

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MRS.JUSTICE SOPHY THOMAS

FRIDAY, THE 27TH DAY OF OCTOBER 2023 / 5TH KARTHIKA, 1945

WP(C) NO.33334 OF 2023

PETITIONER:

JOSEPH GEORGE, AGED 45 YEARS

BY ADVS.S.RENJITH
R.LAKSHMI NARAYAN
P.K.SREEVALSAKRISHNAN
K.R.PRATHISH

RESPONDENT/S:

- 1 COCHIN DEVASWOM BOARD
SWARAJ ROUND N, ROUND NORTH, THRISSUR REP. BY
ITS SECRETARY, PIN - 680001
- 2 THE SPECIAL DEVASWOM COMMISSIONER
COCHIN DEVASWOM BOARD THRISSUR, SIVASAKTHI
BUILDING, THRISSUR, PIN - 680001
- 3 ASSISTANT DEVASWOM COMMISSIONER
COCHIN DEVASWOM BOARD THRISSUR, SIVASAKTHI
BUILDING, THRISSUR, PIN - 680001
- 4 DEVASWOM OFFICER
THRISSWAPEROR SREE VADAKKUNATHAN DEVASWOM
SIVASAKTHI BUILDING, ROUND NORTH,
THRISSUR, PIN - 680001
BY ADVS.
K.P.SUDHEER, SC, COCHIN DEVASWOM BOARD (SC-2245)

OTHER PRESENT:

SRI K.P. SUDHEER - STANDING COUNSEL- COCHIN
DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20.10.2023 THE COURT ON 27.10.2023 DELIVERED THE
FOLLOWING:

JUDGMENT

Anil K. Narendran, J.

The petitioner is the proprietor of 'Appu Pathu Pappu Production House' engaged in the production of cinematographic films. The petitioner paid the title registration fee of Rs.1,000/- for the title 'PANI', as evidenced by Ext.P1 receipt dated 26.05.2023 issued by the Kerala Film Chamber of Commerce. The petitioner submitted Ext.P2 application dated 21.09.2023 before the 4th respondent Devaswom Officer [sic: Devaswom Manager], Sree Vadakkunnathan Devaswom, which is under the management of the 1st respondent Cochin Devaswom Board, seeking permission to shoot a few scenes of the film 'PANI' in Sree Vadakkunnathan Kshethra Maidan. Permission was also sought for parking all vehicles of the production unit and to take food in Sree Vadakkunnathan Kshethra Maidan, on the days in which film shooting takes place in Swaraj Round, Thrissur. Permission was also sought for the use of 'Helicam' in Sree Vadakkunnathan Kshethra Maidan for film shooting. On the request made in Ext.P2 application, the 3rd respondent Assistant Commissioner, Thrissur, submitted a report dated 27.09.2023. Thereafter, by Ext.P3 order dated 04.10.2023, the 2nd respondent Devaswom Commissioner rejected Ext.P2 application made by

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the petitioner. In Ext.P3 order, it is stated that based on Ext.P4 judgment of this Court dated 11.04.2023 in W.P.(C)Nos.26499 of 2018 and 4617 of 2022, the 2nd respondent decided not to grant permission to the petitioner for film shooting in Sree Vadakkunnathan Kshethra Maidan. Feeling aggrieved by the rejection of Ext.P2 application, the petitioner is before this Court in this writ petition, invoking the writ jurisdiction under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P3 order dated 04.10.2023 of the 2nd respondent Devaswom Commissioner; and a writ of mandamus commanding the 1st respondent Cochin Devaswom Board and the 2nd respondent Devaswom Commissioner to consider Ext.P2 application, afresh, and allow the same with reasonable condition on the usual terms regarding the charges.

2. On 11.10.2023, when this writ petition came up for admission, the matter was adjourned for the learned Standing Counsel for the Cochin Devaswom Board to get instructions.

3. The 1st respondent Cochin Devaswom Board has filed a counter affidavit dated 17.10.2023, wherein it is stated that, on receipt of Ext.P2 application, the Devaswom Manager, Sree Vadakkunnathan Devaswom forwarded the same to the 3rd respondent Assistant Commissioner. The 3rd respondent in turn

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submitted Ext.R1(a) report dated 27.09.2023 to the 2nd respondent Commissioner. In Ext.P2 application, apart from film shooting in Sree Vadakkunnathan Kshethra Maidan, permission was sought for parking all vehicles of the production unit in the Kshethra Maidan and also to take food in the Kshethra Maidan. The 2nd respondent, while rejecting Ext.P2 application, by Ext.P3 order dated 04.10.2023, referred to the decision of the Division Bench in Ext.P4 judgment dated 11.04.2023 in W.P.(C)Nos.26499 of 2018 and 4617 of 2022.

4. In the counter affidavit of the 1st respondent Board, it is stated that based on a news report that appeared in Kerala Kaumudi daily dated 10.05.2023, with respect to various allegations in the conduct of Thrissur Pooram festival, this Court registered DBP No.32 of 2023, *suo motu*. The photograph, which forms part of that news report, shows a heap of plastic containers used for distributing food and empty pet bottles near 'Thekke Gopuranada' of Sree Vadakkunnathan Temple. DBP No.35 of 2023 was also registered, pursuant to Report No.13 of 2023 of the learned Ombudsman in Complaint No.136A of 2022. The writ petitioner in Ext.P4 judgment in W.P.(C)No.4617 of 2022 also filed Cont. Case (C)No.1042 of 2023, alleging willful disobedience of the directions contained in that judgment, by the 1st

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respondent Cochin Devaswom Board. By Ext.R1(b) order dated 26.07.2023, this Court disposed of DBP No.32 of 2023. By Ext.R1(c) order dated 26.07.2023, DBP No.35 of 2023 was also disposed of. Cont. Case (C)No.1042 of 2023 was closed by Ext.R1(d) judgment dated 18.08.2023. Taking note of the directions and observations of this Court in Ext.P4 judgment and Exts.R1(b) to R1(d) orders, the 2nd respondent Devaswom Commissioner issued Ext.P3 order, whereby the request made by the petitioner in Ext.P2 application stands rejected. In the counter affidavit, it is stated that permitting the entire film unit to take food from Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) would be against the true spirit of Ext.P4 judgment and Exts.R1(b) to R1(d) orders passed by this Court.

