

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR. JUSTICE P.G. AJITHKUMAR

WEDNESDAY, THE 16TH DAY OF FEBRUARY 2022 / 27TH MAGHA,
1943

DBP NO. 3 OF 2022

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - TDB
PROCEEDINGS INITIATED - REG.

PETITIONER:

SUO MOTU

Suomotu

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
- 2 THE PRINCIPAL SECRETARY
REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695001
- 3 TRAVANCORE DEVASWOM BOARD - TDB
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KOWDIAR POST, THIRUVANANTHAPURAM-695003
- 4 DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, NANTHANCODE, KOWDIAR
POST, THIRUVANANTHAPURAM - 695003
- 5 THE DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA - 689645
- 6 THE DISTRICT POLICE CHIEF
PATHANAMTHITTA - 689645

- 7 THE CHIEF VIGILANCE SECURITY OFFICER
TRAVANCORE DEVASWOM HEAD QUARTERS, NANTHANCODE,
KOWDIAR POST, THIRUVANANTHAPURAM- 695003
- 8 THE DISTRICT MEDICAL OFFICER (HEALTH)
CIVIL STATION, PATHANAMTHITTA - 689645
- 9 THE DEPUTY DIRECTOR
PERIYAR WEST FOREST DIVISION, PEERUMEDU (PO),
PIN 685531
- 10 SHRI NANDKISHORE BAJORIA CHARITABLE TRUST
REPRESENTED BY ITS MANAGING TRUSTEE, KAILAS, A-
19, FRIENDS COLONY, EAST NEW NEW DELHI - 110065
R8 TO R10 IMPEADED AS ADDL R8 TO R10 AS PER
ORDER DATED 4/2/2022 IN DBP 3/2022.
- 11 THE FOREST RANGE OFFICER,
PAMPA RANGE, VALLAKADAVU.P.O, VANDIPERIYAR
(VIA) IDUKKI-685553
R11 IS SUO MOTU IMPEADED AS ADDL R11 AS PER
ORDER DATED 10/02/2022 IN DBP 3/2022

BY ADVS.
GOVERNMENT PLEADER
G.BIJU
R.KRISHNA RAJ
E.S.SONI
KUMARI SANGEETHA S.NAIR
RESMI A.
R.PRATHEESH (ARANMULA)

SRI S.RAJMOHAN-SR GOVERNMENT PLEADER ; SRI
NAGARAJ NARAYANAN- SPL GP(FORESTS); SRI G.BIJU-
SC,TDB ; SRI N.RAGHURAJ-AMICUS CURIAE

THIS DEVASWOM BOARD PETITION HAVING COME UP FOR
ADMISSION ON 16.02.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

Anil K. Narendran, J.

On 03.02.2022, a news item appeared in Mathrubumi daily that the Travancore Devaswom Board has leased out Pamba-Triveni Manalppuram to a Trust for conducting programme by name 'Ramakatha', from 19.02.2022 till 27.02.2022. As per that news report, the Board has already issued orders in this regard. Under the initiative of the said Trust, Pamba-Triveni Manalppuram and surroundings are cleaned. Activities relating to erection of 'pantal' are going on. The parking area and helipad at Nilakkal are also leased out on depositing rent and necessary charges for supply of electricity and water. Nilakkal and Pamba are 'High Security Zone' and there is no clarity as to whether Police clearance has already been obtained for conducting the programme and use of helipad.

2. On 03.02.2022, Registry was directed to initiate *suo motu* proceedings based on the aforesaid news item and list the matter before the Devaswom Bench, on that day itself. A copy of the D.B.P. was ordered to be issued to the learned State Attorney, the learned Standing Counsel for the

Travancore Devaswom Board and also to the learned Amicus Curiae for the Special Commissioner, Sabarimala.

