M.S. V. RAJA AND ANR. A

v.

SEENI THEVAR AND ORS.

AUGUST 14, 2001

[S. RAJENDRA BABU AND SHIVARAJ V. PATIL, JJ.] B

Hindu Law :

Tamil Nadu Hindu Religious & Charitable Endowment Act, 1959 : Sections 63 (b) and 108. Management of temple—Hereditary right of— Dispute regarding—Suit temple built on 'parampokh' land, adminstered and managed by members of a religious denomination from time immemorial— 'Pandarams' permitted to perform 'pooja' in the temple as 'poojaries'—Suit by 'pandarams' that they were hereditary trustees-cum-poojaries dismissed— Another suit at the instance of 'pandarams' that the suit temple was a public temple decreed by High Court—Injunction from interfering with worship by 'pandarams' as per usage also granted—Correctness of—Held: There is an initial presumption that a temple is a public one unless rebutted by clinching testimony that it is a private temple—Ordinarily, a temple built on 'parampokh' land is a public temple—Hence, temple rightly declared as public temple— However, members of the religious denomination has not lost their right of management of the temple—'Pandarams', having lost in earlier litigation, cannot claim any right—Hence, injunction granted in their favour not sustainable. C D E

Code of Civil Procedure, 1908 : Section 100. F

Second appeal—Substantial question of law—Concurrent findings of fact—Recording of—By both the courts below without any evidence in support thereof—Effect of—Held : Such finding may itself be treated as a substantial question of law—Hence, High Court was right in upsetting such a finding.

Second appeal—Substantial question of law—Concurrent findings of fact—Set aside without discussion and reasons—Held : Is patently unsustainable. G

Second appeal—Substantial questions of law—Formulation of—Held: Though substantial questions of law are not specifically and separately formulated, yet they may be inferred from the questions considered and H

A *decided by the High Court.*

Words and Phrases :

"Public temple"—Meaning of—In the context of Tamil Nadu Hindu Religious & Charitable Endowment Act, 1959.

B **The appellants were the members of a religious denomination and had been administering and managing the suit temple from time immemorial. The administration of the temple has always been by the trustees elected among the said members and at no time, the Hindu Religious and Charitable Endowment Department interfered with their management. The appellants**
C **permitted 'pandarams' to perform 'pooja' in the temple as 'poojaries'.**

Some of the 'pandarams' joined together and filed a suit under Section 63(b) of the Tamil Nadu Hindu Religious & Charitable Endowment Act, 1959 seeking a declaration that they were the hereditary trustees-cum-poojaries of the suit temple and for permanent injunction restraining the appellants
D **from interfering with their rights. The trial court dismissed the suit and the appeal was also dismissed by the High Court. The judgment of the High Courts had attained finality.**

The respondents, at the instance of the 'pandarams' and for their benefit, filed a suit for a declaration that the suit temple was a public
E **religious institution belonging to the Hindu public in general as against the exclusive claim by the appellants and for injunction from interfering in 'poojas' according to usage of 'pandarams' of the temple. The trial court dismissed the suit holding that the suit temple was not a public temple but a denominational temple belonging to the appellants. This finding was confirmed by the first appellate court. However, the High Court, in second**
F **appeal, under section 100 of the Code of Civil Procedure, 1908, decreed the suit as prayed for. Hence this appeal and the Special Leave Petition.**

On behalf of the appellants it was contended that the High Court erred in upsetting the concurrent findings of fact exercising jurisdiction in second appeal without formulating any substantial questions of law as required
G **under Section 100 CPC.**

The following questions arose before this Court :

1. Whether the suit temple was a public temple ?

2. Whether the suit temple had been under the management and
H **administration of the appellants ?**

3. Whether the relief of permanent injunction so as to restrain the appellants from interfering with the worship/poojas by 'pandramas' as per their usage could be granted ? A

Disposing of the appeal and the SLP the Court

HELD : 1.1. In the absence of evidence as to the establishment of the suit temple by the appellants, no inference could be drawn that they established or constructed the temple merely on the evidence of the management of the temple for a long time. Even assuming that in the present case, inference of continuity of state of things could be drawn that can relate only to the management of the temple by the appellants. But that cannot allow the court to infer the establishment of the temple by them or that the temple belongs to them. So far as Tamil Nadu is concerned there is an initial presumption that a temple is a public one, it being up to the party, who claims that it is a private temple, to establish that fact affirmatively. Of course, this initial presumption must be rebutted by clinching testimony in order to establish that a temple is a private temple. [521-E, F, H; 522-A] B C D

1.2 The suit temple is build on 'parampokh' land. Though building of a temple on a 'parampokh' land by itself may not be conclusive evidence of it being a public temple, but in the absence of other evidence as in the present case, who founded or established the temple, it may be a circumstance pointing in favour of it being a public temple. [521-F, G] E

T.V. Mahalinga Iyer v. *State of Madras,* [1981] 1 SCC 445, relied on.

