

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NOS.2280-2281 OF 2020

IN

CIVIL APPEAL NOS.2732 AND 2733 OF 2020

AND

MISCELLANEOUS APPLICATION NO.1465 OF 2021

IN

CIVIL APPEAL NO.2732 OF 2020

SRI MARTHANDA VARMA (D)
TH. LRS. & ORS.

APPLICANT(S)/
..APPELLANT(S)

VERSUS

STATE OF KERALA & ORS.

..RESPONDENT(S)

O R D E R

1. In Miscellaneous Application Nos.2280-2281 of 2020, two reports each of the Administrative and Advisory Committees of Sree Padmanabha Swamy Temple dated 10.12.2020 and 31.8.2021 have been filed.

A) The Administrative Committee Report dated 10.12.2020 has stated:-

“I may report that presently, the Temple is facing financial crisis, resulting from the outbreak of COVID-19 pandemic and the subsequent lockdown. In compliance with the guidelines / health advisories of the Central and the State Governments, the entry of devotees to the Temple was prohibited during the period from 24.03.2020 to 25.08.2020. Anyhow, without any hindrance, the routine rituals and poojas were performed during the said period. There had been no flow of income to the Temple during the period of lockdown, but, had

to spend huge amounts for meeting the expenditure for performing routine rituals, salary, wages, pension, family pension etc. and other recurring expenses. The amounts accrued till the declaration of lockdown have almost been drained out. From 26.08.2020, the entry of devotees was resumed with restrictions observing COVID protocol. However, as a result of the situation prevailing, the income of the temple is meagre which is not even enough to meet the expenditure towards salary, wages, pension, family pension and other routine expenses. Considering the financial position of the Temple, in the joint meeting held on 11.10.2020, it was resolved to address the Government to grant time to return the amounts expended by the State Government.

The directions contained in Para 116 (e) can be complied with only when the situation attains normalcy.

Special Audit

In Paragraph 116 (g) of the Judgment it was directed that the Committees:-

“(g) Shall order audit for the last 25 years as suggested by the learned Amicus Curiae. The audit shall be conducted by a firm of reputed Chartered Accountants. The Advisory Committee shall also consider what further steps need to be taken for the preservation of the Temple properties, both movable and immovable.”

After deliberations in the Joint Meeting, as per the resolution dated 27.10.2020, M/s Sridhar & Co. Chartered Accountants, Thiruvananthapuram, has been appointed as the Auditor to conduct special audit in respect of Sree Padmanabha Swamy Temple, Sree Padmanabha Swamy Temple Trust and other allied Trusts, for a period of 25 years, as suggested by the learned Amicus Curiae in his report dated 15.04.2014, from the financial year 1989-90 to 2013-14.”

B) In Administrative Committee Report dated 31.08.2021, it has been stated :

“3. The Special Audit for 25 years as directed by the Hon'ble Supreme Court has commenced in respect of the accounts of the Temple. As per Paragraph 116(g) of the judgement, the Hon'ble Supreme Court has directed to conduct 'audit for 25

years as suggested by the learned Amicus Curiae'. Whereas, the learned Amicus Curiae has suggested (in Paragraph 65 of his report dated 15.4.2014) for the audit of Sree Padmanabha Swamy Temple Trust and allied trusts, along with the audit of the Temple. Thus, the auditor was entrusted to conduct special audit of the accounts of the Sree Padmanabha Swamy Temple Trust and allied Trusts, as well for a period of 25 years. But the Auditor has now informed that though he has served a letter, the said Trust has not provided the accounts of the Trust to the Audit team, so far. In this circumstance, I may report the following facts.

4. The objects of the Trust, as per its Registered Deed No.66/1965 dated 12.08.1965 are as follows:

- (1) Routine and major items of repairs in and to the Temple, including the compound walls.
- (2) Routine and major item of repairs to Vahanam, ornaments and pooja vessels used in the Temple.
- (3) Payment of Vilavasi in respect of articles which used to be paid for by the former Government of Travancore State and the cost in respect of articles whose source of supply is specified as Palace Panivagai, Kandukrishy and Nithyachilavu in the pathivoos.
- (4) Annual repairs to vessels other than pooja vessels used in the Temple.
- (5) Manufacture or purchase and supply of new vessels for use in the Temple.
- (6) Performance of Bhagyasooktha japom and viseshal nei japom in the temple.
- (7) Performance of Chathayam Thiruvveli and cost of other miscellaneous items of expenses.
- (8) Performance of Ganapathy homam in the Temple. Performance of Paradesa paksha japam for 41 days in July/August in each year in the Temple.
- (9) Performance as hitherto fore of Murajapom and Lakshadeepam in the Temple once in six years, the first

of which is to be performed under this instrument in the year 1971.