5. In the counter affidavit of the 1st respondent Board, it is pointed out that the issue regarding the parking of vehicles in Sree Vadakkunnathan Kshethra Maidan was the subject matter in DBP No.29 of 2015. In fact, the learned Ombudsman in Periodical Report No.9 for the period from 01.06.2010 to 31.08.2010 made the following suggestions;

"Cochin Devaswom Board's financial position cannot be said to be free from difficulty. The main expenses are the salary and other allowances of employees and pension to pensioners. At the same time, there are vast areas in

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Kodungallur and Thrissur Town owned by the Devaswom Board, which can be used for 'pay and park' and good income can be generated by such steps. The Devaswom Board has to identify the places and take steps to collect licence fees from such places."

6. By the order dated 23.5.2014 in DBP No.54 of 2010, this Court directed the Board to take appropriate remedial action in terms of the suggestions made by the learned Ombudsman. Pursuant to that direction, the Board filed Petition No.10 of 2015 before the learned Ombudsman. In the said petition, the learned Ombudsman submitted CDB Report No.29 of 2015 before this Court on 28.01.2015. Based on the said report, DBP No.29 of 2015 was registered, which was disposed of by Ext.R1(e) order dated 11.06.2018. In terms of that order, non-vegetarian foods, bottles of alcohol and other prohibited articles are not permitted to be carried in any of the vehicles parked within the premises of the temple compound or the properties of the Cochin Devaswom Board contiguous to temples. The prospective service providers will ensure that they agree to provide continuous and constant surveillance of the area under their control and that, any violation of the said conditions will visit them with appropriate penal and other consequences. Paragraphs 7 and 8 of the order dated 11.06.2018 in DBP No.29 of 2015 read thus;

"7. We see further that the new clauses incorporated in Annexure 1 have already obtained the imprimatur of the learned Ombudsman, which has been stated in CDB Report No.66 of 2017 dated 11.09.2017. The learned Ombudsman has reiterated therein that a clause to ensure that no non-vegetarian food/bottles of alcohol and such other prohibited articles are permitted to be carried by vehicles and that this has to be specifically mentioned in the draft of the conditions to be adopted by the Board, while the lands are offered for pay and park facilities. Since this has also been now incorporated as clause No.14, albeit, not in the manner that we would have normally accepted it to be, we are of the view that Annexure 1 can be approved on condition that clause 14 thereon be construed to mean that none of those offending articles will be permitted in any of the vehicles parked within the premises of the temple compound or properties of the Devaswom Board contiguous to temples. 8. In order to ensure that the conditions of Annexure 1 are scrupulously complied with, the Board while entering into a contract with the prospective service providers, will ensure that they agree to provide continuous and constant surveillance of the area under their control and that, any violation of the conditions in Annexure 1 will visit them with appropriate penal and such other consequences. Axiomatically, when the contract is entered into with such persons by the Board, our observations will also be scrupulously adhered to and specific clauses incorporated therein, so as to ensure implicit compliance of Annexure 1 and to ensure that no untoward incident happens in the parking area. If the Board so requires, depending upon the circumstances

prevailing in each of the parking places, it shall also be open to them to prescribe the timing of such parking facilities, so that such activity only happens within such prescribed time, in addition to the conditions prescribed in Annexure 1. (underline supplied)

7. On 19.10.2023, when this writ petition came up for consideration, we heard the learned counsel for the petitioner and the learned Standing Counsel for Cochin Devaswom Board for the respondents, in part. On 20.10.2023, Registry was directed to list the matter at 2.00 p.m., along with the Judges' Papers in DBP No.9 of 2023. On 20.10.2023, during the course of arguments, the learned counsel for the petitioner submitted that the petitioner made another application dated 19.10.2023 before the Secretary of the 1st respondent Board seeking permission to shoot only one scene of the film titled 'PANI' in Sree Vadakkunnathan Kshethra Maidan, after parking the vehicle in the parking ground of Sree Vadakkunnathan Temple. The said scene starts from the parking ground of the temple to Swaraj Round near 'Thekke Gopuranada', through 'Manikandanaal' area. The learned Standing Counsel submitted that, on the request made by the petitioner in the application dated 19.10.2023, the Devaswom Manager, Sree Vadakkunnathan Devaswom submitted a report dated 20.10.2023, wherein it is pointed out

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that the production unit proposes to park their vehicle in 'Naikkanal' area. No shooting can be permitted in 'Padinjare Gopuranada' of Sree Vadakkunnathan Temple when the temple remains open. When the Kshethra Nada in 'Manikandanaal' area remains open, shooting cannot be permitted in the area where the temple and the Sreekovil are situated. On account of the shooting, no inconvenience shall be caused to the devotees. On the question as to whether shooting can be permitted facing 'Thekke Gopuranada', it is for the Board to take an appropriate decision, in accordance with law, after considering the orders of this Court.

8. The Travancore-Cochin Hindu Religious Institutions Act, 1950, was made for making provisions for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious Endowments and Funds. Chapter VIII of the Act deals with Cochin Devaswom Board. Section 62 of the Act deals with vesting of administration in the Board. As per sub-section (1) of Section 62, the administration of incorporated and unincorporated Devaswoms and Hindu Religious Institutions which were under the management of the Ruler of Cochin immediately prior to the first day of July, 1949 either under Section 50G of the

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Government of Cochin Act, XX of 1113, or under the provisions of the Cochin Hindu Religious Institutions Act, 1 of 1081, and all their properties and funds and of the estates and all institutions under the management of the Devaswom Department of Cochin, shall vest in the Cochin Devaswom Board. As per sub-section (2) of Section 62, notwithstanding the provisions contained in sub-section (1), the regulation and control of all rituals and ceremonies in the temple of Sree Poornathrayeesa at Trippunittura and in the Pazhayannur Bhagavathy temple at Pazhayannur shall continue to be exercised as hitherto by the Ruler of Cochin.

