

ITEM NO.301

COURT NO. 2

SECTION XIA

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 Directions and Discharge of Advocate-on-record and exemption from filing O.T. and impleadment as party respondent and intervention and permission to place Addl. Documents on record and recalling the courts order and permission to carry out inspection of the record of matter and office report)
(For Final Disposal)

WITH

W.P.(C) No. 518/2011
(With Office Report)

SLP(C) No. 12361/2011

(With appln.(s) for directions and discharge of advocate-on-record and Interim Relief and Office Report)

Date: 27/11/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE ANIL R. DAVEMr. Gopal Subramaniam, Sr. Adv. (A.C.)
Mr. Apoorv Kurup, Adv.
Mr. Satyakam, Adv.
Mr. Achyut Ajitkumar, Adv.
Mr. A.K. Prasad, Adv.
Mr. V.C. Shukla, Adv.

For Petitioner(s) Mr. K. K. Venugopal, Sr. Adv.
 (SLP 11295/11) Mr. Krishnan Venugopal, Sr. Adv.
 & SLP 12361/11 Ms. Ashwati Balraj, Adv.
 I.A.No.27) Mr. Rohit Bhat, Adv.
 Mr. B.V.Deepak, Adv.
 For M/s. T. T. K. Deepak & Co.

(WP 518/2011) Mr. Nishe Rajen Shonker, Adv.

For Respondent(s) Mr. Ashok Kumar Panda, Sr. Adv. (U.O.I.)
 Ms. S.K.Bajwa, Adv.
 Ms. Anjani Aiyagari, Adv.
 Ms. Revtee Raghvan, Adv.
 Mr. S.N. Terdal, Adv.
 Mr. D. S. Mahra, Adv.

Mr. K. V. Vishwanathan, Sr. Adv. (St. of Kerala)
 Ms. Liz Mathew, Adv.
 Mr. Gautam Bhardwaj, Adv.
 Mr. M.F. Philip, Adv.

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

Mr. Balaji Srinivasan, Adv.

Mr. M. P. Vinod, Adv.

Mr. A. Raghunath, Adv.

Mr. C. K. Sasi, Adv.

Mr. R. Sathish, Adv.

Mr. Sajith. P, Adv.

Mr. Sanand Ramakrishnan, Adv.

Mr. V. Ramasubramanian, Adv.

For Applicant(s)
 Intervenor Mr. K.R. Sasiprabhu, Adv.
 Mr. M.K. S. Menon, Adv.
 Mr. Shashank Menon, Adv.
 Mr. Vishnu Sharma, Adv.

(IA No.25 & 26) Mr. Ranbir Yadav,Adv.
Ms. Anzu K.Varkey, Adv.

(IA 6) Mr. Sivan Madathil, Adv.
Ms. Usha Nandini V.,Adv.
Mr. Biju P. Raman,Adv.

I.A. No. 30 Mr. Sumit Attri, Adv.

I.A. 32-33 Mr. Ravi P.Mehrotra, Adv.
Mr. Vibhu Tiwari, Adv.

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

In terms of the signed order, these matters are directed to be listed in the month of February, 2015....

In the light of what we have said above, we direct the Administrative Committee to take necessary steps in regard to the recommendations that have accepted by us hereinabove and to submit a quarterly report to this Court as to the progress made. We also direct the petitioner to file their response to the remainder of the recommendations within two months from today.

Post in February, 2015.

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master

(Signed Order is placed on the file.)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO.11295 OF 2011

Sri Marthanda Varma (D) Th. L.R. & Anr. ...Petitioners

Versus

State of Kerala & Ors.

...Respondents

WITH

Writ Petition (C) NO. 518 of 2011

Jacob J. Mappilacherry

...Petitioner

Versus

Union of India & Ors.

...Respondents

WITH

SPECIAL LEAVE PETITION (C) NO.12361 OF 2011

Uthradam Thirunal Marthanda
Varma (D) Th. L.R.

...Petitioner

Versus

Union of India & Ors.

...Respondents

O R D E R

In his report dated 15th April, 2014 Mr. Gopal Subramanian, Amicus Curiae appointed by this Court, has made a series of recommendations comprising pages 500 to 575 of the said report. The petitioners have for the present filed

their responses to recommendations no.4, 14, 21 to 29, 42-48, 50-55, 59, 61-62, 80-81, 101-103, 109-111 only of those recommendations.

Recommendation No.4 is about maintaining cleanliness within the precinct of the temple responsibility for which, according to the amicus curiae, can be entrusted to Shri Padmanabhan Varma and Smt. Lakshmi Bayi who will act as Coordinators to ensure compliance with the present arrangements. The petitioners have in principle no objection to that recommendation being accepted although according to them Shri Padmanabhan Varma visits the temple very rarely and Smt. Lakshmi Bayi is settled in Delhi and her presence in the temple is minimal. The fact of the matter, according to the petitioners, is that a team of employees are entrusted with the duty of ensuring cleanliness in the temple which part can be verified and suitably mandated by the Administrative Committee or the Executive Officer from time to time. Be that as it may if Shri Padmanabhan Varma and Smt. Lakshmi Bayi have any suggestions to make for maintaining cleanliness in the temple they shall be free to do so to the Administrative Committee or the Executive Officer in which event the latter shall examine the recommendations and proposals, if any, submitted to them and take whatever action is considered appropriate.