1.3. In the case on hand, there was neither pleading nor clinching evidence as to who founded the temple and as to how the temple belonged to the appellants. It is also on record that the temple was constructed on 'parampokh' land. Under the circumstance, it is clear that the appellants have failed to establish that their religious denomination constructed the temple. Thus, when both the courts below concurrently erred in recording a finding with no evidence to support that the suit temple belonged to the religious denomination of the appellants and not a public temple, the High Court was right in upsetting such a finding. The appellants have miserably failed to rebut the initial presumption that it is a public temple. [522-B, C] F G

2. The appellants had not lost the right of management of the suit temple before the Constitution came into force. The appellants have been in the management of the suit temple all along. But this right of management H

A of the appellants shall not prevent the Hindu Religious & Charitable Department from exercising such powers, which are conferred upon it by law in regard to the administration of the temple. [524-B]

3. The 'pandarams' in earlier litigations lost their claim that they were hereditary trustees or hereditary poojaries of the temple. The judgment B of the High Court negativing the claim of the 'pandarams' has attained finality. The various reliefs were claimed at the instance of 'pandarams' and for their benefit. Since the 'pandarams' could not re-agitate having lost earlier, these reliefs are claimed in the suit. In other words, what could not be achieved by the 'pandarams' directly, the plaintiffs in the suit wanted to C achieve them at their instance indirectly. Therefore, relief of injunction could not have been granted to the plaintiffs. [524-H; 525-A, B, C]

4.1. The High Court, in second appeal, has reversed the concurrent findings of both the courts below impliedly on the aspect of management of the suit temple by the appellant, without discussion and reasons when it D granted the decree as prayed for that too exercising jurisdiction under Section 100 of the Code of Civil Procedure, 1908 which is patently unsustainable. [523-F]

4.3. The High Court, in its judgment, has dealt with substantial questions of law as required under Section 100 CPC. A finding recorded by E both the courts below with no evidence to support it was itself considered as a substantial question of law by the High Court. Having regard to the questions that were considered and decided by the High Court it cannot be said that substantial questions of law did not arise for consideration and they were not formulated. May be, substantial questions of law were not specifically F and separately formulated. [525-E, F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2417 of 1992.

From the Judgment and Order dated 29.4.1992 of the Madras High Court G in S.A. No. 1858 of 1984.

WITH

Special Leave Petition (C) No. 19184 of 2000.

K. Parasaran and Bhimrao N. Naik, B. Ravi Raja, V. Balachandran and H A.T.M. Sampath for the Appellants.

K. Ramamurthy, P.N. Ramalingam, V. Krishnamurthy and Ms. Seita Vaidyalingam for the Respondents. A

The Judgment of the Court was delivered by

SHIVARAJ V. PATIL, J. This appeal by the defendants in the suit O.S. No. 93 of 1976 is directed against and aggrieved by judgment and decree dated 29.4.1992 passed by the High Court of Madras in S.A. No. 1858/84. B

In brief, the facts and circumstances leading to filing of this appeal are the following:

C

According to the appellants, Arulighu Mariamman temple at Rajapalayam has been administered and managed from time immemorial by the religious denomination of community of Rajus of Singarajakottai (for short 'Rajus'). Originally members of the said religious denomination were worshiping in the temple and as time passed on, persons belonging to other communities also started worshiping in the temple. The administration of the temple has always D been by the trustees elected among Rajus and at no time, the Hindu Religious and Charitable Endowment Department (H.R.& C.E. Deptt.) interfered with their management. Rajus permitted pandarams to perform puja in the temple as poojaries.