9. Section 62A of the Act, inserted by Act 14 of 1990, deals with Devaswom properties. As per Section 62A, all immovable properties vested in the Cochin Devaswom Board under sub-section (1) of Section 62 shall be dealt with as Devaswom Properties. The provisions of the Kerala Land Conservancy Act, 1957 shall be applicable to Devaswom lands as in the case of Government lands. As per Section 62B, all unassigned lands belonging to the Devaswom under the sole management of the Board shall be deemed to be the property of the Government for the purpose of the Kerala Land Conservancy Act, 1957 and all the provisions of that Act shall, so far as they

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are applicable, apply to such lands.

10. Section 68 of the Act provides for administration by the Board as a trustee. As per sub-section (1) of Section 68, subject to the provisions of the Act and of any other law for the time being in force, the Board shall be bound to administer the affairs of incorporated and unincorporated Devaswoms and institutions under its management in accordance with the objects of the trust, the established usage and customs of the institutions and to apply their funds and property for such purposes. As per sub-section (2) of Section 68, notwithstanding anything contained in sub-section (1), the Board may, out of the funds under their control, set apart such sum as they deem fit for the educational uplift, cultural advancement and economic betterment of the Hindu community, after providing adequately for the purposes of the institutions which have to be met from the said fund.

11. Section 73A of the Act deals with duties of the Board. As per Section 73A, it shall be the duty of the Board to perform the functions enumerated in clauses (i) to (iv), namely, (i) to see that the regular traditional rites according to the practice prevalent in the religious institution are performed promptly; (ii) to monitor whether the administrative staff and employees and

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also the employees connected with religious rites are functioning properly; (iii) to ensure proper maintenance and upliftment of the Hindu Religious Institutions; (iv) to establish and maintain proper facilities in major temples for the devotees.

12. Section 74 of the Act deals with vesting of jurisdiction in the Board. As per Section 74, subject to the provisions of sub-section (2) of Section 62, all rights, authority and jurisdiction belonging to or exercised by the Ruler of Cochin prior to the 1st day of July, 1949 in respect of incorporated and unincorporated Devaswoms and Institutions shall vest in and be exercised by the Board in accordance with the provisions of the Act. Section 74 of the Act deals with superintendence and control by the Board. As per Section 64, the Board shall, subject to the provisions of Part II of the Act, exercise supervision and control over the acts and proceedings of all officers and servants of the Board and of the Devaswom Department.

13. Section 86 of the Act provides that alienation of property without the sanction of the Board is void. As per sub-section (1) of Section 86, any exchange, sale, mortgage, pledge, lease or other alienation of the property of an institution executed or made or any debt contracted on its behalf, shall be void unless it is executed or made or contracted with the previous sanction

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of the Board or with the previous sanction of the Civil Court when in any suit, appeal or other proceedings in relation to the institution a Receiver has been appointed by the civil court for the management of the properties of the institution. As per the proviso to sub-section (1) of Section 86, the court shall before granting or refusing such sanction give notice to the Board and hear the objections, if any, of the Board. As per sub-section (2) of Section 86, the Board may prefer an appeal to the High Court from the order passed by such court within thirty days of the order and such appeal shall be heard and disposed of by a Bench of not less than two Judges. As per sub-section (3) of Section 86, any person aggrieved by an order under sub-section (1) may appeal to the High Court within thirty days from the date of publication of the order in the Gazette and such appeal shall be heard and disposed of by a Bench of not less than two Judges. As per sub-section (4) of Section 86, every order of the Board under sub-section (1) shall be published in the Gazette.

14. 'Deva' means God and 'swom' means ownership in Sanskrit and the term 'Devaswom' denotes the property of God in common parlance. See: **Prayar Gopalakrishnan v. State of Kerala [2018 (1) KHC 536]**.

15. In **M.V. Ramasubbiar v. Manicka Narasimachara**

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[(1979) 2 SCC 65], in the context of Sections 49, 51 and 52 of the Trusts Act, 1882, the Apex Court explained the nature of the fiduciary position of the trustee and his duties and obligations. It is the duty of the trustees of the property to be faithful to the Trust and execute any document with reasonable diligence in the manner of an ordinary prudent man of business would conduct his own affairs. A trustee could not, therefore, occasion any loss to the Trust and it is his duty to sell the property, if at all that was necessary, to the best advantage.

16. In **A.A. Gopalakrishnan v. Cochin Devaswom Board [(2007) 7 SCC 482]** a Three-Judge Bench of the Apex Court held that the properties of deities, temples and Devaswom Boards are required to be protected and safeguarded by their trustees/archakas/shebaites/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of 'fence eating the crops' should be dealt with sternly. The Government, members or trustees of boards/trusts, and devotees should be

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vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation.

17. In **Travancore Devaswom Board v. Mohanan Nair [(2013) 3 KLT 132]** a Division Bench of this Court noticed that in **A.A. Gopalakrishnan [(2007) 7 SCC 482]** the Apex Court emphasised that it is the duty of the courts to protect and safeguard the interest and properties of the religious and charitable institutions. The relevant principles under the Hindu law will show that the Deity is always treated similar to that of a minor and there are some points of similarity between a minor and a Hindu idol. The High Court therefore is the guardian of the Deity and apart from the jurisdiction under Section 103 of the Land Reforms Act, 1957, viz., the powers of revision, the High Court has inherent jurisdiction and the doctrine of *parens patriae* will also apply in exercising the jurisdiction.

