

Thambu Chetti Subraya Chetti Vs. A.T. Arundel

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Court : Chennai

Decided On : Feb-13-1883

Reported in : (1883)ILR6Mad287

Judge : Charles A. Turner, Kt., C.J. and ;Kindersely, J.

Appellant : Thambu Chetti Subraya Chetti

Respondent : A.T. Arundel

Judgement :

1. We entertain considerable doubt whether the Magistrates have come to a correct finding as to the nature of the building which is the subject of this reference.

2. The original signification of the term Matha or Math is a building or set of buildings in which Hindu religious mendicants reside under a superior, who is called a Mahant. This spiritual superior is regarded with veneration by the members of the sect, and is installed with some ceremony, and not unfrequently receives an honorific title. Although a place of worship is not a necessary part of a Math, such a place is, as may be expected, often found in such institutions,, and, though intended primarily for the use of the inmates, the public may be admitted to it, and so this part of the building may become a place of religious worship. A Hindu Math somewhat resembles a Catholic Monastery. From the circumstance that a portion of it is not unfrequently devoted to worship, and that the public may

be admitted to it, the term Math has acquired a secondary signification as a small temple.

3. Taking the whole of the facts mentioned in the judgment, we see reason to think that the institution was a Math in the original rather than the secondary-sense of that term.

4. It is said that the religious head of the institution is installed, and takes on his installation the title of Dharma Sivachari, that he worships an idol on behalf of the community, and carries it about with him when he ceases to reside in the Math. A witness (the appellant), who claims that the institution was founded by his ancestor, deposed that the priest worshipped the idol and the caste worshipped the priest. This latter statement was contradicted by another witness, and may mean no more than that the priest is held in high veneration by the caste people.

5. It is admitted that the priest went away in 1876 and has not since returned, and, as he removed the idol with him, public worship has been discontinued. It is said the priest has left some of his property in the building, and that he intends to return, though the period at which he may return is indefinite.

6. It is apparent that the building is capable of being occupied as a place of residence, that persons have resided in it, and that it has also been used for holding meetings of the caste and for feeding Brahmans. The Magistrates do not appear to have visited the building, but one of the witnesses who had done so could not discover any symbols of religious worship, except some wooden railings in one part of the house, which are not commonly found in ordinary-dwelling houses. The building was assessed by the Municipality up to 1871,, but in 1872 the taxes were remitted.

7. Assuming that on its foundation it was, or subsequently became, in whole or in part, a place of public worship, a vote of the caste would not be requisite to deprive it of that character for the purpose of the present inquiry.

8. If in fact the whole building or the part of it which had been used as a place of public worship had ceased to be so used, it would in whole or such part be liable

to assessment.

9. It would be immaterial, if it were occupied as a residence, that the occupation was permissive, or that it was not continuous, nor for a definite period.

10. Before we express a final opinion on the question submitted, we consider it desirable that the Magistrate should make further inquiry as to the purposes for which the building has been used, and as to whether it has been in whole or in part only used for public worship, and is now so used, and we suggest that an inspection of the premises might assist the solution of some of these questions.

11. Upon the return of the Magistrates' finding, the Court delivered the following

12. In the original reference, the Magistrates stated that the Mattam was a place of public worship, and that it had been used intermittently as a residence by persons who paid no rent for their occupation of it, and they referred to this Court the question whether such use had deprived the Mattam of its character as a place of worship.

13. It appeared to us doubtful on the facts stated in the judgment of the Magistrates whether the Mattam was a place of public worship, and we directed further inquiry on this point. 'The Magistrates have adhered to their former opinion, but from the facts stated it appears that there is accommodation for residence in the building, and that the High Priest and other persons occasionally reside there, and that it is not used altogether and at all times as a place of worship.

14. We reply to the reference that, when the Mattam is in part or in whole used for purposes other than those of public worship, it is liable to taxation, and that the feeding of Brahmans, although it may be meritorious, is not what the Act contemplated as public worship. Each party to bear his own costs.