

Shri Vallabharaya Swami Varu (Deity) of Swarna, Represented by its Executive Officer

Vs

Deevi Hanumancharyulu and Others

Civil Appeal No. 1731 of 1969

(CJI Y. V. Chandrachud, V. D. Tulzapurkar, A. P. Sen JJ)

09.01.1979

JUDGMENT

CHANDRACHUD, C.J. -

1. The question for determination in this appeal is whether the property described in items 1 to 5 of Schedule A to the plaint was granted in favour of the temple as contended on behalf of the plaintiff or whether it was granted in favour of the ancestors of the Archakas, burdened with service, as contended on behalf of the defendants. This question turns upon the construction of the various entries and recitals in the Inam Fair Register (Ex. A-2) and the document described as the title deed (Ex. B-10) which was granted at the time of the Inam Commission Enquiry.

2. Column 1 of the Inam Fair Register describes the class of inam as Devadayam. But as observed in Venkayya v. Sriramamurthy (AIR 1957 AP 53), this description by itself cannot be determinative of the question since it only denotes that the endowment is of a religious character which will include a service inam attached to a temple. Column 10 of the Register shows that the grant was hereditary. In Poohari Fakir Sadavarthy of Bondilipuram v. Commissioner, Hindu Religious and Charitable Endowments (1962 Supp 2 SCR 276, 286 : AIR 1963 SC 510), it was observed by this Court that the expression that the grant is hereditary would normally support the conclusion that the grant is made personally and not to the temple, even if the temple was in existence at the time of the making of the grant. Column 13 of the Register shows the name of the grantee as Shri Vallabharaya-swamy Varu, enjoyed by Archakulu. Under column 16, the present holder of the property is described as Divi Vallabhacharyulu. Under columns 19 and 20, the names of the heirs of the original Archakas are set out. Column 21 of the Register sets out the opinion and the recommendations made by the Deputy Collector on February 14, 1881. He says that the oral testimony of the villagers showed that the lands were enjoyed as inam for a series of years and that from the evidence he was disposed to recommend that the whole inam was surveyed as granted to persons rendering Archakatvam and Akhandam service to the temple. In column 22, which sets out the final decision of the Inam Commissioner, it is stated that the inam was confirmed on a quit rent of Rs. 24 so long as the service of the pagoda was efficiently kept up.

3. These entries are by themselves sufficient to justify the concurrent finding recorded by the trial Court and the High Court. But, in addition, the inam title deed Ex. B-10 dated October 4, 1881, shows that these findings are unassailable. The document is dated October 11, 1881 and the Inam Commissioner recites therein that the grant was made to Divi Vallabhacharyulu and that, by the deed, the title of the grantee too the Devadayam or Pagoda was acknowledged. Paragraph 2 of the deed of title recites that the inam was being confirmed on the grantee Divi Vallabhacharyulu and on his successors, subject to a quit rent of Rs. 24 per annum so long as the conditions of the grant were

duly fulfilled.

4. On a consideration of this documentary evidence in the case, we have no doubt that the grant is not in favour of the deity but is in favour of the Archakas, subject to the condition that they shall render service to the temple.

5. We, therefore, agree with the judgment of the High Court and the trial Court that the property described in items 1 to 5 of Schedule A to the plaint belongs, not to the plaintiff temple but to the defendants, the Archakas, though of course the property is burdened with service and shall continue to remain with and as of the defendants so long as they render service to the temple.

6. In the result we affirm the judgment of the High Court and dismiss the appeal with costs.

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