(10) Such capital items of work as may be necessary from time to time to and in the Temple including the compound walls.

5. Thereafter, few more objects were also added by executing a supplemental indenture of Trust on 10-01-1970.

i. Payment of Dakshina to Tharanalloor Namboothiripad in connection with Bhadradeepom ceremonies in Sree Padmanabha Swamy Temple.

ii. (a) Supplying Devan kadalipazham in Sree Padmanabha Swamy Temple on Ekadasi days.

(b) Supplying milk for Abhishekam daily in Sree Padmanabha Swamy Temple.

iii. Performance of Paradesa Paksha Sahasranama Japom for ten days during utsavam festival;

iv. Expenditure on salary of the Executive Officer and staff.

6. From these objects of the said Trust, it is evident that the Trust was created only for the benefit of the Temple and the Temple is its sole beneficiary. The founder of the Trust Sri.Rama Varma Maharaja of Travancore had transferred to this Trust various items of landed properties which are surrounding the Temple, and the transfer was made solely for the benefit of the Temple. As per the Trust deed, the income from the Trust has to be used only for the said objects viz., the benefit of the Temple. The present trustees of the said Trust are members of the erstwhile Travancore royal family and persons connected to them.

7. In view of the above facts, the learned Amicus Curiae has opined in his report (page 375, Volume I, April 2014) that the utilisation of income of the Trust for the Temple has not been adequately established and thus he recommended for auditing the accounts of the Trust, during the special audit.

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10. I may most humbly report that, despite the earnest efforts of the Temple to improve its income and to cut short its expenditure even by drastically reducing the daily wage employment, it is not able to fill the income and expenditure gap. So far, the crisis is managed by utilizing the funds available in various Fixed Deposits and Savings Bank accounts, but the said amount will completely be depleted, if the Temple pays of the salary of the next two months and the amount due towards gratuity and other debts. It is submitted that the Temple is facing an unprecedented crisis, which can only be tide over with the aid of the Trust and the Government.”

2. Miscellaneous Application No.1465 of 2021 has been filed by Sree Padmanabha Swamy Temple Trust (‘SPSTT’, for short). In the application, it is asserted :

“2. The Applicant Sree Padmanabha Swamy Temple Trust is an independent Trust created in the year 1965 (“SPSTT”) by the then “Ruler of Travancore” Sree Chithira Thirunal Bala Rama Varma for the perpetual continuation of the devotional offerings to the Temple, other specified religious rites and certain functions integral to his family traditions, which earlier were done by the erstwhile royal family. The Temple and SPSTT, it is submitted, are two separate and distinct entities. The primary source of income of SPSTT is the rentals from some buildings, which are in its ownership and the same is spent towards maintenance and upkeep of the said buildings, minor administrative expenses, the offerings for the Temple and in accordance with its objects. Most of the buildings owned by the Applicant are old and has great historical importance.

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5. In 1965, the Applicant herein was created by Sri Chithira Thirunal Bala Rama Varma, the erstwhile Ruler of State of Travancore by an indenture of settlement dated 25.06.1965 for the purpose of carry out specific rituals/ functions which were continued by him in the Temple after the loss of State. The initial corpus was Four percent Madras State Development Loan, 1971 of the face value of Rs.10,000/-, transferred by the Founder. Subsequently, the Ruler kept adding some of his

private immovable properties and buildings to SPSTT. SPSTT was created to, among others, ensure that the special offerings and functions to the Temple, done as a part of the erstwhile royal family's devotion, could be conducted smoothly and without any departure from the age old customs and traditions. The objectives, however, also included the family ritual of *Chathayam Thiruveli*, which is conducted to commemorate the anniversary of the eldest nephew of the Founding Trustee, who passed away at the age of 6 years.