18. Ext.P4 judgment dated 11.04.2023 - **K.B. Sumodh v. Commissioner, Cochin Devaswom Board [2023:KER:25530]** – of the Division Bench of this Court, in which one among us [Anil K. Narendran, J.] was a party, was rendered on 11.04.2023 in W.P.(C)Nos.26499 of 2018 and 4617 of 2022, after

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the order dated 29.07.2022 in DBP No.31 of 2022 - **Cochin Devaswom Board v. Deputy Director, Kerala State Audit Department [2022:KER:40635]**, arising out of CDB Report No.18 of 2022 in Petition No.3 of 2022 filed by the Cochin Devaswom Board seeking permission for conducting exhibitions and trade fairs in Thrissur Pooram Exhibition Ground in Vadakkunnathan Kshethra Maidan. The document marked as Annexure A2 in Petition No.3 of 2022 is the judgment dated 28.03.2003 of the Division Bench in O.P.No.8521 of 2003 and C.M.P.s in DBA No.143 of 2002 of the Division Bench permitting the use of exhibition ground in Thekkinkadu Maidan for conducting Onam Fair by Civil Supplies Corporation, etc. By the said judgment dated 28.03.2003, the Division Bench allowed the Cochin Devaswom Board to use Thekkinkadu Maidan for the purposes which are mentioned in Ext.R2(a) appended to that judgment. By order dated 29.07.2022 DBP No.31 of 2022 was disposed of by granting permission to the Cochin Devaswom Board to conduct Onam Exhibition/Trade Fair in Thrissur Pooram Exhibition Ground in Thekkinkadu Maidan for the year 2022, subject to the conditions stipulated in paragraphs 29 of that order.

19. In the judgment dated 28.03.2003 in O.P.No.8521 of 2003 and CMPs in DBA No.143 of 2002 a Division Bench of this Court permitted the use of the exhibition ground in Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) for conducting Onam Fair by Civil Supplies Corporation, etc. DBP No.48 of 2010 was registered based on CDB Report No.125 of 2010 of the learned Ombudsman, which was disposed of by the order dated 08.07.2013, making the interim order dated 08.06.2011 in that DBP absolute. The said interim order, which is extracted in paragraph 2 of the order dated 08.07.2013, is extracted hereunder;

'2. After elaborately considering the various aspects, this Court passed a detailed interim order dated 08.06.2011, which is extracted below;

"We have perused the materials on record including the affidavits as also statements of the District Collector, Thrissur, Paramekkavu Devaswom, Thiruvambady Devaswom and the Cochin Devaswom Board.

2. As noted by the learned Ombudsman in his report dated 06.08.2010, the land known by the name "Thekkinkadu Maidan" belongs to the Cochin Devaswom Board as a trustee in terms of the provisions of the Travancore Cochin Hindu Religious Institutions Act. There is no dispute on this fact. That being so, there cannot be any construction activity or modifications in the name of beautification, etc. by the

Corporation authorities, the Government or any other agency, public or private except under the requirement of the Cochin Devaswom Board.

3. The statement of the District Collector candidly points out that in spite of different efforts, including suffering expenditure, nothing worthwhile has come out regarding the different attempts to carry out "beautification" of Thekkinkadu Maidan. He points out that the Development Plan for Thrissur City is in the cradle stage and the proposal for Thekkinkadu Maidan is yet to be worked out. Specific reference is made to G.O.(Ms.)No.240/75/LAD & SWD dated 24.09.1975, issued more than three and a half decades ago, to point out that in terms of the said sanctioned detailed Town Planning Scheme, Thekkinkadu Maidan is kept as green space except temple structure. The scheme of 1975 thus requires Thekkinkadu Maidan to be a green space. Unfortunately, the materials on record disclose that it is more brown than green and if one were to visualise the entire topography, it may look like a brown bald scape with a small patch of green which is nothing but the oasis point where a few teak trees remain, remembering for themselves the glorious past of "Thekkinkadu Teak Forest".

4. In the larger interest of the society, the DTPS is issued earmarking the space Thekkinkadu Maidan as a green space. The District Collector says that is a major breathing space. It is also the main attraction of Thrissur town. Obviously, these are reasons which point towards the immediate requirement to ensure that appropriate planning is taken immediately and on finalization of such plan, urgent afforestation activity will have to be carried out to ensure that Thekkinkadu Maidan will stand meaningfully expressing its name.

5. We are told that large congregation of people assemble during the Thrissur Pooram which is now a money spinner as part of tourism. We are also told that exhibition is held in connection with Thrissur Pooram. Some are utilized for providing space to accommodate an outlet for essential commodities. There is some space in the possession of the Water Authority.

6. With all these, we are inclined to think that out of the total extent of Thekkinkadu Maidan which is around 61.34 acres, the land actually required for conducting the Pooram festival and also for such further purposes for which High Court has granted permission in terms of the different earlier orders in different proceedings have to be identified and the remaining portion is to be put to afforestation activity by planting teak or such other trees as may be advised by the competent forest officials.

7. In the light of the above and taking into consideration the report of the learned Ombudsman, it is directed that henceforth there shall be no construction, beautification or other activities in the Thekkinkadu Maidan by the Government or the Corporation of Thrissur or any other authority without obtaining specific orders from this Court. The Cochin Devaswom Board will protect the said Maidan appropriately since it is the property of the Cochin Devaswom Board. We also direct that the District Collector will ensure that the directions in this order regarding preservation of the Thekkinkadu Maidan is appropriately supported by the District Administration. Insofar as the 'Jaladhara' which has become defunct and has turned out to be the hub of antisocial elements is concerned the Secretary, Cochin Devaswom Board is directed to ensure that the same is demolished and

removed within a period of one month from now without fail. A report in that regard shall be placed on record within a period of forty five days from today.

8. In consonance of the above, we further direct the Secretary of the Board to file an affidavit within a period of forty five days from today identifying the location in the Thekkinkadu Maidan where afforestation activity can be taken up. The view of the forest officials having jurisdiction over the area will also be specifically obtained as regards the type of saplings and other aspects.