E

Seven pandarams joined together, filed an application O.A. No. 76/73 before the Deputy Commissioner, H.R.& C.E. Deptt. under section 63 (b) of the Tamil Nadu Hindu Religious & Charitable Endowment Act, 1959 (for short 'the Act') seeking declaration that they were hereditary trustees of the temple. The said application was dismissed and appeal No. 100/74 filed by the pandarams against the said order was also dismissed by the Commissioner F on 21.10.1975. The pandarams filed suit O.S. No. 13/76 in the court of Subordinate Judge seeking declaration that they were the hereditary trustees-cum-poojaries of the suit temple, by setting aside the aforementioned orders of the authorities under the Act and for permanent injunction restraining Rajus from interfering with their rights. The learned Subordinate Judge, after G trial, dismissed the suit holding that pandarams were neither hereditary trustees nor poojaries. The appeal A.S. No. 533/83 filed by pandarams (poojaries) was also dismissed by the High Court on 18.9.1987. The said judgment of the High Court has attained finality.

While things stood thus, during the pendency of the aforementioned H

A proceedings initiated by the pandarams, the H.R.&C.E. Deptt. issued a notice on 16.5.1975 inviting applications from general public for appointment of additional trustees; obviously treating the suit temple as coming within the purview of the Act. Rajus feeling that their Fundamental Rights guaranteed under Article 26 of the Constitution were violated, filed the suit O.S. No. 100/ 75 on behalf of their religious denomination for a declaration that the suit B temple is a denominational temple belonging to their denomination and for a permanent injunction restraining H.R.&.C.E. Deptt. from interfering with their rights. The suit was decreed giving declaration and injunction with observation that it will not prevent the Department from exercising such of the powers as are available under the Act applicable for the administration of the temple C belonging to a religious denomination. The Department filed A.S. No. 197 of 1977 against the said judgment. The appeal was dismissed, finding no good ground to interfere with the judgment and decree passed by the trial court. The second appeal No. 1946 of 1979, filed by the Department, was also dismissed in view of the concurrent findings of fact recorded by both the courts below. Seeni Thevar & Others filed Special Leave Petition No. 19184 D of 2000 with permission to challenge the judgment passed in S.A. No. 1946 of 1979. This special leave petition was directed to be listed after the disposal of S.A. No. 1858 of 1984 pending then in the High court of Madras arising out of O.S. No. 93 of 1978 filed by Seeni Thevars & others. The special leave petition No. 12955 of 1990 filed by the Department against the dismissal of E S.A. No. 1946 of 1979 was dismissed on the ground of delay. This court on 22.10.1992 directed that S.L.P. No. 19184 of 2000 may be considered alongwith this appeal at the time of final hearing. It is thus this Civil Appeal No. 2417 of 1992 and Special Leave Petition No. 19184 of 2000 are before us for consideration now.

F In the meanwhile, the respondents (Seeni Thevar & Ors.) filed a suit O.S. No. 93/78 in the court of Additional District Munsif for a declaration that the suit temple is a public religious institution belonging to Hindu public in general as against the exclusive claim by the Rajus and for injunction from interfering in poojas according to usage of pandarams of the temple. The G appellants (Rajus) opposed and contested the suit stating that perusal of the plaint averments and relief sought for, clearly indicate that it was only the pandarams who had set up the respondents to re-agitate their claims by putting up a facade of the cause of general Hindus public; the suit temple had been constructed by the Rajus who formed a religious denomination and which had been in their exclusive administration and management beyond H living memory for over a century; that the members of other communities were

also permitted to worship; that the said denomination have been electing among themselves trustees for the administration of the temple; the suit was barred by the principle of *res judicata* in view of the judgment in O.S. No. 100 of 1975 and that the civil court had no jurisdiction to try the suit in view of section 108 of the Act. After trial, appreciating the evidence brought on record and after hearing, the suit was dismissed holding that the suit temple was not a public temple but a denominational temple belonging to Rajus and that the suit was barred by the principle of res judicata. A.S. No. 14/92 filed against the said judgment and decree was dismissed confirming the judgment and decree of the trial court. The respondents herein (the plaintiffs in the suit) filed second appeal No. 1858/84. A learned Single Judge of the High Court allowed the appeal, set aside the judgments of both the courts below and decreed the suit as prayed for. Hence this Civil Appeal No. 2417 of 1992 by the defendants in the suit O.S. No. 93 of 1978.

