Kakinada Annadana Samajam Etc vs Commissioner Of Hindu Religious & ... on 2 December, 1970

Equivalent citations: 1971 AIR 891, 1971 SCR (2) 878, AIR 1971 SUPREME COURT 891

Author: A.N. Grover

Bench: A.N. Grover, J.C. Shah, G.K. Mitter, K.S. Hegde, A.N. Ray

PETITIONER:
KAKINADA ANNADANA SAMAJAM ETC.

Vs.

RESPONDENT:
COMMISSIONER OF HINDU RELIGIOUS & CHARITABLEENDOWMENTS, HYDE

DATE OF JUDGMENT:
02/12/1970

BENCH:
GROVER, A.N.
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GROVER, A.N.
SHAH, J.C.
MITTER, G.K.
HEGDE, K.S.
RAY, A.N.

CITATION:
1971 AIR 891 1971 SCR (2) 878
1970 SCC (3) 359
CITATOR INFO :
R 1973 SC2237 (2)
RF 1976 SC 475 (4)

ACT:
Hereditary trustee-Office of-If 'property' within the meaning of Art. 19 of the Constitution.
Andhra Pradesh Charitable and Hindu Religious institutions and Endowments Act (17 of 1966), ss. 15, 17, 27, 36 and 97-If violative of Art. 19 of the Constitution.

HEADNOTE:
The appellants were hereditary trustees of religious and

charitable institutions and endowments. They claimed the right to manage and administer the secular estate of the institution or endowment of which they were hereditary trustees but never claimed proprietary or beneficial interest either in the corpus or in the usufruct of the estate. They challenged the validity of s. 15 read with ss. 17, 27, 36 and. 97 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966, on the ground that they are violative of Art. 19 of the Constitution. The High Court held that the office of hereditary trustee was property but that the restrictions imposed by the various provisions of the Act are reasonable and are in the interests of the public.

In appeal to this Court,

HELD : (1) The position of a hereditary trustee who claims a bare right to manage and administer the secular estate, is the same as that of a Dharmakarta or a mere manager or custodian of an institution except that the hereditary trustee succeeds to the office as of right and in accordance with the rules governing succession. He cannot be equated to a shebait, methadhipathi or a mahant in whose case, the ingredients of both office and property, of duties and personal interest and rights are blended together. Hence the office of such a hereditary trustee is not property within the meaning of Art. 19. The observation in Sambudamurthi Mudaliar v. State of Madras, [1970] 2 S.C.R. 424 that the office of a hereditary trustee is in the nature of property is obiter. The pronouncement of the Privy Council in Gnanasambanda Pandara Sannadhi v. Velu Patrdaram, 27 I.A. 69, Ganesh Chander Dhur v. Lal Behary Dhur, (1936) 71 M.L.J. 740 (P.C.) and Bhaba Tarini Debi v. Asha Lata Debi, I.L.R. [1943] 2 Cal. 137 (P.C.) that the rule in the Tagore case, (1872) 9 B.L.R. 377 applies to succession of hereditary trustees does not afford any assistance in deciding whether an office holder. who has a bare right of management, can claim to have a right or interest in the nature of property within the meaning of Art. 19(1)(f).

[886 B-D; 887 F-H]

Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan [1964] 1 S.C.R. 561 and Raja Birakishore V. Orissa, [1964] 7 S.C.R. 32, followed.

(2)Even if the right constituted property the restrictions which have been imposed by the provisions of the Act on the hereditary trustees are reasonable and are in the interest of the general public. [888B]

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The statute has been enacted because, a high powered body, namely the Hindu Religious Endowment Commission, had reported that there was mismanagement invariably of the endowment property by the trustees. The power to appoint non-hereditary trustees or executive officers under ss. 15 and 27, even where there is already a hereditary trustee or trustees, notwithstanding that there is no mismanagement, is

