

ANNAMALAI *Shri Ranmalsingji v. Vadilal Vakhatchand*(1) or in any
 v.
 MUTHUSWAMI. other case, we must express our inability to accept it
 KRISHNASWAMI as correct.
 AYYANGAR J.

On the law to be applied to the facts found in this case the appellant is entitled to succeed. The appeal is accordingly allowed, the judgment of VENKATARAMANA RAO J. is set aside and the decree of the District Munsif restored with costs throughout. The first respondent has filed an application claiming to be an agriculturist and praying for the benefit of the Madras Agriculturists Relief Act (IV of 1938). This petition will be referred to the District Munsif of Palni for enquiry and disposal according to law.

A.S.V.

APPELLATE CIVIL.

*Before Sir Lionel Leach, Chief Justice, and
 Mr. Justice Somayya.*

1939,
 February 22. SRI EMBERUMANAR JEER SWAMIGAL (PETITIONER),
 APPELLANT,

v.

THE BOARD OF COMMISSIONERS FOR HINDU
 RELIGIOUS ENDOWMENTS, MADRAS, AND
 NINE OTHERS (RESPONDENTS), RESPONDENTS.*

Certiorari—Writ of—Madras Hindu Religious Endowments Board—Order of, relating to allocation of honours in temple over which it has superintendence—Writ of certiorari in respect of—If can be issued—Madras Hindu Religious Endowments Act (II of 1927), sec. 18—Effect of.

The Madras Hindu Religious Endowments Board has by virtue of section 18 of the Madras Hindu Religious Endowments Act power to settle questions relating to the allocation

(1) (1894) I.L.R. 20 Bom. 61

* Letters Patent Appeal No. 98 of 1936.

of honours in religious institutions over which it has superintendence, but in settling such questions the Board acts in its administrative capacity. An order of the Board relating to the allocation of honours in a temple over which it has superintendence does not declare anyone's legal right or deprive anyone of any legal right which he had but is merely an order dealing with the internal management of the temple, and an application to the High Court for a writ of *certiorari* with a view to the order being quashed is incompetent.

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APPEAL under Clause 15 of the Letters Patent against the order of PANDRANG ROW J., dated 19th August 1936 and made in Civil Miscellaneous Petition No. 3852 of 1935 presented to the High Court for the issue of a writ of *certiorari* to the Board of Commissioners for Hindu Religious Endowments, Madras, the first respondent herein, calling for the records in Miscellaneous Application No. 4 of 1935 and the connected proceedings in Miscellaneous Application No. 9 of 1935 with the orders passed thereon by the said Board and to quash the orders passed thereon by the said Board in the said Miscellaneous Application No. 9 of 1935.

V. Ramaswami Ayyar and *N. G. Krishna Ayyangar* for appellant.

P. V. Rajamannar, *B. Sitarama Rao* for *A. Srirangachari*, *S. Narayana Ayyangar*, *S. Ramanujam*, *S. Rajagopalachari* and *K. E. Rajagopalachari* for respondents 1 to 3 and 5 to 9.

Other respondents were not represented.

The JUDGMENT of the Court was delivered by LEACH C.J.—This is an appeal from an order of PANDRANG ROW J. refusing to issue a writ of *certiorari*. The appellant is the head of a math known as the Sri Emberumanar Jeer Math, which is situate in the village of Alwarthirunagari in the Tinnevely

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district. In the math is a shrine and it is said that this shrine is a subsidiary shrine of the Sri Athinatha Alwar Temple which also lies within the village limits. The Sri Emberumanar Jeer Math is one of four maths which are particularly interested in the temple, the others being the Vanamamalai, Sri Ahobila and Thirukkurangudi Maths, the heads of which are respondents 7, 8 and 9. There has been great strife with regard to the right to receive *theertham* and other honours in the temple on festival and non-festival days. The quarrel commenced so long ago as 1905 and in that year a suit was filed in the Court of the Subordinate Judge of Tinnevely by certain persons to establish what they claimed to be their right to recite in the temple the sacred texts. The appellant and the seventh respondent were defendants. The suit was dismissed and an appeal filed against this decision met with a similar fate; *vide* the judgment in *Athan Sadagopa Chariar Swamigal v. Elayavalli Srinivasa Chariar*(1). In the course of that suit the question was raised whether the present appellant or the seventh respondent, who is the head of the Vanamamalai Math, was entitled to precedence in the distribution of *theertham* on festival days. SADASIVA AYYAR J., who delivered the main judgment on appeal, considered that the seventh respondent was entitled to precedence and said so in his judgment, which was delivered on 18th February 1913.