Shri K. Parasaran, leaned senior counsel for the appellants urged that the appellants had succeeded in all the previous proceedings; there is ample and convincing evidence to show that the Rajus have been in the administration and management of the suit temple for more than hundred years; hence the High Court was not right and justified in upsetting the concurrent findings of fact exercising jurisdiction in second appeal; in the absence of formulation of substantial questions of law that arose for consideration between the parties under section 100 of CPC, the impugned judgment cannot be sustained; the very frame of the suit and the reliefs sought for and in particular the relief as to restraining the appellants in performing poojas by pandarams as per their usage shows that it is the pandarams who are re-agitating their claim having lost in the earlier proceedings; neither usage in poojas by pandarams was pleaded in the plaint giving the details of usage and nature of poojas nor there was an issue raised in this regard; even there is no evidence to support the same but strangely the learned Single Judge of the High Court granted relief of injunction relating to performance of poojas by pandarams as per their usage, which according to the learned counsel, being patently illegal, cannot be upheld. According to him, a denominational institution could also be public institution; the High court was not clear in this regard. The learned senior counsel took us through the relevant portions of the impugned judgment and various documents in support of his submissions.

On the other hand, Shri A.T.M. Sampath, learned counsel appearing for Seeni Thevar & others made submissions supporting the impugned judgment.

A He added that the suit was not barred by the principle of res judicata in view of the judgment in O.S. No. 100/75 as the respondents (Seeni Thevar & Ors.) were not parties to the said suit; they had sought for impleading them in the suit but their application was rejected; the special leave petition filed by them challenging the judgment in S.A. No. 1946/79 arising out of the O.S. No. 100 of 1975 is being heard alongwith the present appeal. He also pointed out that B the High Court did formulate substantial question of law as is clear from para 22 of the impugned judgment under appeal.

Shri K. Ramamurthi, learned senior counsel appearing for the respondent H.R.& C.E. Deptt. argued in support of the stand of the Department. He also C submitted that the finding of the High Court recorded in the impugned judgment that the suit temple is a public temple is correct and justified. He alternatively submitted in case of any dispute as to character of temple or as to usage in performance of pooja, it could be left open to the Department to decide.

D On the arguments of the learned counsel for the parties, the following points arise for consideration:-

(1) Whether the suit temple is a public temple?

(2) Whether the suit temple has been under the management and E administration of the appellants?

(3) Whether the relief of permanent injunction so as to restrain the appellants from interfering with the worship / poojas by pandarams as per their usage could be granted?

F *Re: Point No. 1—*

The appellants in their plaint in O.S. No. 100/75 only averred that the suit temple is a very small temple owned by the Rajus who formed a religious denomination and had been in the management and administration of the suit temple from beyond living memory for over a century. Nothing is stated as G to when the temple was constructed, who constructed it or how the temple belonged to them. In the written statement, the defendants specifically denied that the temple belonged to religious denomination of Rajus although there was no denial that Rajus formed a religious denomination. In the plaint, a specific declaration was sought that the temple is a denomination temple belonging to the religious denomination of Rajus. The trial court in para 24 H of the judgment concluded thus:-

"24.To sum up, though there is no precise evidence relating to the origin of the suit temple, it is manifest from the course of the conduct pursued by the Rajus Community and also the members of the public that the temple in question has always been in the management of Singarajakottai Rajus, that they have been mostly maintaining the same from out of the funds contributed by the community and in fact, no one from any other community had any hand in the management of the affairs of the said temple. So, under these circumstances, the inescapable conclusion is that the suit temple is only a denominational temple and the issue is answered accordingly."

In A.S. No. 197/77, the learned District Judge, while agreeing with the finding that Rajus constituted a religious denomination and that the management of the temple had been with them, proceeded further to say, even after noticing that origin of the temple is not known and there is no direct evidence as to by whom and when it was built, probabilities of the case were that the temple in question ought to have been built by Rajus. However, the appeal was dismissed and the judgment of the trial court was confirmed. In the second appeal No. 1946/79 the High Court noticed that both the courts below found that the origin of the temple is lost in antiquity and there is no direct evidence as to when and by whom the temple was built. But, on the basis of overwhelming evidence to show that beyond memory the suit temple has been managed only by Rajus concluded that the temple must have been constructed only by Rajus. In the impugned judgment, the learned Judge has taken the view that in the absence of evidence as to the establishment of the suit temple by the appellants, no inference could be drawn that they established or constructed the temple merely on the evidence of the management of the temple for long time. According to him, even assuming that in the present case, inference of continuity of state of things, could be drawn that can relate only to, the management of temple by Rajus. But that cannot allow the court to infer the establishment of temple by them or temple belongs to them. We agree with this view of the learned Judge. It may also be mentioned that the suit temple is built on parampokh. Though building of temple on a parampokh land by itself may not be conclusive evidence of it being a public temple but in the absence of other evidence as in the present case, who found or established the temple, it may be a circumstance pointing in favour of it being a public temple. According to the learned Judge, the decisions referred to and relied on by the courts below to draw inference that the Rajus must have constructed the temple was not correct. This Court in *T.V. Mahalinga Iyer* v. *State of Madras and Another*, [1981] 1 SCC 445 referring to the very provisions