only for the purpose of ensuring better and efficient administration and management of the institution or endowment. Under s. 17, the hereditary trustee is not removed but is to be the chairman of the Board of Trustees, and if there are more than one hereditary trustee, one of them is to be chairman by rotation. Instead of managing the institution alone he has to administer it in collaboration with other trustees who are non-hereditary; but it is only the secular aspect-and not matters of religion-that is touched. [883 D; 888 B-G]
[Questions whether some of the institutions were private or were religious denominations within Art. 26, left open for determination by the appropriate forum.] [889 D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 1249 to 1251, 1271, 1358, 1350, 1381, 1382, 1521, 1522, 1544, 1612, 1668, 1669, 1879, 1880, 1912, 1973 and 1974 of 1970. Appeals from the judgment and order dated December 31, 1969 of the Andhra Pradesh High Court in Writ Petitions Nos. 2871 of 1968 etc. etc. M.Natesan and A. Subba Rao, for the appellants (in C.As. Nos. 1249 to 1251, 1360, 1382, 1521 and 1522 of 1970). A.Subba Rao, for the appellants (in C.As. Nos. 1381, 1544, 1879, 1880, 1912, 1973 and 1974 of 1970). Shyamala Pappu, Balaparameshwari Rao and Vineet Kumar, for the appellant (in C.A. No. 1271 of 1970).

M.Natesan and A. V. V. Nair, for the appellant (in C.A. No. 1358 of 1970).

K. Jayaram, for the appellant (in C.A. No. 1663 of 1970). M. Natesan and K. Jayaram, for the appellant (in C.A. No. 1669 of 1970).

A. V. Rangam, for the appellant (in C.A. No. 1612 of 1970). A. K. Sen., Venugopala Reddy and Parameswara Rao, for the respondents Nos. 1 to, 4 (in C.A. No. 1522 of 1970) respondents Nos. 1 and 2 (in C.A. No. 1669 of 1970) and the respondents in other appeals.

P. Basi Reddy and G. Narayana Rao, for respondent No. 6 (in C.A. No. 1669 of 1970).

K. Rajendra Chowdhary, for the intervener.

The Judgment of the Court was delivered by Grover, J. These appeals by certificate are from a common judgment of the Andhra Pradesh High Court and involve the question of the constitutionality of certain provisions of the Andhra Pradesh Charitable and Hindu Religions Institutions and Endowments Act, 1966 (Act 17 of 1966), hereinafter called the Act'.

A number of petitions under Art. 226 of the Constitution were filed before the High Court on behalf of the institutions or endowments some of which were public and some private in character. A few institutions were societies registered under the Societies Registration Act while others claimed to be

religious endowments or public bodies like municipalities which were managing the institutions. We might, for the sake of convenience, state the facts in Civil Appeal No. 1360 of 1970. In the affidavit of Nalam Ramalingaiah it is stated that he is the hereditary trustee of the Nalam Choultry and Vyasya Seva Sadanam which are private trusts. They were founded by his ancestor in the year 1879 and 1920 respectively. He had been the managing trustee from 1943. The Choultry was endowed with immoveable property comprising an area of 453 acres of land which by careful management was now fetching an income of Rs. 40,000/-. Besides feeding the poor and affording free lodging facilities to pilgrims scholarships were being given to deserving students. The Sevasadanam was endowed with huge properties which were fetching Rs. 18,000/- as income. The objects of this charity were, (1) to impart education and training in handicraft to women; (2) to feed poor girls, (3) provide free shelter to women students and (4) run women's Sanskrit School. At no time there had been any complaint about mismanagement of the aforesaid trust. A number of other countries were also mentioned which were being managed by the hereditary trustee or trustees. Some of them were providing food and shelter to students and travellers of all castes and creeds including Muslims and Christians. Among the objects of some of the Choultries was included the performing of pujas in temples. These Choultries were founded in the last century and ever since their inception the members of the family of the founder or founders had been managing them. At no time there had been any complaint of any kind against the management. On the contrary the hereditary trustees had improved the endowment properties and added several charitable activities to the existing objects. The validity of the main provisions of the Act was challenged on the ground that the office of the hereditary trusteeship was property within the meaning of Art. 19(1)(f) and that these provisions were ultra vires and void as violative of that Article as also of Art. 14, 25, 26 and 31 of the Constitution. On behalf of the respondents the position taken up was that all the, institutions in question were public and none of them was private in character that they were religious and charitable institutions and endowments within the meaning of the Act. It was denied that the office of hereditary trustee was property within the meaning of. Art. 19 (1) (f) or that there was infringement of any of the fundamental rights mentioned in the various petitions. It was maintained that the hereditary trustees etc. had only a bare right to manage the affairs of the institution and the secular matters which could not be regarded as property within the meaning of the aforesaid Article.

