further, the High Court appointed Hon'ble Mr. Justice A.V. Ramakrishna Pillai, a retired Judge of the High Court of Kerala, as the Administrative Head of the subject temple and the Trust/ Managing Committee. It was further observed in the 1st impugned order that the Administrative Committee (the bodies elected as per the bye-laws of the temple) shall be under the supervision and full control of the said Administrative Head; until such time the scheme is framed by the Trial Court; all decisions of the elected bodies shall require to be ratified by the Administrative Head before the decisions are put to implementation; the parties concerned would be at liberty to place within one month from the date of receipt of the judgment, their suggestions before the Administrative Head regarding the draft Scheme, so as to enable the Administrative Head to settle the Scheme through consensus, if it is possible.
7. Seeking a direction to the Administrator to conduct election to elect a Pothu Bharana Samithi of the subject temple, the Respondent Nos.5 and 31 in the aforesaid RFA filed an Interlocutory Application viz., I.A.No.5 of 2022 in RFA No.562 of 2010. By the 2nd impugned order, the High Court disposed of the said application by removing

Digital Supreme Court Reports

the elected Executive Committee of the temple and appointing an unelected Committee comprising persons of its choice contrary to the Bye-laws of the temple and the prevailing customs. Being aggrieved, the appellants who were the elected Secretary and President of the Executive Committee, are before this Court with these appeals. Along with these appeals, the appellants have also taken out various Interlocutory Applications.

8. The issues that arise for consideration in these Civil Appeals are:
 - (i) When the entire proceedings in RFA was concluded by the 1st impugned order, whether the High Court, which had become *functus officio* and *coram non judice* losing its jurisdiction upon disposal of the RFA, was correct in entertaining the interlocutory application No.5 of 2022 and passing the 2nd impugned order; and
 - (ii) Contrary to the convention and practice being followed in the administration of the subject temple and its institutions thereunder that the elected bodies in vogue would continue till the next election, whether the High Court was justified in passing the 2nd impugned order, removing the elected Executive Committee and appointing an unelected 5 member Committee of its choice, under the supervision of an Administrative Head and an Advocate Commissioner, on the application filed to allow the elected Committees in vogue to function until the next elections.
9. On 04.05.2023, this Court granted an order of interim stay. Pursuant to the same, the Appellant No.1 being Secretary of the elected Committee, sent letters dated 05.05.2023 to the Manager, Kerala Gramin Bank, Oachira, and the Manager, Punjab National Bank, Oachira, stating that the elected Committee has resumed the office and therefore, the accounts of the subject temple should not be allowed to be operated by anybody except the Secretary and Treasurer of the elected Committee as contemplated in the bye-laws. However, the Bank replied that there being no specific direction in the interim order, they cannot accede to the said request of the office bearers. Being dissatisfied with the same, the appellants preferred Contempt Petition (Civil) bearing No(s).987-988/2023 in SLP (C) No(s).10598-10599/2023.
10. Heard learned senior counsel appearing on behalf of all the parties and perused the materials placed before us.

Oachira Parabrahma Temple & Anr. v. G. Vijayanathakurup and Ors.

11. It is evident from the records that the administration of the subject temple and the institutions thereunder is governed by the Bye-laws of the temple. Clause 9 of the Bye-laws makes it clear that the term of office of the elected General Body is five years from the date of the election. As per Clause 11, the term of the other elected bodies is co-terminus with that of the General Body. Concededly, after the election in May 2017, no election has been conducted so far.
12. The learned senior counsel appearing on behalf of the appellants expressed serious grievances about the functioning of the Administrative Head appointed by the High Court. According to the learned senior counsel, the Administrative Head has not understood the ground realities and the emergent situation prevailing over the subject temple and its institutions; that he refused to meet the elected representatives and accede to the decisions taken by them; and that he has not even visited the subject temple, which is essentially required to resolve the problems and streamline the development. It is further alleged that the Administrative Head has been issuing orders without proper consultation with the elected bodies and he has gone to the extent of appointing a Monitoring Committee with the assistance of Advocate Commissioner for maintenance and general issues relating to the administration of the hospital, nursing college and school.
13. The learned senior counsel appearing on the other side has stoutly refuted the aforesaid submissions made on behalf of the appellants and submitted that steps are only taken for administration of the temple until scheme is framed and elections are held for the Samithis.
14. However, we are not inclined to go into the contentions/issues raised by the appellants at this stage as the High Court has granted liberty to the parties to raise all the contentions before the Trial Court. At the same time, the fact remains that there are serious disputes in administering and managing the subject temple and its institutions by the Administrative Head appointed by the High Court and the alleged Executive Committee. The appellants have taken out various Interlocutory Applications before the trial Court and the same are pending without there being any orders.
15. At this juncture, it is to be noted that the subject temple is a unique, ancient and historical one and its area comprises a sprawling of 21.25 acres of land. That apart, it administers/runs a hospital, viz., Parabrahma Super Speciality Hospital & Research Centre, a