9. It is submitted that SPSTT was not formed with an object of making payments in cash for the day-to-day management of the Temple. As stated above, SPSTT was formed to ensure the continuance of the offerings to the Temple made by the erstwhile royal family. At the cost of repetition, it is respectfully submitted that the object of SPSTT was not to run the Temple but to provide some financial assistance for certain poojas and *vazhipadoos*, in line with its objects. This is evident from the fact that the payment made to the Temple by SPSTT was fixed, taking into account its limited resources, and did not cover the entire expenses incurred towards performance of a Pooja or offering. Further, the income of SPSTT crippled over time on its account of buildings being transferred by the Trustees based on the requirements of the Temple. For instance, more than two buildings were transferred to house the security of the Temple. These transfers left the Temple with very limited revenue earning properties. Needless to state, the expenses of the Temple kept increasing over time.”

2.1 The report of the learned Amicus Curiae is dealt with as under:-

“14. The Ld. Amicus Curiae in its report dated 15.04.2014 made several recommendations including conduct of a special audit of the Temple. In particular, the report recommended that:

“65. It is submitted that a special audit needs to be conducted by Shri Vinod Rai, former Comptroller and Auditor General of India. It is further submitted that a team of auditors appointed by him shall undertake complete audit in respect of the Sree Padmanabhaswamy Temple for the last 25 years. It is also submitted that he be empowered to take into his custody and seal all the documents of the Trust properties forthwith. The said audit must not only cover the Sree Padmanabhaswamy

Temple, but also the Sree Padmanabha Swamy Temple Trust and other allied trusts

15. Pursuant to the said Report, this Hon'ble Court vide its order dated 24.04.2014, *inter alia*, directed as under:

“A special audit of the Temple and its properties shall be conducted as early as may be possible, preferably by Shri Vinod Rai, former Comptroller and Auditor General of India. He will be at liberty to take services/assistance of any other person/persons in completion of this task.”

It is submitted that though recommended by the Ld. Amicus Curiae, this Hon'ble Court, had not directed the audit of the Applicant or other Trusts. It is submitted that the properties of the Applicant do not form a part of the properties of the Temple. This fact was intimated by the Applicant to the Special Audit authorities vide its letter dated 20.09.2014.”

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17. Thereafter, when the petition was listed on 05.05.2015, this Hon'ble Court took note of the submissions of the Ld. Counsel for the Applicant as under:-

“... Mr. Arvind P. Datar, learned counsel appearing for the Trust submits that although the special audit for the period 01.04.2008 to 01.04.2014 has already been conducted and a report submitted to this Court, the trust would have no difficulty in co-operating with Mr. Rai in undertaking scrutiny of the said audit report and in conducting a fresh audit, if in his opinion doing so is necessary. There could in that case be an audit for the entire period commencing from 01.04.2008 to 01.04.2014. Mr. Datar further submits that Mr. Rai may be requested to raise whatever queries are considered relevant for completion of the audit so that the trust answers the same suitably...

Further, this Hon'ble Court directed the copy of the audit report filed on behalf of SPSTT (of M/s Manohar Chowdhary) to Mr. Vinod Rai for his perusal and evaluation and, further, directed that in case Mr. Rai upon consideration of the audit already conducted, is one of the opinion that a fresh/special audit needs to be conducted for the period 01.04.2008 onwards, he shall

be free to undertake that exercise. SPSTT was also directed to make available all such information and record as may be necessary for completion of that exercise. Further, it was observed that Mr. Rai will also do well to raise any query that may be relevant for completion of the audit to enable the trust to answer them. With the above directions, it is submitted, the recommendation made by the Ld. Amicus Curiae with respect to the Applicant was considered and acted upon.”

18. That this Hon’ble Court, on 09.10.2015, requested Mr. Vinod Rai to complete the audit of SPSTT for the period 01.04.2009 to 01.04.2014 and to submit report. It is submitted that pursuant to the above order, the Special Audit Authority conducted detailed audit of the Applicant from June, 2015 and submitted its report before this Hon’ble Court on 28.03.2016. It is respectfully submitted that the said audit report does not record any finding that:

- (a) The properties of SPSTT are part of the properties of the Temple;
- (b) Funds have been transferred from the Temple to SPSTT;
- (c) The Trust is entrusted with the administration of the Temple;
- (d) There exists any agreement between the Trust and the Temple on any matters relating to the rituals and rites or any other functions in the Temple;
- (e) The working of SPSTT is accountable to the Temple administration; or that
- (f) There exists a legally auditable relationship between SPSTT and the Temple.”