The High Court formulated five questions for decision but it is unnecessary to mention or go into all of them as the matters in controversy before us relate to two of these questions. These are, (1) whether on the facts and in the circumstances the office of hereditary trusteeship is or is not property within the meaning of Art. 19(1) (f) and Art. 31 and (2) whether all or any of the material provisions of the Act are hit by Arts. 14, 19 (1) (f), 25, 26 or 31. The High Court was of the view that the office of hereditary trustee was property within the meaning of Art. 19 (1) (f). It was, however, held that the impugned provisions only imposed reasonable restrictions on the exercise of the right of the trustees, in the interest of general public and good administration of the public institutions. It was further found that none of the impugned provisions were violative of Arts. 14, 19(1)(f), 25, 26 and 31 of the Constitution. According to the High Court the material provisions of the Act were only intended to regulate and ensure proper, efficient and better administration and management of the institution. All the writ petitions were dismissed. The learned counsel for the appellants has invited our attention to the various sections of the Act but has confined his challenge mainly to the provisions contained in s. 15 read with ss. 17, 27, 97 and 36 of the Act. We may advert to the main

provisions and the general scheme of the Act. According to the preamble the Act has been enacted to consolidate and amend the law relating to the administration and governance of charitable and Hindu religious charitable institutions and endowments in the State of Andhra, Pradesh. It applies to all public charitable institutions and endowments other than wakes governed by the provisions of the Wake Act 1954. According to the explanation to s. 1(3)(a) the expression "charitable institutions and endow- ments" shall include every charitable institution or endowment the administration of which is, for the time being vested in any department of Government or civil court, Zila Parishad or other L6949up.CI/71 local authority or any company, society, Organisation, institution or other person. The Act also applies to all Hindu public religious institutions and endowments.

> "Charitable endowment" has been defined by s. 2(3) to mean all property given or endowed for any charitable purpose. "Charitable institution" has been defined by S. 2 (4) to mean any establishment, undertaking,, organisation or association formed for a charitable purpose and includes a specific endowment. Various sub-clauses of s. 2 define "

charitable purpose", "Commissioner", "Executive Officer", "Hereditary Office-holder", "Hereditary Trustee", "Religious charity". "religious endowment", "specific endowment" etc. The definition of "hereditary trustee" contained in sub- clause 15 and a "trustee" in sub-clause 28 may be reproduced :

> " Hereditary trustee' means the trustee of a charitable or religious institution or endowment the succession of whose office devolves according to the rule of succession laid down by the founder or according to usage or custom applicable to the institution or endowment or according to the law of succession for the time being in force, as the case may be".
>
> "'Trustee' means any person whether known as mathadhipati, mohant, dharmakarta, mutwalli, muntazim, or by any other name, in whom either alone or in association with any other person, the administration and management of a charitable or religious institution or endowment are vested; and includes a Board of Trustees."

Chapter II deals with the appointment of Commissioner, Joint Commissioners etc. and their powers and functions. Section 6 provides for preparation and publication of list of charitable and religious institutions and endowments on the basis of income. By Section 7 the Commissioner is to be a corporation sole having a perpetual succession and common seal. Section 8 provides that subject to other provisions of the Act the administration of all charitable and Hindu religious institutions and endowments shall be under the general superintendence and control of the Commissioner and such superintendence and control shall include the power to pass any order which might be deemed necessary to ensure that such institutions and endowments are properly admi- nistered and their income is duly appropriated for the purpose for which they are founded or exist. Section 12 empowers the Commissioner to enter and inspect institutions and endowments. Chapter III relates to administration and management of charitable and Hindu religious institutions and endowments. Section 14 declares that all properties belonging to or given or endowed to a charitable or religious