A of the Act has held that so far as Tamil Nadu is concerned there is initial presumption that a temple is a public one, it being up to the party, who claims that it is a private temple, to establish that fact affirmatively. Of course, this initial presumption must be rebutted by clinching testimony in order to establish that a temple is a private temple. In the same judgment the very situation of temple on Government property was also taken as a piece of evidence in B support of a public temple. In the case on hand, as already stated above, there was neither pleading nor clinching evidence as to who founded the temple and as to how the temple belonged to the appellants. It is also on record that the temple was constructed on paramokh land. Under the circumstances, it is clear that the appellants have failed to establish that the denomination of C Rajus constructed the temple. Thus, when both the courts below concurrently erred in recording a finding with no evidence to support that the suit temple belonged to religious denomination of Rajus and not a public temple, the High Court was right in upsetting such finding. In our view the appellants have miserably failed to rebut the initial presumption that it is a public temple. Hence we agree with the High Court in recording a finding that the suit temple D is a public temple.

Re: Point No. 2

In the suit O.S. No. 100/75 filed by the appellants against the Department, E a clear finding was recorded that the appellants (Rajus) as religious denomination were managing the affairs of the suit temple for more than hundred years beyond the living memory. The said finding was accepted by the first appellate court in AS No. 197/77. The High Court in S.A. No. 1946/79 observed that there is overwhelming evidence to show that beyond memory the suit temple had been managed only by Rajus and innumerable documents F have been filed to establish the same and that both the courts below have analysed the evidence in this respect very carefully and have come to the concurrent conclusion that from time beyond memory, this temple has been administered only by the Rajus through their elected trustees. Dealing with the contention of the learned Govt. Advocate for the Department that Rajus G had lost their right, if any, even before the Constitution of India came into force, the Court held that "According to the learned Government Advocate, from 1939 onwards it is the Department of Hindu Religious and Charitable Endowments that has been appointing trustees to the suit temple and hence it is not open to the Rajus of Singarajakottai to claim the institution to be a denominational one. It is no doubt true that the Department has been H appointing trustees at least from 1939, but it has been appointing only those

persons elected by the Raju community of Singarajakottai. In Exb.A.2 property register, the mode of appointment is clearly indicated and it is recited therein that such of these persons who are elected by the Singarajakottai Andhra Kshatriya Rajus Mahimai Fund Executive Committee are appointed by the Hindu Religious and Charitable Endowment's Deputy Commissioner for a period of five years. No member of any other community and in fact, no person other than the person elected by the community of Rajus of Singarajakottai has even been appointed as trustee of the suit temple. These facts are not disputed before me by the learned Government Advocate. The appointment of the persons elected by the Rajus of Singarajakottai as trustee of the suit temple amounts only to a recognition of the right of that community to elect the trustees for the suit institution. This practice far from being in derogation of the rights of the Rajus of Singarajakottai is only in confirmation thereof. The Rajus of Singarajakottai cannot, therefore, be said to have lost their right to this institution."

In the suit O.S. No. 93/78, out of which the present appeal arises, the trial court after appreciating the evidence on record inter alia recorded a finding that Rajus have all along been attending to the management of the temple for several decades in the past. The first appellate court in para 18 of the judgment stated that the respondents also admit that the origin of the temple is not known. However, they claim that they have been in the management of the temple affairs for the past hundred years and more, and they have been maintaining the temple and its affairs, attending to several renovation works and new constructions. After referring to the documentary and oral evidence, a finding was recorded that these appellants and their ancestors were in management of the suit temple for the past so many decades and that they have also acquired properties in the name of temple, as seen from several sale deeds taken by them. The High Court in the second appeal No. 1858/84 has reversed the concurrent findings of both the courts below impliedly on the aspect of management of the suit temple by the appellants, without discussion and reasons when he granted decree as prayed for that too exercising jurisdiction under Section 100 CPC which, in our view, is patently unsustainable. The learned Single Judge of the High Court has not recorded reasons to dislodge the reasons given by both the courts below in arriving at the conclusion that the appellants were in the management of the temple. Even the High Court in its judgment has stated thus:-

> "But, it should be noted that even assuming that in the present case such inference of continuity of state of things backwards may be drawn that can relate only to, if at all, the management of temple by

A the Rajus. But that cannot allow the court to infer the establishment of temple by them."