9. Having regard to the fact that the Thekkinkadu Maidan is vested with the Cochin Devaswom Board, we are of the view that the Government or the Corporation cannot independently decide on its beautification and therefore we direct that all proposals in that regard which have been taken up without the clearance of the Cochin Devaswom Board will stand stayed until further orders. It is further directed that there shall be no construction activity by the Cochin Devaswom Board in the Thekkinkadu Maidan without obtaining specific orders from this Court. This inhibition will not cover such temporary structures which are necessary such as festival, Pooram and rituals in connection therewith as is held hitherto, exhibition etc.

10. We are also told that there are no hoardings and advertisement board inside Thekkindkadu Maidan, we also further direct that the Secretary, Cochin Devaswom Board will ensure that the entire Thekkinkadu Maidan is kept plastic-free. The Secretary of the Thrissur Corporation is also directed to ensure that the environment safety level is maintained in connection with plastic and non-biodegradable and also biodegradable substances insofar as Thekkinkadu

Maidan is concerned particularly because it is an area which attracts the public.” (underline supplied)

20. In the order dated 08.06.2011 in DBP No.48 of 2010, this Court directed that no other programmes except those permitted will be undertaken without specific orders of this Court. The said order was made absolute in the order dated 08.07.2013 in DBP No.48 of 2010, wherein it was ordered that all the directions will remain as such for future application. In the said order, this Court noticed that Thekkinkadu Maidan is also used in connection with the Thrissur Pooram Festival and therefore, restricted activity alone can be permitted. This Court directed that any of the official agencies or other agencies involved in implementing any programmes in connection with Thekkinkadu Maidan will have to seek separate sanction from this Court, which will not apply to the erection of temporary structures connected with Pooram Festival, exhibition, etc., and other activities connected with the temple. Pursuant to the orders of this Court, 140 teak plants were planted in Thekkinkadu Maidan. The learned Standing Counsel for Cochin Devaswom Board reported that, out of 140 teak plants, 113 are now existing and the remaining have perished, and steps will be taken for planting fresh saplings with the cooperation of the Social Forestry

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Department. The learned Special Government Pleader (Forest) assured that all assistance will be rendered by the Conservator of Forest-in-charge of Social Forestry for maintaining the plants. Therefore, in the order dated 08.07.2013 in DBP No.48 of 2010, it was ordered that the said arrangement will continue and appropriate steps will be taken from time to time. The perished plants will be replaced as and when it is necessary. The Division Bench directed the Devaswom Officer to bring to the notice of this Court any matters noticed by him, by way of any developmental activities by any agencies. It was ordered that all steps will be taken to protect Thekkinkadu Maidan.

21. In terms of the order dated 08.07.2013 in DBP No.48 of 2010, there shall be no construction, beautification or other activities in Thekkinkadu Maidan (Sree Vadakkunnathan Kshethra Maidan) by the Government or the Corporation of Thrissur or any other authority without obtaining specific orders from this Court. It was further directed that there shall be no construction activity by the Cochin Devaswom Board in Thekkinkadu Maidan without obtaining specific orders from this Court. It was made clear that this inhibition will not cover such temporary structures which are necessary in connection with Pooram, festivals, rituals, exhibitions, etc. In the order dated

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08.07.2013 in DBP No.48 of 2010, this Court has made absolute, the prohibition contained in the interim order dated 08.06.2011 that there are no hoardings and advertisement boards inside Thekkinkadu Maidan. The Secretary, Cochin Devaswom Board, was directed to ensure that the entire Thekkinkadu Maidan is kept plastic-free and the Secretary, Thrissur Municipal Corporation was directed to ensure that the environmental safety level is maintained in connection with plastic and non-biodegradable and also biodegradable substances in Thekkinkadu Maidan.

22. In the year 2013, the 1st respondent Board filed Petition No.23 of 2013 before the learned Ombudsman seeking permission to use Thekkinkadu Maidan (Sree Vadakkunnathan Kshethra Maidan) for commercial purposes like conducting exhibitions, etc. On that petition, the learned Ombudsman submitted CDB Report No.81 of 2013, wherein it was stated that some criticisms are possible with the use of Thekkinkadu Maidan for 'pay and park', though there was no such objection for the Pooram Exhibition Committee in collecting parking fee at the time of the exhibition. In paragraph 3 of the order dated 30.09.2013 in DBP No.78 of 2013, which was one registered based on CDB Report No.81 of 2013, the Division Bench noticed that, apart from

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seeking permission to use Thekkinkadu Maidan for conducting exhibitions, etc., permission is also sought for allowing political parties to conduct meetings, etc., in the Kshethra Maidan. In paragraph 4 of that order, the Division Bench noticed that the view taken in paragraph 3 of the order dated 08.07.2013 in DBP No.48 of 2010 is that only restricted activities can be permitted in Thekkinkadu Maidan apart from using it in connection with Thrissur Pooram festival. In the order dated 30.09.2013 in DBP No.78 of 2013, the Division Bench took a view that, if any other unrestricted activities are permitted, it will have an adverse impact on the property which is one of the important locations as far as the entire town is concerned. Therefore, it was ordered that the order passed in DBP No.48 of 2010 will take care of all matters which may arise in future. In the order dated 30.09.2013 in DBP No.78 of 2013, the Division Bench clarified that, whenever fresh applications or proposals are received from interested parties, the Cochin Devaswom Board will place the matter before this Court for consideration and only after sanction by this Court any such activities can be permitted.

23. In Ext.P4 judgment dated 11.04.2023 - **K.B. Sumodh [2023:KER:25530]** – the Division Bench held that Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) is a

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Devaswom land, which is managed by the Cochin Devaswom Board as a trustee in management of Devaswom property, in terms of the provisions of the Travancore-Cochin Hindu Religious Institutions Act. That being so, there cannot be any activity in Thekkinkadu Maidan, except in accordance with the objects of the trust.