institution or endowment shall vest in the charitable or religious institution or endowment as the case may be. It is unnecessary to set out s. 15 in extensor It provides for the constitution of a Board of Trustees, whose number has been specified, in respect of charitable or religious institution or endowments of the various categories mentioned in the section. The power to constitute The Board has been conferred on the Government, Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be. It is discretionary where there is a hereditary trustee but a Board must be constituted in every other case. In making the appointment of trustees it has been enjoined that due regard should be given to the religious denomination or other section thereof to which the institution belongs or the endowment is made and wishes of the founder. AR properties belonging to the institution or endowment shall stand transferred to such Board of trustees or trustee, as the case may be Section 16 gives the disqualifications for trusteeship. Section 17 deals with the appointment of a Chairman of the Board of trustees. It has been provided, inter alia, that where there is only one hereditary trustee he shall be the Chairman. Where there are more than one the Government etc. may nominate by rotation one of them to be the Chairman. Section 22 gives the duties of the trustee. He is bound to produce books, accounts, returns..... relating to die administration of the institution or endowment for inspection by the Commissioner and other functionaries whenever required to do so. Section 27 provides for the appointment of the Executive Officer by the Government and the Commissioner respectively. It also lays down the duties of the Executive Officer. It is declared that the Executive Officer shall be the employee of the Government who shall determine the conditions of his service. Section 31 lays down how the vacancies amongst the office-holders or servants of charitable or religious institution or endowment have to be filled up by the trustees. Section 32 deals with the punishment of office-holders and servants. The general control vests in the trustee who can take disciplinary action in accordance with the prescribed procedure for the various matters mentioned in sub-s. (1). In case of an institution or endowment whose annual income exceeds two lakhs the power to impose any penalty has been conferred on the Executive Officer. Section 35 gives power to the Executive Officer not to implement orders or resolution of the trustee or Board of Trustees in certain cases. Section 36 gives overriding effect to the provisions of Chapter III over the existing corresponding provisions. Chapter IV deals with registration of charitable and religious institutions and endowments; Chapter V with muths and endowments attached thereto; Chapter VII with budget, accounts, and audit; Chapter VIII with finance; Chapter X with alienation of immoveable property and resumption of Inam lands; Chapter XII with inquiries and Chapter XIII with appeals, revisions and review etc. Section 95 empowers the Government to dissolve the Board of Trustees in certain cases and S. 97 enables it to ;appoint a specific authority where the Board (A trustees has ceased to function or has been dissolved. Section 102 is in the following terms :

> "Nothing in this Act shall-
>
> (a)save as otherwise expressly provided in this Act or the rules made thereunder, affect any honour, emoluments or perquisite to which any person is entitled by custom or otherwise in any charitable or religious institution or endowment, or its established usage in regard to any other matter, or

(b)authorise any interference with the religious or spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service."

Under s. 110, ss. 92 and 93 of the Code of Civil Procedure 1908 can no longer be applicable to charitable institutions and Hindu religious institutions and endowments to which the Act applies.

The main stress, on behalf of the appellants, has been laid on the effect of the provisions of the Act and in particular s. 15 read with the other sections mentioned before on the office of the hereditary trustee. It has been contended that a hereditary trustee has to manage the institution or the endowment in accordance with the directions of the founder. It was his duty and responsibility,to appoint the staff and take disciplinary action whenever necessary and to regulate the expenditure and carry out generally the objects of the charitable institution or endowment. By the appointment of a Board of trustees the hereditary trustee can no longer manage and exercise control over the institution alone or in association with other hereditary trustees. He has to share the management and responsibility with other members of the Board who may be drawn from the section or faction which may be politically motivated and may be hostile to him. The appointment of the Board, it is pointed out, rests with the Government, the Commissioner or the Deputy Commissioner, as the case may be and although hereditary trustee or trustees have to be included in the Board, the entire administrative power is vested in the Executive Officer. This Officer is a permanent Government servant and the Board or the trustee cannot either remove him or take any disciplinary action against him which means that the Board or the trustee cannot exercise any effective control over him. The Executive Officer can in certain eventualities even refuse to implement orders of the Board. The hereditary trustee has thus been left only with what may be called the "husk of the title" and his right to hold property has been seriously interfered with.

The first and the main question is whether the office of a hereditary trustee is "property" within the, meaning of Art. 19 (1) (f). For the reasons, which will be presently stated, we are unable to agree with the High Court that the office of hereditary trustee is "property" within that Article.

The view that the office of hereditary trustee was itself "property" within Art. 19 (1) (f) even if no emoluments were attached to it found favour with many High Courts. We need refer only to the leading judgment of a Division Bench of the Madras High Court in Kidangazhi Manakkal Narayanan Nambudripad & Others v. The State of Madras & Anr. (1) The line of reasoning which prevailed, was that the office of hereditary trusteeship descended like partible property on the heirs of a trustee and even females were entitled to the office if they happened to succeed as heirs. The rule in the Tagore(2) case has been applied to the devolution of the office of hereditary trustee as if it was property; [vide Ganesh Chunder Dhur v. Lal Behary Dhur(3) and Bhaba Tarini Debi v. Asha Lata Debi (4)-both decisions of the Privy Council]. Support was also sought from the observations, in Angurbala Mullick v. Debabrata Mullick(5) relating to the office of a shebait which was held to be property. Another reason given was that "property" in Art. 19(1) (f) was of wide import and was of sufficient amplitude to take in hereditary trusteeship.