Even the learned counsel for the respondents before the High Court contended that the courts below had wrongly drawn inference that temple was constructed by Rajus from the mere management of the suit temple by B them for several decades. We are of the view that the appellants had not lost the right of management of the suit temple before the Constitution came into force. In this view, we hold that the appellants have been in the management of the suit temple all along. But this right of management of the appellants shall not prevent the Department from exercising such powers, which are C conferred upon them by law in regard to the administration of the temple. It may also be added that in the suit O.S. No. 100 of 1975 filed by the appellants themselves it is held so and which part of the decree was not challenged by the appellants.

Re: Point No. 3

D

In the suit O.S. No. 93/78, the plaintiffs (respondents herein) sought for the following reliefs:-

"(a) declaring that the suit institution is a public religious institution belonging to the Hindu Public in general as against the exclusive E claim by the defendants on behalf of Rajus of Singarajakottai Rajapalayam, with a right of entry for all the Hindu citizens into it *for worship in pooja according to usage by pandarams of the temple and* consequently granting permanent injunction restraining the defendants, their men and agents restraining them from using any further seals for the institution with a version setting up a title to the F temple for their community exclusively and also restraining them from printing or putting up boards as if the suit institution belongs to the Rajus of Singarajakottai absolutely and further *restraining them from in any way changing the usage in all pujas by pandarams in the suit institution* :

G

(b) .....

(c) ....."

We have already stated above that the pandarams in earlier litigations H lost their claim that they were hereditary trustees or hereditary poojaries of

the temple in O.A. No. 76/73 as well as OS. No. 13/76 upto to the High Court. The judgment of the High Court negativing the claim of the pandarams has attained finality. A plain reading of the underlined portions of the reliefs extracted above shows that these reliefs were claimed at the instance of pandarams and for their benefit. Since pandarams could not re-agitate having lost earlier, these reliefs are claimed in the suit. In other words, what could not be achieved by the pandarams directly, the plaintiffs in the suit wanted to achieve them at their instance indirectly. This apart, there is no pleading and there are no averments in the plaint as to what was the usage of pandarams for worship in poojas. Further, neither there was an issue raised in the suit nor evidence was led in support of the same. This being the position, the High Court for the first time, in the second appeal could not have granted this relief at all. The High Court in the impugned judgment has decreed the suit of the plaintiffs as prayed for, which includes this relief also. Hence, we have no hesitation to hold that relief of injunction could not have been granted to the plaintiffs.

We may also state here that the High Court was right in taking the view that the suit was not barred by principle of res judicata in view of the judgment and decree passed in O.S. No. 100/75 for the very reasons stated in the High Court judgment. That apart, SLP No. 19184/2000 against the said judgment was ordered to be heard alongwith this appeal. Accordingly it was also heard at the time of final hearing.

We are unable to accept the argument of the learned senior counsel for the appellants that the impugned judgment cannot be sustained as no substantial question of law was formulated as required under Section 100 CPC. In para 22 of the judgment the High Court has dealt with substantial questions of law. Whether a finding recorded by both the courts below with no evidence to support it was itself considered as a substantial question of law by the High Court? It is further stated that the other questions considered and dealt with by the learned Judge were also substantial questions of law. Having regard to the questions that were considered and decided by the High Court it cannot be said that substantial questions of law did not arise for consideration and they were not formulated. May be, substantial questions of law were not specifically and separately formulated. In this view we do not find any merit in the argument of the learned counsel in this regard.

In the result for the reasons stated above, we hold that the suit temple is a public temple. The management of the suit temple has been with religious

A denomination of Rajus. However, this right of management of the appellants shall not prevent the Department from exercising such powers, which are conferred upon them by law in regard to the administration of the temple. The relief of declaration and injunction so far it relates to worship in pooja according to usage by Pandarams in the temple is rejected. This appeal and special leave petition stand disposed of in the above terms. No orders as to B costs.

V.S.S. Appeal and SLP disposed of.