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SRI VARDARAJA PERUMAL TEMPLE

v.

K. RAMACHANDRA (DEAD) BY LRS. AND ORS.

OCTOBER 11, 1995

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[MADAN MOHAN PUNCHHI AND SUJATA V. MANOHAR, JJ.]

*Tamil Nadu Minor Inams (Abolition and Conversion into Royatwari) Act, 1963 : Section 30(1)—Proviso.*

C

*Limitation Act, 1963 : Sections 5, 10 and 29.*

*Special Appellate Tribunal—Appeal—Limitation period—Temple—Property—Trustee—Appeal after expiry of limitation period—Purpose to prevent grabbing of trust property—Held, delay deserves condonation as it serves a public purpose—Principle underlying section 10 of Limitation Act held applicable.*

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Under Section 30(1) of the Tamil Nadu Minor Inams (Abolition and Conversion into Royatwari) Act, 1963 read with proviso thereto the maximum time limit to file an appeal before the Special Appellate Tribunal is six months. An appeal preferred by the appellant-temple after the expiry of limitation period of six months challenging an order passed by the Minor Inams Tribunal was dismissed as time barred.

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Allowing the appellant-temple's appeal, this Court

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HELD : Though Section 10 of the Limitation Act, 1963 cannot strictly apply to the facts of the case in hand, but the spirit and purpose behind it would as it is reflective of the public policy to protect trust properties. Notwithstanding the provisions of Sections 5 and 29 of the Limitation Act, and the limitation of six months provided in the Tamil Nadu Act, if, by interpretative process, such time is made extendable, no violation to the statute would be caused in pursuing that public policy in reading down the provisions of Section 30(1) of the Tamil Nadu Act, to promote justice and permit protection of trust/temple-properties, lest they get into the hands of property-grabbers and be subjected to manipulations. The delay in filing the appeal before the Special Appellate Tribunal, it being for the purpose

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deserve condonation, as it did serve a public purpose, deserving reading down the provision, carving an exception in favour of temple/trust-properties. The impugned order of the Special Appellate Tribunal is set aside and the matter is remanded to it for re-deciding on its own merit.

[228-F-H, 229-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 968 of 1980.

From the Judgment and Order dated 14.9.78 of the Madras High Court in S.T.A. No. 146/75 & S.T.P. No. 23 of 1976.

K.V. Mohan for the Appellant.

K.R. Chowdhary for the Respondents.

The following Order of the Court was delivered :

This is an appeal by special leave against an order dated 14.9.1978 in S.T.A. 146 of 1975 passed by the Special Appellate Tribunal, Madras, set up under the Tamil Nadu Minor Inams (Abolition and conversion into Royatwari) Act, 1963. As statutorily required, the Tribunal is manned by two Hon'ble Judges of the Madras High Court. The appellant-temple had put to challenge before the Special Appellate Tribunal an order dated February 22, 1971 passed by the Minor Inams Tribunal, Coimbatore on the merit of the matter. By means of the appellate order afore-referred to the Tribunal dismissed the said appeal of the appellant-temple as time barred.

Under Section 30(1) of the Tamil Nadu Minor Inams (Abolition and Conversion into Royatwari) Act, 1963, the limitation for filing an appeal before the Special Appellate Tribunal is three months from the date of the order. But, under the proviso to sub-section (1) of Section 30, the Special Appellate Tribunal may, in its discretion, allow further time not exceeding three months for the filing of such appeal. It is plain that the maximum time available to file an appeal before the Special Appellate Tribunal is six months. The appellant-temple's appeal before the Special Appellate Tribunal was admittedly filed beyond a period of six months. The explanation for delay rendered by it became of no avail. It is to challenge that order that the appellant-temple is before us.

The disputed temple-property was trust property and noticeably it was a trustee who was following it to safeguard the interests of the temple

- A against another set. The period of limitation for filing an appeal before the Special Appellate Tribunal may have been three months, extendable by another three months, but in so far as the trust properties coming within the sweep of the above-said Act were concerned, a way need to have been found out to prevent manipulations and grabbing of temple/trust property.
- B Section 10 of the Limitation Act, 1963 covers certain situations. The said provision reads as follows :

"10. SUITS AGAINST TRUSTEES AND THEIR REPRESENTATIVES :

- C Notwithstanding anything contained in the foregoing provisions of this Act, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration) for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or
- D proceeds, shall be barred by any length of time.

- E Explanation - For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of the property shall be deemed to be the trustee thereof."

- Though the said provision cannot strictly apply to the facts of the case in hand, but the spirit and purpose behind Section 10 of the Limitation Act would as it is reflective of the public policy to protect trust properties.
- F Notwithstanding the provisions of Sections 5 and 29 of the Limitation Act, and the limitation of six months provided in the aforesaid Act, if, by interpretative process, such time is made extendable, no violation to the statute would be caused in pursuing that public policy in reading down the provisions of Section 30(1) of the aforesaid Act, to promote justice and permit protection of trust/temple-properties, lest they get into the hands of
- G property-grabbers and be subjected to manipulations. With this object in view, we come to the opinion that for the recovery of trust property, the temple could approach the Special Appellate Tribunal beyond the period of six months, for the delay of which there was a reasonable explanation, initially accepted by the Special Appellate Tribunal. It should have, in the
- H facts and circumstances, stuck to its original view and kept entertained the

appeal so as to decide it on merit. We are therefore of the view that the delay in filing the appeal, it being for the purpose of protecting temple property from the hands of adversaries, should deserve condonation, as it did serve a public purpose, deserving reading down the provision, carving an exception in favour of temple/trust-properties. We hold accordingly. A

We thus set aside the impugned order of the Special Appellate Tribunal dated 14-9-1978 and effect a remand to it for re-deciding the matter on its own merits. The appeal is thus allowed in these terms. No costs. B

T.N.A.

Appeal Allowed.