3. On 04.02.2022, when this D.B.P. was taken up for consideration, the learned Standing Counsel for the Travancore Devaswom Board has filed a statement producing therewith Ext.R3(a) request dated 26.08.2021 made by Shri Nandkishore Bajoria Charitable Trust seeking permission to organise a 9 day programme by name 'Ramakatha' by Morari Bapu in Pamba from 09.10.2021 to 17.10.2021; Annexure R3(b) order dated 31.12.2021 of the Secretary of the Travancore Devaswom Board, whereby permission has been granted for conducting that programme, subject to the conditions stipulated therein, from 19.02.2022 to 27.02.2022; Ext.R3(c) communication dated 27.01.2022 of the District Medical Officer (Health), Pathanamthitta, addressed to the Managing Trustee of Shri Nandkishore Bajoria Charitable Trust, advising to conduct the programme online, since Pathanamthitta District is included in 'Category C', considering the total number of Covid cases; and Ext.R3(d) communication dated 28.01.2022 of the Executive Officer, Sabarimala, to the District Collector, Pathanamthitta, regarding the conduct of the

aforesaid programme.

4. By the order dated 04.02.2022, the District Medical Officer (Health), Pathanamthitta, the Deputy Director, Periyar West Forest Division, Peerumedu, and Shri Nandkishore Bajoria Charitable Trust, represented by its Managing Trustee, were *suo motu* impleaded as additional respondents 8 to 10 in this D.B.P. The learned Senior Government Pleader took notice for respondents 1, 2, 5 and 6 and the learned Special Government Pleader (Forest) took notice for the additional 9th respondent. The learned Standing Counsel for the Travancore Devaswom Board took notice for respondents 3, 4 and 7. Urgent notice through e-mail was ordered to the 10th respondent, returnable by 07.02.2022.

5. On 07.02.2022, the 10th respondent entered appearance through counsel and sought time to file counter affidavit. The learned Senior Government Pleader sought time to get instructions on the permission/clearance granted to the 10th respondent to conduct programme by name 'Ramakadha' in Pamba, from 19.02.2022 to 27.02.2022, and also for use of Helipad at Nilakkal.

6. On 10.02.2022, the Forest Range Officer, Pamba

Range was *suo motu* impleaded as the additional 11th respondent. The learned Special Government Pleader (Forest) entered appearance for the additional 11th respondent. The 10th respondent filed a counter affidavit producing therewith Exts.R10(a) to R10(j) documents. The learned counsel for the 10th respondent submitted that said respondent has already sought permission for conducting the programme at Pamba, by submitting applications before the concerned authorities. The learned Senior Government Pleader, on instructions, submitted that the 6th respondent District Police Chief is yet to be informed about the conduct of such a programme at Pamba by the 10th respondent. The Station House Officer, Pamba Police Station, vide Ext.R10(e) letter dated 01.02.2022 has already informed the 10th respondent about the restrictions imposed by the District Administration in connection with Covid-19 pandemic. On Ext.R10(c) request made by the 10th respondent to provide Elephant Squad at Pamba, the Chief Wildlife Warden is awaiting the legal opinion from the learned Special Government Pleader (Forest).

7. The learned Senior Government Pleader, on instructions from the Range Forest Officer, Pamba, pointed out

that, the land at Pamba is leased out to the Travancore Devaswom Board for the specific purpose of pilgrim support, which cannot be used for any other purpose. The helipad at Nilakkal is under the control of the Travancore Devaswom Board. Neither the District Administration nor the District Police are informed about the use of that helipad in connection with the programme of the 10th respondent. By the order dated 10.02.2022, the learned Standing Counsel for the Travancore Devaswom Board was directed to get instructions on the use of helipad at Nilakkal in connection with the programme in question. The learned Senior Government Pleader was directed to file a statement, based on the instructions already received, by 11.02.2022, and to get instructions as to whether Pathanamthitta District still falls under 'C Category'. The learned counsel for the 10th respondent submitted that the said respondent has already identified another helipad, in case there is any issues in using the helipad at Nilakkal, for want of clearance.

8. On 14.02.2022, the 5th respondent District Collector has filed a statement dated 10.02.2022. The additional 9th respondent Deputy Director, Periyar West Forest Division, has

also filed a statement dated 10.02.2022. The petitioner has filed a reply affidavit dated 14.02.2022. The learned Senior Government Pleader, the learned Special Government Pleader (Forest), the learned Standing Counsel for the Travancore Devaswom Board and also the learned counsel for the 10th respondent were heard. The learned Special Government Pleader (Forest) sought time to get further instructions from the 9th respondent. By the order dated 14.02.2022, the learned Standing Counsel for Travancore Devaswom Board was directed to make available for the perusal of this Court few photographs of the temporary structures put up by the 10th respondent and the matter was ordered to be listed at 4.00 pm for further consideration.

