

ITEM NO.301

COURT NO.2

SECTION XIA/PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 11295/2011

(Arising out of impugned final judgment and order dated 31/01/2011 in WPC No. 36487/2009 passed by the High Court Of Kerala At Ernakulam)

SRI MARTHANDA VARMA (D) TH. LR. & ANR.

Petitioner(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

(With appln.(s) for appropriate orders and directions and discharge of advocate-on-record and exemption from filing O.T. and impleadment and impleadment as party respondent and impleadment as petitioner and intervention and permission to place addl. Documents on record and recalling the court's order and receiving additional document and office report)

(For final disposal)

WITH

W.P.(C) No. 518/2011

(With Office Report)

SLP(C) No. 12361/2011

(With Interim Relief and Office Report)

Date : 09/10/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s)

Mr. Gopal Subramaniam, Sr.Adv. (A.C.)

Mr. Apoorv Kurup, Adv.

Mr. Amit A. Pai, Adv.

Mr. Ankur Kashyap, Adv.

Mr. V.C. Shukla, Adv.

Ms. Anusha Ramesh, Adv.

Mr. Gautam Narayan, Adv.

Mr. R.A. Iyer, Adv.

Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
For M/s. K. J. John & Co.

For M/s. T. T. K. Deepak & Co., Adv.

Mr. Nishe Rajen Shonker, Adv.
Mr. Ranjan Kumar, Adv.
Ms. Anu K. Joy, Adv.

For Respondent(s)

Mr. Ashok Kumar Panda, Sr. Adv.
Mr. S.N. Terdal, Adv.
Mr. S.N. Bhat, Adv.
Mr. Ravi Panwar, Adv.

Mr. Anupam Lal Das, Adv.
Mr. Anirudh Singh, Adv.
Mr. Sahil Monga, Adv.

Mr. A. Raghunath, Adv.

Mr. C. K. Sasi, Adv.

Mr. Guru Krishna Kumar, Sr. Adv.
Ms. Rekha Pandey, Adv.
Mr. D. S. Mahra, Adv.
Mr. K. Rajeev, Adv.
Mr. S.K. Narayanan, Adv.

Mr. Harish N. Salve, Sr. Adv.
Mr. M.K.S. Menon, Adv.
Mr. K. R. Sasiprabhu, Adv.
Mr. Biju P. Raman, Adv.
Mr. Vishnu Sharma, Adv.
Mr. Shashank Menon, Adv.

Mr. M. P. Vinod, Adv.
Mr. Atul Shankar Vinod, Adv.
Mr. Ajay K. Jain, Adv.

Mr. Raghavendra S. Srivatsa, Adv.

Mr. Ranbir Singh Yadav, Adv.

Mr. M.N. Krishnamani, Sr. Adv.
Mr. Ravi Prakash Mehrotra, Adv.
Mr. Ashutosh Kumar Sharma, Adv.
Mr. Bhanu Prata Singh, Adv.

Mr. Mohan Das K.K., Adv.
Mrs. S. Geetha, Adv.
Mr. R. Sathish, Adv.

Mr. Ashok Kumar Juneja, Adv.
Mr. Chand Qureshi, Adv.
Mr. Sajith. P, Adv.

Mr. Sanand Ramakrishnan, Adv.

Mr. Sumit Attri, Adv.

Mr. V. Ramasubramanian, Adv.

Mr. K.V. Vishwanathan, Sr. Adv.
Ms. Liz Mathew, Adv.
Mr. M.F. Philip, Adv.
Mr. D.B. Ray, Adv.

Mr. P.B. Suresh, Adv.
Mr. Vipin Nair, Adv.
Mr. T.K. Anandapadmanabhan, Adv.
Mr. Prithu Garg, Adv.
For M/s. Temple Law Firm, Adv.

Sivan Madathil, Adv.
Ms. Usha Nandini. V, Adv.
Mr. M.S. Vishnu Sankar, Adv.

I.A. No.30/2014 Mr. Praveen Sehrawat, Adv.
Mr. Saransh Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. No.36/2015

Issue notice to the learned counsel on the opposite
side, who may file reply objections within four

weeks.

I.A NO.37/2015

Application for exemption from filing official translation is allowed.

SLP(C) No.11295/2011 with WP(C) No.518/2011, SLP(C) No.12361/2011

Mr. K.N. Satheesh IAS, Executive Officer, Sree Padmanabhaswamy Temple, has filed an affidavit dated 02.05.2015 and an additional affidavit dated 03.09.2015, making certain averments and insinuations in regard to the conduct of the petitioners in these petitions. Mr. Venugopal, learned senior counsel appearing for the petitioners has taken serious objection to those insinuations and objectionable averments and prayed for removal of Mr. Satheesh and appointment of another executive officer in his place. Mr. Gopal Subramaniam, learned amicus curiae, however, submits that the assertions and the insinuations appear to be an aberration, which can be allowed to be corrected by the executive officer by filing an appropriate

affidavit to that effect. We have had an opportunity to hear Mr. K.N. Satheesh, the executive officer also, in person. He prays for time to file an additional affidavit to make suitable amends in the matter and if necessary, place on record material, if any, to support the allegations contained in the aforesaid two affidavits. We direct Mr. Satheesh to do the needful within four weeks from today. We, however, leave the question of his continuance or removal to be decided at the appropriate stage.

Our attention has been drawn by Mr. Gopal Subramaniam, learned amicus curiae to an interim audit report dated 31.07.2015 submitted by Mr. Vinod Rai, former Comptroller and Auditor General of India, who was requested by us vide order dated 05.05.2015 to examine the audit reports relating to Sree Padmanabhaswamy Temple Trust for the period 01.04.2008 to 01.04.2014 and in case he was not satisfied with the same, to conduct a fresh/special audit of the said Trust. From the report of Mr.