Digital Supreme Court Reports

Nursing College and a Nursing School, to cater to the needs of the general public. In the given facts, it is imperative to restore, protect and preserve temples and their properties with utmost care. It is also an admitted fact that the suit for framing of Scheme for the subject temple is pending before the District Court and stands at the final decree stage. In such circumstances, we feel that it is just and necessary to conduct election under the aegis of a new Administrative Head/Administrator, for the smooth and effective administration of the subject temple and the institutions thereunder, which proposition has been agreed upon by the learned senior counsel appearing on behalf of all the parties.

16. In that view of the matter, we pass the following orders:

- (i) Hon'ble Mr. Justice K.Ramakrishnan, a retired Judge of High Court of Kerala is appointed as Administrative Head/Administrator to conduct election for the administration and management of the subject temple and its allied institutions, in a free and fair manner.
- (ii) The Administrative Head/Administrator so appointed shall commence the election process by finalising the voters' list and publishing the same, etc., and complete the same strictly in accordance with the Bye-laws of the temple, within a period of four months from the date of receipt of a copy of this judgment and thereafter, file his report to this Court.
- (iii) The Administrative Head/Administrator can appoint two officers i.e., one in the cadre of District Judge (Retd.) and another in the legal profession, to assist him for speedy completion of the assignment entrusted to him.
- (iv) The Administrative Head/Administrator shall be paid an honorarium of Rs.2,00,000/= per month, apart from reimbursement of all the expenses incurred by him, including travelling expenses, and those incurred towards the discharge of his duties, from the funds maintained by the subject temple. In case, he appoints a retired District Judge and an Advocate for his assistance, the Retired District Judge shall be paid an honorarium of Rs.75,000/= per month and the Advocate shall be paid a sum of Rs. 50,000/= per month.
- (v) The Administrative Head/Administrator shall incur all the expenses for smooth conduct of election and administration of

Oachira Parabrahma Temple & Anr. v. G. Vijayanathakurup and Ors.

temple and its institutions from and out of the funds maintained by the subject temple.

- (vi) It is open to the newly appointed Administrative Head to approach the trial Court for any clarification/directions relating to conduct of election, administration and management of the subject temple and its institutions.
 - (vii) All the parties shall render their assistance/co-operation to the Administrative Head to complete the election within the time frame as stipulated in clause (ii) *supra* of this paragraph.
 - (viii) In view of the order thus being passed by us, the Administrative Head/Administrator/Advocate Commissioner appointed by the High Court, ceases to exist and hence, they are directed to hand over the charge/accounts to the newly appointed Administrative Head/Administrator with immediate effect. The newly Appointed Administrator/Administrative Head shall manage the affairs of the Temple/Samithis until the election(s) is/are held and shall handover the charge to the elected body.
 - (ix) The existing arrangements relating to the functions/duties/affairs of the subject temple and its institutions shall stand continued, until further orders from the trial Court.
 - (x) The trial Court shall complete the final decree proceedings in the suit filed for framing of Scheme, as expeditiously as possible. The parties shall participate and raise all the issues touching upon their rights, Scheme, *etc.*, before the trial Court in the final decree proceedings.
 - (xi) The orders impugned herein are modified accordingly.
17. The Civil Appeals are disposed of in the above terms. Contempt Petitions shall stand closed. Pending application(s), if any, shall stand disposed of.

Post after four months for reporting compliance.

Result of the case: Appeals disposed of.
Contempt petition closed.