24. DBP No.31 of 2022 was one registered based on CDB Report No.18 of 2022 in Petition No.3 of 2022 of the learned Ombudsman for Travancore and Cochin Devaswom Boards. The Board filed Petition No.3 of 2022 before the learned Ombudsman, seeking permission to conduct exhibitions and trade fairs in Thrissur Pooram Exhibition Ground in Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan), during the period other than Thrissur Pooram exhibition. That DBP was disposed of by the order dated 29.07.2022 - **Cochin Devaswom Board v. Deputy Director, Kerala State Audit Department [2022:KER:40635]**. By the said order, the 1st respondent Board was directed to ensure that proper income is generated by conducting the auction of the right to conduct stalls/pavilions in the Onam exhibition/trade fair in Thekkinkadu Maidan. In such transactions, the Board and its officials have to show due diligence in the manner of an ordinary prudent man of business

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to conduct his own affairs, since the Board is essentially a trustee of Devaswom land which vests in the deity. Since Thekkinkad Maidan is a Devaswom property no sale/trade of any objectionable substances shall be permitted in the Onam exhibition/trade fair, in the exhibition ground.

25. DBP No.32 of 2023 was registered *suo motu* based on a news item that appeared in Kerala Kaumudi daily dated 10.05.2023, regarding the entry of Assistant Devaswom Commissioner, Thrissur, Law Officer and other Senior Officials of the Cochin Devaswom Board in the Thekke Gopuranada of Vadakkunnathan Temple, which was alleged to be in a dilapidated condition. The photograph, which forms part of the news report, shows a heap of plastic containers used for distributing food and empty pet bottles near the Thekke Gopuranada of Sree Vadakkunnathan Temple. The news report contained serious allegations against the Devaswom Officials, Members of the Temple Advisory Committee of Vadakkunnathan Temple and the officials of Thrissur Municipal Corporation. As per the news report, 'Sudhi-Karmam' in Vadakkunnathan Temple was conducted on 10th, 11th and 12th.

26. By Ext.R1(b) order dated 26.07.2023, DBP No.32 of 2023 was disposed of by directing the Cochin Devaswom board

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and Thrissur Municipal Corporation to ensure that the entire Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) is kept plastic-free and that the environmental safety levels are maintained in the entire Maidan in connection with plastic and non-biodegradable and also biodegradable substances.

27. DBP No.35 of 2023 was registered *suo motu* based on Report No.13 of 2023 in Complaint No.136A of 2022 of the learned Ombudsman. The allegations in the complaint are mainly regarding the manner in which Vadakkunnathan Temple Compound is maintained. That DBP was disposed of by Ext.R1(c) order dated 26.07.2023 taking note of the directions contained in Ext.R1(b) order in DBP No.32 of 2023. In the said order, in continuation of Ext.R1(b) order, it was ordered that the directions contained in Ext.P4 judgment in **K.B.Sumodh v. Commissioner, Cochin Devaswom Board and others [2023:KER:25530]** shall be scrupulously followed by the Cochin Devaswom Board and Thrissur Municipal Corporation. Musical concerts by Rock Bands similar to that conducted on 31.12.2022 as 'new year event' in connection with Thrissur Shopping Festival and similar activities creating noise pollution and disturbance to the temple rituals and ceremonies shall not be permitted in Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan), which

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is a Devaswom property. No part of Thekkinkadu Maidan shall be used by the Cochin Devaswom Board or the Thrissur Municipal Corporation for the disposal of biodegradable or non-biodegradable waste generated during Thrissur Pooram Festival, exhibitions, etc. The Cochin Devaswom Board shall deploy a sufficient number of security staff for watch and ward duty in Thekkinkadu Maidan. The Circle Inspector of Police shall ensure regular patrolling by the police to ensure that Thekkinkadu Maidan, which is a Devaswom property, is not used for any illegal activities, in any manner.

28. In the instant case, the petitioner submitted Ext.P2 application dated 21.09.2023 before the Devaswom Manager, Sree Vadakkunnathan Devaswom, seeking permission to shoot a few scenes of the film 'PANI' in Sree Vadakkunnathan Kshethra Maidan, for parking all vehicles of the production unit and to take food in the Kshethra Maidan, on the days on which film shooting takes place in Swaraj Round. Permission was also sought for the use of 'Helicam' in Sree Vadakkunnathan Kshethra Maidan for film shooting. The said application stands rejected by Ext.P3 order dated 04.10.2023 of the 2nd respondent Devaswom Commissioner based on the directions in Ext.P4 judgment of this Court dated 11.04.2023 in W.P.(C)Nos.26499 of 2018 and 4617

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of 2022.

29. One of the contentions advanced by the learned counsel for the petitioner is that the direction contained in Ext.P4 judgment of this Court will not stand in the way of the 1st respondent Board and its officials in granting permission to the petitioner for film shooting in Sree Vadakkunnathan Kshethra Maidan. In that context, the learned Standing Counsel for the Board would place reliance on the directions contained in Ext.R1(b) order dated 26.07.2023 in DBP No.32 of 2023, Ext.R1(c) order dated 26.07.2023 in DBP No.35 of 2023 and also that contained in Ext.R1(e) order dated 11.06.2018 in DBP No.29 of 2015.

