

C
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
RECORD OF PROCEEDINGS

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

(From the judgement and order dated 31/01/2011 in WPC No.36487/2009
of The HIGH COURT OF KERALA AT ERNAKULAM)

SRI MARTHANDA VARMA AND ANR.

Petitioner(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

(With appln(s) for directions and intervention and recalling the court's
order and permission to place addl. documents on record, impleadment as
party respondent and office report)
(FOR FINAL DISPOSAL)

WITH

SLP(C) NO. 12361 of 2011

(With appln.(s) for directions and with prayer for interim relief and
office report)
(FOR FINAL DISPOSAL)

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

(with office report)

Date: 11/12/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE A.K. PATNAIK

Mr. Gopal Subramaniam, Sr. Adv. (Amicus Curiae)
Mr. Aporva Kurup, Adv.
Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Nishit Agrawal, Adv.

For Petitioner(s)

SLP 11295/2011; Mr. K.K. Venugopal, Sr. Adv.

SLP 12361/2011 Mr. Krishnan Venugopal, Sr. Adv.
Mr. Parameswaran Nair, 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. P.B. Suresh, Adv.
Mr. Vipin Nair, Adv. Adv.
Mr. T.K. Anandpadmanabhan, Adv. for
M/s. Temple Law Firm

Union of India

Ms. Supriya Jain, Adv.
Ms. Sonakshi, Adv. for

State of Kerala

Mr. D.S. Mahra, Adv.
Ms. Liz Mathew ,Adv.
Mr. Sanand Ramakrishnan, Adv.
Mr. V. Ramasubramanian, Adv.
Mr. C.K. Sasi, Adv.
Mr. Sajith P., Adv.
Ms. Usha Nandini V., Adv.
Mr. Biju P. Raman, Adv.
Mr. R. Sathish, Adv.
Mr. A. Raghunath, Adv.
Mr. Balaji Srinivasan, Adv.

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

S.L.P. (C) No. 11295/2011, 12361/2011:

With regard to conservation (structural, chemical and intangible heritage), renovation and restoration aspects highlighted by Mr. Gopal Subramaniam, learned Amicus Curiae in his report dated 1.11.2012, additional affidavit has been filed by the petitioners on 10.12.2013.

2. The petitioners are agreeable to the above suggestion in principle. However, the petitioners have stated that religious sanctity of the construction techniques and architectural aspects of the temple and its traditions and customs must be kept in view while undertaking conservation, renovation and restoration.

3. In light of the above, we constitute "Conservation and Restoration Committee" (for short "Conservation Committee") comprising of Dr. Velayudhan Nair, Mr. Adithya Varma, Dr. Sashi Bhooshan and the Executive Officer of the Temple. The Conservation Committee will, as and when necessary, coordinate with Sri Kanippayyoor Sankaran Namboothirippadu and Thanthri of the Temple and supervise the conservation, restoration and renovation work.

4. The ASI may go ahead with the work of conservation (structural, chemical and intangible heritage) under the supervision of the Conservation Committee, as indicated in this order.

5. A new fund entitled "Conservation Fund" may be created for which a new account shall be opened in a bank. For the purposes of this fund, voluntary donations from both governmental and non-governmental sources may be called for by the temple administration. The new account shall be audited Mr. Gopal Krishnan, auditor already appointed by this Court. The new fund shall follow a proper accounting method and all necessary audit norms. If necessary, the approval/sanction may be sought from the Income Tax authorities under the relevant provisions.

6. As regards strengthening of Kallara "A", it appears that strengthening work has already started and it is in progress. We are informed that strengthening of Kallara 'A' shall be completed by 31.1.2014.

7. Let strengthening of Kallara 'A' be completed by that date i.e., 31.1.2014.

8. As regards strengthening of Kallaras 'C', 'D', 'E' and 'F', an expenditure of about Rs. 160 lacs is estimated. In the additional affidavit filed by the petitioners, it is stated that if 1/3 of that expenditure is required to be met by the temple administration, it will work out to be Rs. 53.33 lacs out of Rs. 160 lacs. As the temple administration had already paid Rs. 52.27 lacs to the Expert Committee for strengthening of kallara 'A' so far and with its

routine income, it may be difficult for the temple administration to spare this huge amount especially in view of the ongoing major festival 'Murajapam' which will require huge temple fund.

9. Learned Amicus Curiae submits that although earlier the temple administration was asked to contribute 1/3 of the associated expenditure for strengthening the kallara 'A', as regards the strengthening of kallaras 'C', 'D', 'E' and 'F', the temple administration and the State Government may be asked to bear equally the estimated costs of Rs. 160 lacs.

10. Having regard to the financial difficulty expressed by the temple administration, as suggested by Mr. K.K. Venugopal, learned senior counsel for the petitioners, we grant time of 2 months to enable the temple administration to call for contributions/donations for the purposes of conservation fund and also for the expenditure required for strengthening Kallaras 'C', 'D', 'E' and 'F'. The petitioners shall submit their response in this regard on or before the next date of hearing.

11. As submitted in the additional affidavit dated 2.9.2013 and reiterated in the additional affidavit 10.12.2013 by the temple administration, permission is granted to elect a single recognized union exclusively from among the employees of the temple. The said election shall be overseen by Justice Krishnan (Retd.).

12. The consideration of other two aspects, (i) vacation of illegal occupants in and around the temple and (ii) hindrance in the working of the temple administration caused by the continued absence of Sri Gautum Padmanabhan, the incumbent Assistant Executive officer, is deferred for the next date.

13. In pursuance of the order dated 3.9.2013, learned Amicus Curiae handed over to us a "Report on the status, cleaning and maintenance of Padma Teertham and related sacred tanks in Sree Padmanabha Swamy Temple complex of Thiruvananthapuram" by Professor C.R. Babu. He submits that copy of the report will be filed in the Registry of this Court and also copy thereof will be given to the advocate-on-record for the petitioners within one week from today. We accept his statement.

14. List both special leave petitions along with writ petition on 12.2.2014 at 3 P.M.

| (Pardeep Kumar)
| AR-cum-PS

| | (Renu Diwan)
| | Court Master

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