9. On 14.02.2022, when this D.B.P. was taken up again at 4.00 p.m., the learned Special Government Pleader (Forest) made available for the perusal of this Court a copy of G.O.(Ms.)No.410/70/Agri dated 28.12.1970, leasing out 10 acres of forest land on the right side of the route from Pamba kadavu to the Sannidhanam to the Travancore Devaswom Board, subject to the terms and conditions stipulated therein. The learned Special Government Pleader and also the learned

Standing Counsel for Travancore Devaswom Board made available for the perusal of this Court, few photographs of the temporary structures put up by the 10th respondent. The learned Special Government Pleader sought time to produce a typed copy of the Government Order dated 28.12.1970. While listing this D.B.P. to 15.02.2022 for further consideration, it was made clear that, it would be open to the learned Standing Counsel for the Travancore Devaswom Board to file additional affidavit of the 3rd respondent, if found necessary.

10. On 15.02.2022, when this D.B.P. came up for consideration, the learned Standing Counsel for the Travancore Devaswom Board filed an additional statement on behalf of the 3rd respondent, producing therewith Annexure R3(e) Civil Aviation Requirements (CAR), which deals with Minimum Safety Requirements for Temporary Helicopter Landing Area; and Annexure R3(f) communication dated 14.06.2019 of the Ministry of Civil Aviation, wherein it is stated that the Helicopter operators only need to inform the District authorities of their operations and are not required to take approval. The learned Special Government Pleader (Forest) made available for perusal of this Court few photographs of the

temporary structures put up by the 10th respondent at Pamba Manalppuram, with copy to the learned Standing Counsel for the Travancore Devaswom Board and also the learned counsel for the 10th respondent (through WhatsApp).

11. Going by the averments in the counter affidavit filed on behalf of the 10th respondent Shri Nandkishore Bajoria Charitable Trust, seeking permission to conduct a nine-day programme 'Ramakatha' at Pamba, from 19.02.2021 till 27.02.2022 by Morari Bapu, who is a spiritual Guru and exponent of 'Ramacharithamanasam', the Trust submitted Ext.R10(a) application dated 24.11.2021 before the Executive Officer, Pamba. It is stated in Ext.R10(a) application that the programme organised and sponsored by the Trust, with a limited audience of 40-60 people, will be aired live on Aastha TV channel. As per Ext.R10(a) application, the requirements for the programme are as follows; New Annadhana Mandapam - full building - kitchen dining and labour stay (50 to 100 staff); space for putting up 10 to 30 VIP tents in the space between new and old Annadhana Mandapam; 10,000 sq.ft. space at Pamba Manalppuram from Triveni Bridge to Foot Bridge for VIP tents and 'Katha Pandal'; space at Pamba

Manalppuram from Foot Bridge Aarattu Kadavu for temporary house for Morari Babu; 10 rooms at Pamba; parking space for cars; Nilakkal helipad; water and electricity, permission to shoot the event and make it live in Aastha TV channel; recommendation to Forest and Health Departments; recommendation to Police and Fire Services; arrangement for Sabarimala darshan of Morari Babu on 17.02.2022. The Trust sought permission to have access to the aforesaid space and facility from 21.01.2022.

12. In the counter affidavit, it is stated that, the 10th respondent decided to conduct 'Ramakatha' recitation by Morari Babu at Pamba Manalppuram, as it was a long cherished wish of Morari Babu to recite 'Ramakatha' at Pamba, as it is believed that Sree Rama and Lakshmana have conducted the ritual of 'bali' of their father at Pamba. With a request to conduct 'Ramakatha' recitation by Morari Babu at Pamba Manalppuram, the 10th respondent approached the Travancore Devaswom Board, earlier in the year 2020. Thereafter, in the year 2021, the 10th respondent submitted Exhibit R10(a) application before the Board seeking permission. Based on that application, the Board granted

permission to the 10th respondent to conduct the programme 'Ramakatha' at Pamba Manalppuram, from 19.02.2022 till 27.02.2022, subject to the terms and conditions to be insisted by the Board, and in accordance with the directions issued by the officers in the Devaswom and Maramath wings and also the Superintendent of Police (Vigilance and Security). The decision taken by the Board was communicated to the Devaswom Commissioner, vide Ext.R10(b) communication of the Board, dated 31.12.2021.