30. In the order dated 08.06.2011 in DBP No.48 of 2010, this Court directed that no other programmes except those permitted will be undertaken without specific orders of this Court. The said order was made absolute in the order dated 08.07.2013 in DBP No.48 of 2010, wherein it was ordered that all the directions will remain as such for future application. In Petition No.23 of 2013, filed by the 1st respondent Board seeking permission to use Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) for commercial purposes like conducting exhibitions, etc., permission was also sought for allowing political

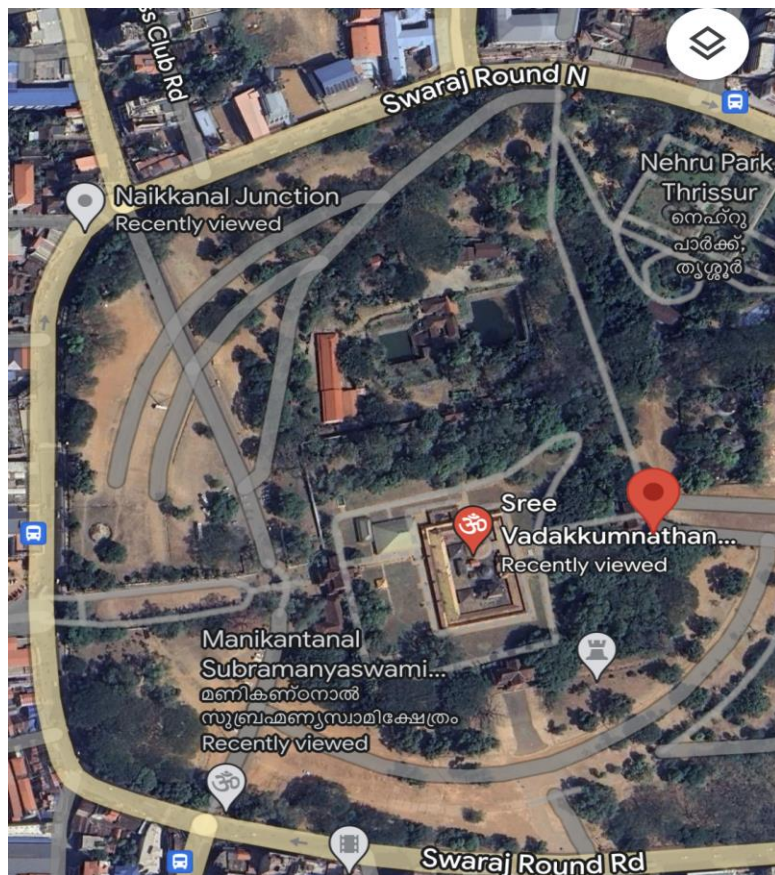
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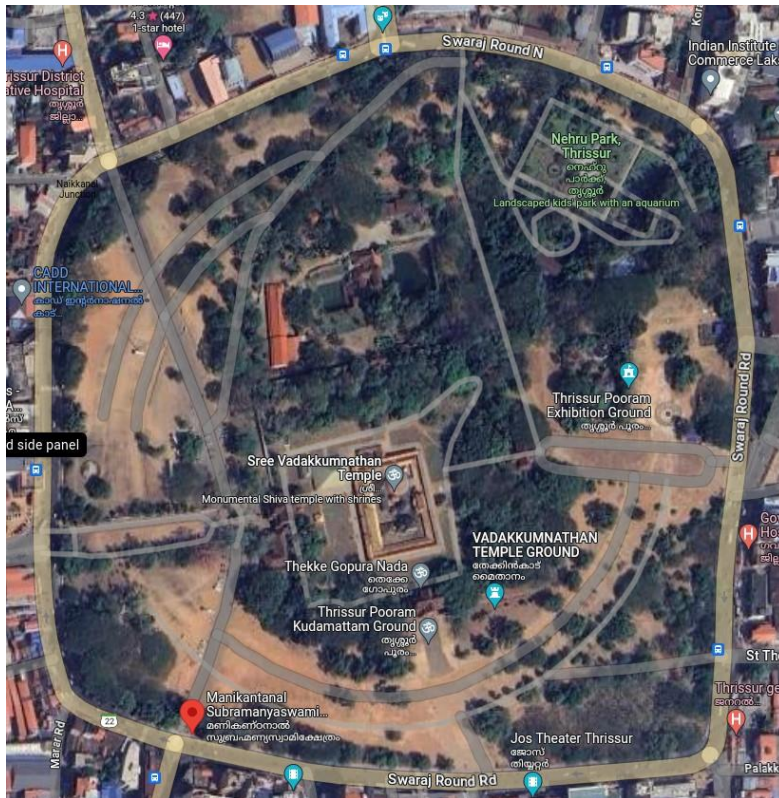
parties to conduct meetings, etc., in the Kshethra Maidan. In the order dated 30.09.2013 in DBP No.78 of 2013, arising out of Petition No.23 of 2013, the Division Bench noticed that the view taken in paragraph 3 of the order dated 08.07.2013 in DBP No.48 of 2010 is that only restricted activities can be permitted in Thekkinkadu Maidan apart from using it in connection with Thrissur Pooram Festival. If any other unrestricted activities are permitted, it will have an adverse impact on the property which is one of the important locations as far as the entire town is concerned. Therefore, the order passed in DBP No.48 of 2010 will take care of all matters which may arise in future. In the said order dated 30.09.2013, the Division Bench clarified that, whenever fresh applications or proposals are received from interested parties, the Cochin Devaswom Board will place the matter before this Court for consideration and only after sanction by this Court any such activities can be permitted. Ext.P4 judgment dated 11.04.2023 – **K.B.Sumodh v. Commissioner, Cochin Devaswom Board [2023:KER:25530]** is one rendered by this Court after taking note of various orders of the Division Bench on the point including the orders in DBP Nos.48 of 2010 and 78 of 2013. In such circumstances, we find absolutely no merit in the contention of the learned counsel for the petitioner

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that the directions contained in Ext.P4 judgment will not stand in the way of the 1st respondent Board and its officials in granting permission to the petitioner for film shooting in Sree Vadakkunnathan Kshethra Maidan.