Recommendation No.14 which relates to the appointment of

internal and external auditors and installation of suitable computer hardware and software and training of the temple staff to operate such system for purposes of the accounts of the temple and other related matters. The petitioners have no objection to this recommendation especially when the auditors already stand appointed on the recommendation of Shri Vinod Rai, former Comptroller and Auditor General of India and the computer hardware and software already purchased and placed in position. We, therefore, have no hesitation in accepting the recommendation made by the amicus curiae. We accordingly do so.

As regards Recommendations No.21-29 it was submitted by learned counsel for the petitioners that the same can also be accepted with the direction that it shall be the duty of the Thanthri to take appropriate steps for upkeep and maintenance of the mool vigrah of the temple. We see no reason to deny that clarification while accepting recommendations 21-29 made in the report of the amicus curie.

Recommendation No.32 similarly deals with upkeep of Kitchens in which the naivedyam of the Lord is prepared. The amicus has recommended that the environment needs to be kept pristine and it needs to be ensured that no external polluting elements defile the consecrated offering to the Lord. The Kilns need to be repaired urgently, cow dung on the kiln needs to be done, the soot on the ceilings needs to be

cleared and in consultation with the Thanthri options for providing an exhaust need to be explored. We see no reason to reject the recommendations so made which are hereby accepted.

With regard to Recommendation No.42 made by the amicus, the petitioners have made certain suggestions which deserve consideration. We accordingly defer orders as regards recommendation No.42. Recommendation No.43 is, however, accepted even by the petitioners and is accordingly accepted by us also.

As regards Recommendation No.44, there was some debate as to the need for placing CCTV cameras at Kallaras A,B,C,D and E where temple treasure and valuable items are stored. It is suggested that Mudalpada room may be treated as Kallara 'G' and the room next to it as Kallara 'H' and that Godrej and Boyce which has undertaken the work relating to strengthening of the Kallaras be asked to make suitable arrangement for full proofing of Kallaras G & H also.

The petitioners have some objections to the providing of CCTV cameras in the Kallaras. Mr. Krishnan Venugopal argued that the proposed strengthening of Kallaras G & H in view of the heavy cost involved in such strengthening operation was not necessary at this stage. Since Kallara 'A' has been strengthened and Kallara 'B' is not yet to be opened and shall not be opened till further orders by this Court, we

direct that Godrej & Boyce may be requested by the Administrative Committee to prepare an estimate of the cost involved in strengthening of the existing Kallaras C, D and E and the proposed Kallaras G and H individually. On the submission of the estimate, appropriate orders will be passed by this Court having regard to the need for strengthening these Kallaras and keeping in view the income of the temple and the threat perception as to the valuable articles stored in the same.

In so far as Recommendation Nos.45, 46 and 47 are concerned, they are accepted as there is no opposition to the said recommendations by the petitioners.

Recommendation No.48 shall be considered at the appropriate stage and upon receipt of a report from the Sr. Supdt. of Police, dealing with security of the temple, who may give his independent assessment about the need for providing arms and ammunition to the security guards deployed by the temple administration.

Recommendation No.50 relating to installation of CCTV cameras in Kallaras C and D and Muthalpadi are deferred for consideration.

Recommendation No. 51, 52 and 53 made by the Amicus Curiae are accepted as the petitioners have not opposed the same.

Recommendation No. 54 is deferred for consideration

after receipt of the report from the Administrative Committee as to the number of unauthorized occupants and the extent of the encroachment made by them. This order shall, however, not prevent the Administrative Committee from entering into negotiations with the unauthorized occupants for vacation of the area by mutual dialogue and consent.

Recommendations No.55, 59, 61, 62 and 69 are accepted. So also Recommendation Nos.80, 81 and 89, 101, 102, 103, and 109 are accepted.

Recommendations No.110 and 111 deal with renovation of the residence of the Thantris and providing of two Assistants of their choice to them who can cook, clean and follow the Majhar. Mr. Subramanian submitted that the condition of the quarters occupied by the Thantris and the Thantri madom are poor and need to be suitably improved. We see no reason to reject the recommendation as regards repair and renovation work of the residential quarters used by the Thantris are concerned. So also the Thantri madom in the temple which they are using as rest rooms during the working hours in the temple shall be repaired and made suitably habitable. The proposed renovation and repair work may be carried out by the Administrative Committee in consultation with the Thantris. The recommendation for increase in the emoluments of the Thantris or providing them assistance is deferred for the present especially because Thantris are reportedly to have

declined any hike in their emoluments.

Mr. Subramanian submitted that the tenure of the Expert Committee could be extended till such time the valuation of the remaining items is completed. We see no reason to decline that prayer. We accordingly extend the tenure of the Expert Committee by another three months with a request to the Committee to complete the remaining work during this period.

In the light of what we have said above, we direct the Administrative Committee to take necessary steps in regard to the recommendations that have accepted by us hereinabove and to submit a quarterly report to this Court as to the progress made. We also direct the petitioner to file their response to the remainder of the recommendations within two months from today.

Post in February, 2015.

.....J.
(T.S. THAKUR)

.....J.
(ANIL R. DAVE)

New Delhi,
November 27, 2014