The High Court in the judgment under appeal delved into the history and the background in which hereditary office had been equated to property in Hindu Law. Starting from Krishnabhat Hiragagne v. Kapabhat Mahalabhat et al(6) most of the later decisions of the Privy Council and the, High Courts were discussed. We need refer only to Gnanasembanda Pandara Sannadhi v. Velu Pandaram (7) in which their Lordships pointed out that the rule in Tagore case(2) that all estates of inheritance created by gift or will so, far as they were inconsistent with the general law of inheritance were void was applicable "to an hereditary office and endowment as well as the other immovable property".

In cases in which the office of hereditary trusteeship has been held to be property within the meaning of Art. 19(1)

(f) the true character and incidents of that office do not appear to have been (1) I.L.R. [1955] Mad. 356.(2) [1872] 93.L.R. 377. (3) [1936] 71 M.L.J. 740. (4) I.L.R.[1943] 2Cal.137. (5) [1951] S.C.R. 1125. (6) (1869) 6 Bom. H.C.R. 137. (7) 27 I.A. 69.

fully kept in view. It was common ground before the High Court and has not been disputed before us that the hereditary trustees of the institutions with which we are concerned have only claimed a bare right to manage and administer the secular estate of the institution or the endowment and in no case any hereditary trustee has claimed proprietary or beneficiary interest either in the corpus or in the usufruct of the estate. The position of a hereditary trustee does not appear to be in any way different from that of a Dharamkartha or a mere manager or custodian of an institution or endowment. There is one exception only. The hereditary trustee succeeds to the office as of right and in accordance with the rules governing succession. But in all other respects his duties and obligations are the same as that of Dharamkartha. No one has ever suggested that a hereditary trustee can be equated to a Shebait of a religious institution or a Mathadhipati or the Mahant. The ingredients of both office and property, of duties and personal interest are blended together in the rights of a Mahant as also a Shebait and a Mathadhipati. The position of Dharamakartha, on the other hand, is not that of a Shebait of a religious institution or of the head of a math. These functionaries have a much higher right with larger power of disposal and administration and they have a personal interest of beneficial character; [See Srinivasa Chariar v. Evalappa Mudaliar(1)]. There would thus be no justification for holding- that since the office of the aforesaid functionaries has been consistently held by this Court to be property the office of a hereditary trustee is also property within Art. 19 (1) (f).

In Tilkayat Shri Govindlalji Maharai v. The State of Rajas- than & Others (2) the distinction between the office of mahant and that of the Tilkayat of Nathdwara temple was clearly enunciated. It was pointed out that the mahant or Shebiat was entitled to be maintained out of the property of the math or the temple. The Tilkayat never used any income from the property of the temple for his personal needs or private purposes nor did he claim any proprietary interest therein. What he claimed was merely the right to manage the property, to create leases in respect of it in a reasonable manner and the right to alienate it for the purposes of the temple. These rights were exercised by him under the absolute-and direct supervision of the Durbar of Udaipur. It was laid down by this Court that the aforesaid rights could not be equated with the totality of the powers generally possessed by the mahant or the Shebait. In our judgment the hereditary trustee cannot in any way claim any higher

rights of managing the properties of the institution or the endowment than the Tilkayat.

(1) 49 I.A. 237 251.

(2) [1964] 1 S.C.R. 561.

His rights fall far short of those of the Mahant and the Shebait. It may be that in the case of the Tilkayat his rights were governed by the fireman issued by the Durbar which had the force of law but the ratio of the decision essentially is that a bare right to manage an institution or an endowment cannot be treated as property within Art. 19(1) and Art. 31. In Raja Birakishore v. The State of Orissa(1) the constitutionality of Shri Jagannath Temple Act 1954 (Act 2 of 1955) was challenged. The attack was based mainly on the ground that the Act took away the perquisites of Raja of Puri which had been found to belong to him in the record of rights. The Raja had two fold connection with the temple. In the first place he was the Adyasevak i.e. the chief servant of the temple and in that capacity he had certain rights and privileges. He was also the sole superintendent of the temple and was incharge of the management of the secular affairs of the temple. After reviewing the provisions of Act 2 of 1955 this Court observed that it provided for the management of the secular affairs of the temple and did not interfere with the religious affairs thereof. The rights which the Raja possessed had been exercised by the predecessor also but because he had been deprived only of the right of management which carried no beneficial interest in the property the attack based on the provisions of Arts. 19 (1) (f) and 31 (2) could not be sustained. One of the features common to that case and the present one is that the management had been transferred from the sole control of the Raja to the control of a committee. This was regarded as a purely secular function which did not carry with it any right to property and could not be hit by Art. 19 (1) (f). It is true that in the latest decision of this Court in Sambudamurthi Mudaliar v. State of Madras & Anr.(2) it was taken to be well established that the office of a hereditary trustee is in the nature of "property" and this is so whether the trustee has beneficial interest of some sort or not. This observation, we apprehend, was not necessary for a decision of that case. There the question was whether the appellant was a hereditary trustee within the meaning of s. 6(9) of the Madras Act 1951 and there was no discussion or determination of the point that the office of a hereditary trustee was property within Art. 19 (1) (f) or any other Article. Nor do we consider that the various pronouncements of the Privy Council that the rule in the Tagore(3) case applies to succession of hereditary trustees can afford much assistance in deciding whether an office holder who has a bare right of management can claim to have any right or interest-in the nature of property within the meaning of Art. 19(1)(f). Following the principles laid down in the Tilkavat (4) And Raja Bira-