2.2 Certain interim orders passed by this Court in Civil Appeal No.2732 of 2020 and the Report of the learned Amicus Curiae dated 15.04.2014 are referred to as under:

“24. Additionally, the Applicant respectfully submits that the decision of the Temple Committees to conduct audit of the Applicant is misconceived in view of the following, among others, reasons:

- i. The Applicant is a distinct and separate entity from the Temple. There are no findings to the contrary by this Hon'ble Court or the High Court, as there was no adjudication on this aspect;
- ii. The administration of the Temple contemplated by Chapter III of the TC Act has been handed over to the Administrative Committee and Advisory Committee pursuant to the judgment. The Applicant respectfully submits that Committees are not empowered, under the TC Act, to direct audit of the Applicant – a third party which is independent and distinct from the Temple. Such an action, if submitted, would be illegal, ultra vires the TC Act and beyond the scope of the directions of this Hon'ble Court.
- iii. The reliance placed on Paragraph 116 of the judgment, for the purpose of directing the audit of the Applicant, is respectfully submitted, is misdirected as the directions contained therein pertain to the functions to be performed by the Committees of the Temple, with respect to the administration of the Temple, in the way forward. The said directions cannot be interpreted to exercise control over the Trusts created by the erstwhile Ruler, for the purpose of performing different objects;
- iv. A reading of clause (g) of Paragraph 116 of the judgment makes it evident that the audit primarily deals with the Temple and its properties, which is the subject matter of the underlying litigation. In this regard, it may be seen that none of the audit reports suggests that any property or funds of the Temple has been transferred to the Applicant or that it has played any role in the day to day administration of the Temple;
- v. The judgment, as submitted, did not specifically deal with SPSTT. It is reiterated that this Hon'ble Court did not have an opportunity to consider the relation of SPSTT with the Temple or its functions, which necessitate a direction to be passed to conduct audit of accounts of SPSTT;
- vi. The Applicant was subjected to a special audit pursuant to the orders of this Hon'ble Court and it had also filed detailed objections to the same, by way of an Affidavit. Under the given circumstances, subjecting the Applicant to another audit especially when it has always remained as a stand-alone trust is highly unreasonable and

unjustified; and

- vii. The suggestion for conduct of an audit of SPSTT was vehemently opposed and the said aspect, it is respectfully submitted, was dealt with by this Hon'ble Court in its previous orders."

2.3 In the premises, the application prays:

“(a) Allow the present Application and pass appropriate directions to exclude Sree Padmanabha Swamy Temple Trust from the audit of its accounts as per the directions given in Paragraph 116(g) of the judgment dated 13.07.2020 in Civil Appeal No.2732 of 2020, as the said Trust remains separate and distinct from Sree Padmanabhaswamy Temple;

(b) Pass an appropriate order holding that the Applicant Sree Padmanabha Swamy Temple Trust is an independent entity distinct from Sree Padmanabhaswamy Temple and does not come under the administrative control of the Administrative Committee and/ or Advisory Committee under the Travancore Cochin Hindu Religious Endowments Act, 1950.”

3. In this backdrop, the following observations made by this Court in its judgment dated 13.07.2020 disposing of Civil Appeal No.2732 of 2020 and allied matters must now be noted:-

“34. The Order dated 05.05.2015 passed by this Court noted the submission of the learned Amicus Curiae that an audit be conducted with regard to the account of Padmanabhaswamy Temple Trust and its properties. It also noted the submission of appellants that a special audit for the period had already been conducted, but he would not have any objection in cooperating with Mr. Rai. The Order, therefore, directed:-

“In the circumstances, therefore, we direct that a copy of the audit report filed on behalf of the Padmanabhan Swamy Trust in this court for the period 01.04.2008 shall be forwarded to Mr. Rai for his perusal and evaluation. We further direct that in case Mr. Rai upon consideration of the audit already conducted is of the opinion that a

fresh/special audit needs to be conducted for the period 01.04.2008 onwards he shall be free to undertake that exercise in which case the Trust shall make available all such information and record as may be necessary for completion of that exercise. Mr. Rai will also do well to raise any query that may be relevant for completion of the audit to enable the trust to answer them. We extend the time for completion of the audit till 31.12.2015.