Rai, it appears that he is not satisfied with the audit already conducted, which would mean that a fresh audit shall have to be conducted in terms of the direction already issued by us. We had also directed the Trust to make available all such information and record as was necessary for completion of the audit by Mr. Rai. Mr. Gopal Subramaniam submits that the same has not been done by the Trustees concerned. Counsel appearing for the Trust however refutes that statement and submits that the needful has been done, but in case anything remains to be done, the same shall also be done without any further loss of time. In the circumstances, we request Mr. Rai to complete the audit of the Trust aforementioned for the period 01.04.2008 to 01.04.2014 and to submit report as early as possible. The Trustees shall cooperate with that process.

Mr. Venugopal, learned senior counsel also drew our attention to the averments made in I.A. No. 33/2015, filed by the petitioners and response dated

29.04.2015 to the same by the Administrative Committee, in particular, dealing with what is described as introduction of chanting of "Venkatesha Suprabhatham" in the temple. Mr. Venugopal contended that the customs and rituals performed in the temple since ages have been changed under the directions of the amicus curiae and instead of customary form of awakening of the Lord in the morning, the temple management has been instructed to recite "Venkatesha Suprabhatham", which is not in tune with the customary spiritual practices followed in the holy temple in the past. He also drew our attention to the response dated 29.04.2015 received from the Administrative Committee, which appears to suggest that there has been a change in the earlier practice followed in the temple and that the change is not in tune with 'Bhava' of the idol consecrated therein. This position is disputed by the executive officer in his affidavit dated 03.09.2015. According to the executive officer, there is no deviation in the customary rites of the temple in the matter of awakening the deity in the morning or

otherwise. The allegation, according to the executive officer, has been made only out of ignorance of the applicants regarding the true practice and the rituals performed in the temple. Reliance in support of that assertion is placed by the executive officer on a codified official book titled "Sree Padmanabha Swamy Temple-Systems of Poojas and Rituals". The executive officer has also dealt with the letter of the Chief of Rituals (Thanthri), to which our attention was drawn by Mr. Venugopal and stated that the letter does not state the position correctly. The true position, according to the executive officer, is stated only in the statement of the Chief Priest, and the letter of the Chief of Rituals (Thanthri), who is not present daily when the pujas are performed at the sanctum sanctorum, does not state the position correctly.

Having heard learned senior counsel for the parties on this aspect of the matter, we are of the opinion that the issue could be more appropriately

left to be examined and resolved by the religious head of the temple. It is common ground that Tharananellur Sri Parameswaran Namboodiripad, is the Chief Thanthri of the temple. In our opinion, and as fairly conceded by learned senior counsel appearing for the parties including Mr. Subramanium, learned amicus curiae, all matters concerning permissible rituals, customary practices and pujas to be performed including the mode of awakening the Lord in the morning ought to be left to be determined by the Chief Priest (Thanthri) Tharananellur Sri Parameswaran Namboodiripad in his capacity as the Chief Thanthri of the temple. We accordingly do so. We make it clear that Mr. Subramanium has categorically stated that he had never mandated any change in the customary practices in the temple and that it is a matter that can indeed be left to the Chief Priest (Thanthri) Tharananellur Sri Parameswaran Namboodiripad, mentioned above to determine. It follows that the question whether verses "Venkatesha Suprabhatam" should or should not be recited in the morning for

awakening the Lord is a matter left to be determined by the Chief Priest (Thanthri) Tharananellur Sri Parameswaran Namboodiripad.

Both Mr. Venugopal and Mr. Subramaniam as also Mr. Vishwanathan, learned senior counsel appearing for the State Government pray for a direction from this Court to the Administrative Committee for immediate steps for cleaning of the two tanks viz. Padmatheertham and Mitranandapuram, which have not been cleaned for a long time and which, in the process, creates difficulties for the Thanthris and Nambis (one who opens the door of temple), who are supposed to take ritual bath before entering into the sanctum sanctorum for puja. Mr. Satheesh, the executive officer, present in the court today, submits that a contract had already been allotted to an agency for cleaning the tanks but since the contractor did not take up the job, the same is now assigned to another agency, which happens to be a government organization. He submits that the Administrative Committee can take steps to ensure

that the work of cleaning of tanks aforementioned starts without any further delay. The Administrative Committee and the executive officer are accordingly directed to undertake the cleaning work and also to start immediate repairs of the living quarters of the Thanthris and Nambis, adjoining the temple premises and after repairs, submit a report of the progress made in this regard to this Court within two months.

Mr. Vishwanathan, learned senior counsel for the State submits that Kerala State Electronics Development Corporation Limited, a public sector company (for short 'KELTRON'), has already completed the inventorisation of seven Kalaras and prepared inventories thereof, which can now be taken by the Administrative Committee and, therefore, KELTRON can be de-commissioned for the time being till such time this Court decides about opening of Kalara B. We direct the administrative Committee to take charge of the inventory prepared and keep the same in safe custody. We further direct that KELTRON shall stand

de-commissioned for the present till such time it is considered necessary to commission them again for any further assignment.

We may also mention that learned amicus curiae is not only satisfied with the current state of affairs in the Temple as regards cleanliness and management etc. but also with the work done by the KELTRON. We also place on record Mr. Subramaniam's complete satisfaction about the work undertaken by KELTRON.

List the matters immediately after the report with regard to cleaning of tanks and repairs of the living quarters of Thanthris and Nambis, adjoining the temple premises, is received from the Administrative Committee and the executive officer.

(VINOD KR.JHA)
COURT MASTER

(VEENA KHERA)
COURT MASTER