(1) [1964] 7 S.C.R. 32.

(2) [1970] 2 S.C.R. 424.

(3) [1872] 9 B.L.R. 377.

(4) [1964] 1 S.C.R. 561.

kishore cases we are unable. to endorse the view that the office' of hereditary trusteeship is property within Art. 19(1) (f) or, any other Article of the Constitution. We may add that even if it was held that the rights in question constituted "property" their regulation by the relevant provisions of the Act would undoubtedly be protected by Art. 19 (5). We have no hesitation in concurring with the decision of the High Court that restrictions which have been imposed by the provisions of the Act on the hereditary trustees are reasonable and are in the interest of the general public. The power to appoint non-hereditary trustees or Executive Officers where there is already a hereditary trustee or trustees notwithstanding there is no mismanagement, is only for the purpose of ensuring better and efficient administration and management of the institution or endowment. Non-hereditary trustees have been associated with the hereditary trustee who has not been removed from his office. As a matter of fact complete safeguards have been provided for ensuring that he retains his office. He or one of the hereditary trustees has to be the Chairman of the Board. He has various powers under the provisions of the Act already noticed. All that can be said is that instead of managing the institution alone he has to administer it in collaboration with other trustees who are non-hereditary. In matters of religion such as' puja, dittam, rituals etc. there can be no interference. It has been provided in categorical terms that the same, must be continued to be performed according to Agamasastras or usage or custom prevalent in the institution. It is only the secular aspect that has been touched and there can be no manner of doubt that the same has been done in the interest of better and efficient administration. It must be remembered that the legislation relating to public and charitable institutions or endowments has taken place as a result of careful deliberation by high powered bodies. In the report of the Hindu Religious Endowment Commission presided over by Dr. C. P. Ramaswami lyer which was appointed in March 1960 it has been pointed out that legislation relating to endowments became necessary in the States as a result of the almost invariable mismanagement of the endowment properties of temples by the trustees, misappropriation of the funds of the endowment for, purposes unconnected with the original aims and objects of such endowments, utilisation of funds of the endowment by the trustees or managers for their personal purposes etc. All this fully supports the decision of the High Court that the restrictions which have been placed on the hereditary trustees as also on others in whom the management of the institution in H question vests are reasonable and in the public interest. Thus (1) [1994] 7 S.C.R.32.

the appellants cannot succeed on the principal point which has been argued before us.

A faint attempt was made to sustain the attack under Arts. 14 and 26(d) of the Constitution but finally hardly any arguments were addressed worth noticing on these points. It is unnecessary to deal with individual appeals some of which were filed by societies registered under the Societies Registration Act i.e. Civil Appeal No. 1249 of 1970. C.A. No. 1271 of 1970 by the Municipal Council, Visakhapatnam, related to the Turners Choultry which, according to the Municipal Council, was its private property. So far as the validity of the impugned provisions is concerned the same must be sustained in these cases on the same reasoning as in the case relating to the hereditary trustee. The High Court has rightly left open the question whether the Tumer's choultry is a private or a public charitable institution. This the Municipal Council is entitled to agitate before the Deputy Commissioner under s. 77 of the Act. Before the High Court some of the writ petitioners had claimed that their institutions were religious denominations within Art. 26 and were therefore entitled to the protection guaranteed by that Article. The High Court has, quite rightly, observed that these matters

should be agitated in a proper forum and they have been left open for determination if add when so desired. This indisputably was the correct course to follow.

The appeals fail and are dismissed with costs. One set of hearing fee.

V.P.S. Appeals dismissed.