31. Two screenshots showing the aerial view of Sree Vadakkunnathan Kshethra Maidan (Thekkinkadu Maidan) are reproduced hereunder;





32. As already noticed hereinbefore, the request made by the petitioner in Ext.P2 application is one seeking permission to shoot a few scenes of the film 'PANI' in Sree Vadakkunnathan Kshethra Maidan, parking of all the vehicles of the production unit in the Kshethra Maidan and to take food in the Kshethra Maidan on the days in which film shooting takes place in Swaraj round. Insofar as parking of vehicles in the parking ground of Sree Vadakkunnathan Kshethra Maidan is concerned, in terms of the directions contained in Ext.R1(e) order of this Court dated 11.06.2018 in DBP No.29 of 2015 non-vegetarian food, bottles of alcohol and other prohibited articles are not permitted to be carried in any of the vehicles parked within the premises of the

temple compound or the properties of the Cochin Devaswom Board contiguous to temples. The prospective service providers will ensure that they agree to provide continuous and constant surveillance of the area under their control and that, any violation of the said conditions will visit them with appropriate penal and other consequences.

33. As already noticed hereinbefore, during the pendency of this writ petition the petitioner made another application dated 19.10.2023 before the Secretary of the 1st respondent Board seeking permission to shoot only one scene of the film in Sree Vadakkunnathan Kshethra Maidan, after parking the vehicle in the parking ground of Sree Vadakkunnathan Temple. The said scene starts from the parking ground of the temple to Swaraj Round near 'Thekke Gopuranada' through 'Manikandanaal' area.

34. On the aforesaid request made by the petitioner in the application dated 19.10.2023, the Devaswom Manager, Sree Vadakkunnathan Devaswom submitted a report dated 20.10.2023, wherein it is pointed out that the production unit proposes to park their vehicles in 'Naikkanal' area. No shooting can be permitted in 'Padinjare Gopuranada' of Sree Vadakkunnathan Temple when the temple remains open. When the Kshethra Nada in 'Manikandanaal' area remains open,

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shooting cannot be permitted in the area where the temple and the Sreekovil are situated. On account of the shooting, no inconvenience shall be caused to the devotees. On the question as to whether shooting can be permitted facing 'Thekke Gopuranada', it is for the Board to take an appropriate decision, in accordance with law, after considering the orders of this Court.

35. The activities in the parking ground in Sree Vadakkunnathan Kshethra Maidan are to be regulated strictly in terms of the directions contained in Ext.R1(e) order dated 11.06.2018 in DBP No.29 of 2015. Non-vegetarian food, bottles of alcohol and other prohibited articles cannot be permitted to be carried in any of the vehicles parked within the premises of the temple compound or the properties of the Board contiguous to the temple. The parking ground in Sree Vadakkunnathan Kshethra Maidan, which is a Devaswom land, is not a place where the members of the production unit of the petitioner can be granted permission to take food on the days in which film shooting takes place in the Swaraj round. Similarly, any permission granted for film shooting in the parking area of the Kshethra Maidan or near the road leading to Sree Vadakkunnathan Temple from 'Manikandanaal' area or the parking area in the Kshethra Maidan will result in the movement

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of the devotees through the roads leading to the temple being restricted or regulated by the members of the production unit or even by 'bouncers' engaged by the production units in film shooting sites. The Cochin Devaswom Board cannot grant permission for any such activities in the Kshethra Maidan.

36. Despite the specific directions issued by this Court in the orders referred to hereinbefore, the Cochin Devaswom Board finds it difficult to maintain Sree Vadakkunnathan Kshethra Maidan plastic-free and to ensure that the activities in the permitted areas of the Kshethra Maidan are not causing disturbance to the rituals and ceremonies in Sree Vadakkunnathan Temple. The said fact is evident from Ext.P4 judgment in **K.B. Sumodh [2023:KER: 25530]**, Ext.R1(b) order in DBP No.32 of 2023 and Ext.R1(c) order in DBP No.35 of 2023. The security staff deployed by the Cochin Devaswom Board for watch and ward duty in Sree Vadakkunnathan Kshethra Maidan, who are few in number, are unable to prevent such activities in the Kshethra Maidan.

37. In such circumstances, we find no reason to interfere with Ext.P3 order dated 04.10.2023 of the 2nd respondent Devaswom Commissioner, whereby Ext.P2 application made by the petitioner stands rejected. Any permission granted for film

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shooting in the parking area of the Kshethra Maidan or near the roads leading to Sree Vadakkunnathan Temple from 'Manikandanaal' area, parking area, etc., will result in the movement of the devotees through those roads leading to the temple being restricted or regulated by the members of the production unit or even by 'bouncers' engaged by the production units in film shooting sites. Therefore, the Cochin Devaswom Board cannot grant permission for any such activities in Sree Vadakkunnathan Kshethra Maidan.

In the result, the writ petition fails and the same is accordingly dismissed. No order as to costs.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

SOPHY THOMAS, JUDGE

bkn/-

APPENDIX OF WP(C) 33334/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE RECEIPT, EVIDENCING THE PAYMENT DATED 26.05.2023, ISSUED BY THE KERALA FILM CHAMBER OF COMMERCE, ERNAKULAM
- Exhibit P2 TRUE COPY OF THE APPLICATION DATED 21.09.2023, SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS
- Exhibit P3 TRUE COPY OF THE ORDER NO. M5-11412/23 ISSUED BY THE 2ND RESPONDENT DATED 04.10.2023 ON THE BASIS OF THE REPORT OF THE ASSISTANT COMMISSIONER
- Exhibit P4 TRUE COPY OF THE JUDGMENT DATED 11.4.2023 WP(C) NO. 26499 OF 2018

RESPONDENT EXHIBITS

- EXHIBIT R 1 (a) True copy of report No. R2-45/15 dated 27.9.2023 submitted by the 3rd respondent to the 2nd respondent
- EXHIBIT R 1 (c) True copy of order dated 26.7.2023 in DBP No. 35/2023 passed by this Honourable Court.
- EXHIBIT R 1 (b) True copy of order dated 26.7.2023 in DBP No. 32/2023 passed by this Honourable Court
- EXHIBIT R 1 (d) True copy of judgment dated 18.8.2023 in Contempt Case (civil) No. 1042/2023 passed by this Honourable Court.
- EXHIBIT R 1 (e) True copy of order dated 11.6.2018 in DBP No. 29/2015 passed by this Honourable Court