The question as to the right of precedence continued to be agitated and in 1927 the Madras Hindu Religious Endowments Board took action. By an order, dated 12th May 1927, the Board settled a list setting out who should receive the honours on festival

(1) 1913 M.W.N. 289.

days and who should receive them on non-festival days. By this order the appellant was given the right to receive the honours first on non-festival days. The seventh respondent was dissatisfied with the Board's order, and on 6th June 1927 filed a suit on the Original Side of this Court (Civil Suit No. 306 of 1927). The defendants were the Madras Hindu Religious Endowments Board and the trustee of the temple. The seventh respondent asked for a declaration that the order of 12th May 1927 was invalid. The suit was dismissed on 21st September 1932 on the ground that it was a suit relating merely to temple honours and involved no question of civil right. The seventh respondent appealed against this decision, but his appeal was dismissed on 7th November 1934. In 1930 respondents 2 to 6, who are said to be the disciples of the seventh respondent, filed a petition asking the Board to set aside its order of 12th May 1927. They claimed that they were entitled to the ninth place in the order of precedence on all days. On this ground they said that the Board should cancel in its entirety the order complained of and re-open the question. This petition was heard by three members of the Board, who by order dated 6th April 1935 declined to interfere with the order of 12th May 1927. Five days later respondents 2 to 6 filed another petition asking the Board to review its order of 6th April 1935, one of the grounds advanced being that the petitioners had not been given the ninth place to which they said they were entitled. This application, which was an application to review an order refusing to review a previous order, was heard by two of the three members of the Board who passed the order of 6th April 1935. This application succeeded and on 15th May 1935 the order of 12th May

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1927 was set aside. The result was that the trustees of the temple were directed to follow the observations of the Court in the appeal arising out of Original Suit No. 22 of 1905 in respect of non-festival days, but no change was made so far as festival days were concerned. The appellant then became the dissatisfied party and on 30th May 1935 filed an application asking the Board to review its order of 15th May 1935. This application was heard by one member of the Board who on 7th August 1935 held that the Board had no power to review its own order. The application was accordingly dismissed. This led to an application to this Court by the appellant for a writ of *certiorari* with a view to the order of the Board of 15th May 1935 being quashed. This was the application dealt with by PANDRANG ROW J.

We consider that the decision of the learned Judge refusing to issue the writ asked was right. It is acknowledged that a question relating to the distribution of *theertham* or other temple honours cannot be made the subject-matter of a suit as it is not a question which affects a legal right. By section 18 of the Madras Hindu Religious Endowments Act, 1927, the Board is given the power of general superintendence of all religious endowments in the Presidency, excepting those within the City of Madras. The Board may do all things which are reasonable and necessary to ensure that maths and temples are properly maintained and that all religious endowments are properly administered and duly appropriated to the purposes for which they were founded or exist. It is not disputed that the Board has by virtue of this section power to settle questions relating to the allocation of honours in religious institutions over which

it has superintendence, but in settling such questions the Board acts in its administrative capacity.

We are in entire agreement with the learned Judge when he says that it cannot be said that the Board's decision has declared any one's legal right or deprived any one of any legal right which he had and that the order of the Board complained of was merely an order dealing with the internal management of the temple. The issue of the writ of *certiorari* is a matter which lies within the discretion of the Court but in a case like the present one there is no question of discretion. It would obviously be improper to order the writ to issue.

The appeal will be dismissed with costs (one set).

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LEACH C, J.

APPELLATE CIVIL.

*Before Sir Lionel Leach, Chief Justice, and
Mr. Justice Krishnaswami Ayyangar.*

PAMIDI VEDAVALI THAYARAMMAL BY HER POWER
OF ATTORNEY AGENT R. SINGANNA CHETTI
(PLAINTIFF), APPELLANT,

1939,
January 31.

v.

JUNUS CHETTIAR (DEFENDANT), RESPONDENT.*

*Madras City Tenants' Protection Act (III of 1922), sec. 11—
Superstructure not owned by tenant—Applicability of
sec. 11 to case of—Ejection of tenant in such a case—Notice
by landlord prior to—Period of, necessary—Transfer of
Property Act (IV of 1882)—Notice specified by, in case
of monthly tenancy—Sufficiency of.*

Section 11 of the Madras City Tenants' Protection Act, 1921, is limited in its operation to the case where the tenant

* Letters Patent Appeal No. 78 of 1936.