We permit the State Government to approach the Expert Committee for scaling down the staff deployed for inventorisation and archiving of antiques and artifacts by KELTRON and Expert Committee who may upon consideration of any such request issue appropriate orders in that regard. Mr. Rai has in terms of communication dated 1.04.2015 raised a demand for a sum of Rs. 45,00,000/- representing the total fee including expenses etc. for the period up to December, 2015. There is no objection by any one appearing for the parties to the release of the said amount in favour of Mr. Rai. We accordingly direct the Administrative Committee to release the amount billed by Mr. Rai.

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36. In March 2016, Report about Special Audit of Sree Padmanabhaswamy Temple, its properties and Sree Padmanabha Swamy Temple Trust was filed by Mr. Vinod Rai, running into two volumes along with “Major Audit Observations and Recommendations”.

The Administrative Committee appointed by this Court resolved on 13.06.2017 as under:-

“the Committee is in the darkness on the financial position of the temple. Quarterly budget proposals should be prepared and communicated to the Committee. Similarly, monthly accounts statement should be placed before the Committee before 10th of every succeeding month. The matter will be communicated to the Executive Officer.”

The resolution was communicated to the Executive Officer.”

3.1 In keeping with the submissions made by the learned Amicus Curiae,

direction No.116(g) issued by this Court was as under:-

“.....

(g) Shall order audit for the last 25 years as suggested by the learned *Amicus Curiae*. The audit shall be conducted by a firm of reputed Chartered Accountants. The Advisory Committee shall also consider what further steps need to be taken for the preservation of the Temple properties, both movable and immovable.”

4. Mr. R. Basant, learned Senior Advocate appearing for the Administrative and Advisory Committees of Sree Padmanabhaswamy Temple has reiterated the submissions made in the aforesaid reports. On the other hand, Mr. Arvind P. Datar, learned Senior Advocate appearing for SPSTT has prayed that this Court may pass appropriate orders declaring SPSTT to be an independent entity distinct from Sree Padmanabhaswamy Temple.

5. In response to the Report of the learned *Amicus Curiae* dated 15.04.2014, in its order dated 24.04.2014 this Court had initially directed that special audit of the Temple and its properties be conducted by Shri Vinod Rai. Later, the order dated 05.05.2015 recorded the submissions of Mr. Arvind P. Datar, learned Senior Advocate appearing for SPSTT that the Trust would not have any difficulty in cooperating with Mr. Rai in undertaking scrutiny of the Audit Reports and in conducting a fresh audit.

6. If direction No.116(g) as stated above, is considered in the light of developments leading to the passing of the Judgment dated 13.07.2020, it is quite

clear that the audit contemplated by said direction was not intended to be confined to the Temple but was also with respect to SPSTT. This direction has to be seen in the light of the report dated 15.04.2014 of the learned Amicus Curiae and the submissions of Mr. Arvind P. Datar, learned Senior Advocate, as recorded in the order dated 05.05.2015.

Thus, the first prayer made in Miscellaneous Application No.1465 of 2021 deserves to be rejected.

7. The second prayer made in said Miscellaneous Application will require assessment of facts which analysis may appropriately be done by a Court or an authority competent to go into that question after the special audit as directed in direction No.116(g) and as explained hereinabove, is conducted. We, therefore, refrain from going into issues pertaining to the second prayer.

8. Miscellaneous Application No.1465 of 2021 is, thus, disposed of in aforesaid terms.

9. We now come to the reports filed by the Administrative and Advisory Committees. Our answer with respect to the first prayer in Miscellaneous Application No.1465 of 2021 will be sufficient to take care of the issue of special audit dealt with in the resolution dated 27.10.2020. The urgency spelt out in the report dated 31.08.2021, however, calls for immediate action. We, therefore, direct that the special audit, as referred to hereinabove, with respect to Sree

Padmanabhaswamy Temple and SPSTT be completed as early as possible and preferably within three months from the date of this order.

10. As the order dated 05.05.2015 had recorded the statement of Mr. Arvind P. Datar, learned Senior Advocate for SPSTT, we are certain that SPSTT will render complete cooperation in the conduct of special audit.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

.....J.
[BELA M. TRIVEDI]

New Delhi;
September 22, 2021.