13. The 10th respondent submitted Ext.R10(c) application dated 24.01.2022 before the Chief Wildlife Warden for providing Elephant Squad at Pamba, from 24.01.2022 to 28.02.2022, since they will be starting the cleaning and setting up temporary tents at Pamba Manalppuram from 24.01.2022 onwards. The 10th respondent submitted Ext.R10(d) application dated 15.01.2022 before the Assistant Engineer, Kerala Water Authority, Pamba, for temporary water connection. In paragraph 3 of the counter affidavit, it is stated that, based on the permission granted by the Travancore Devaswom Board, the 10th respondent approached all statutory authorities including Forest Department, Kerala State

Electricity Board, Kerala water Authority, Police, Health Department and also Fire and Rescue Services. The 10th respondent has also informed the District Administration about the conduct of 'Ramakatha' at Pamba Manalppuram, as VIPs including Constitutional dignitaries are expected to attend the programme.

14. In paragraph 3 of the counter affidavit, it is stated that, to facilitate the permissions sought for using space at Pamba Manalppuram for putting up tents, use of helipad at Nilakkal, etc. the 10th respondent offered the Travancore Devaswom Board an amount of Rs.7 lakhs as offerings for annadhanam, out of which Rs.3 Lakhs has already been paid. The 10th respondent paid Rs.5 lakhs for using Pamba Manalppuram and Rs.3 lakhs for 10 rooms at Annadana Mandapam. An amount of Rs.3 lakhs has already been paid as caution and cleaning deposit. An amount of Rs.1,62,000/- has been paid to the Kerala State Electricity Board for getting temporary connection and for necessary installations. An amount of Rs.1 lakh has been paid to the Kerala Water Authority for temporary water connection. The 10th respondent has already spent more than Rs.10 lakhs for cleaning the

premises at Pamba.

15. In paragraph 3 of the counter affidavit, it is stated that, the 10th Respondent has also approached the Forest Department for service of the Elephant Squad as there were reports of the chance of elephants at Pamba during the programme. The Station House Officer, Pamba informed the 10th respondent, vide Ext.R10(e) communication dated 01.02.2022, about the restrictions in conducting the programme at Pamba, as Pathanamthitta district is included in 'Category C'. The District Medical Officer(health), Pathanamthitta has also informed the 10th respondent vide Ext.R10(f) communication dated 27.01.2022 that, for the aforesaid reason the programme at Pamba can be conducted only online. Now Pathanamthitta district is included in 'Category B' and as such participation of 20 persons in a programme is permissible. Though the 10th respondent approached the authorities, it is informed that permission can be considered only after the disposal of this D.B.P.

16. The document marked as Ext.R10(f) is a communication dated 25.01.2022 of the Regional Fire Officer, Fire and Rescue Services, Kottayam, on the application made

by the 10th respondent to avail the services of Fire and Rescue Services at Pamba during the programme. The 10th respondent has produced Ext.R10(h) series of photographs of 'Ramakatha' recitations by Morari Bapu at various places, in order to show that those programmes were attended by several eminent persons and Constitutional dignitaries. The document marked as Ext.R10(i) is a copy of the Government order dated 04.02.2022 modifying Covid protocols in Kerala.

17. In paragraph 4 of the counter affidavit, it is stated that, the 10th Respondent sought the permission of the Travancore Devaswom Board for the exclusive use of helipad at Nilakkal for Morari Bapu since he is not in a position to travel by road due to old age. The 10th respondent entrusted the operation of the Helicopter to Halo Airways Pvt. Ltd., which is the agency of Travancore Devaswom Board, which has permission to operate at Nilakkal. The agency which is a sub agency of M/s. Span Air Private Ltd. has got necessary permissions from the Director General of Civil Aviation to operate helicopters. The agency has complied with all the requirements of the latest rules and regulations of the Director General of Civil Aviation, which has licence and permissions to

operate helicopter at Nilakkal. The document marked as Ext.R.10(j) is a copy of the Certificate of Airworthiness dated 13.01.2022 issued by the Director General of Civil Aviation to BELL 407 GX helicopter with Aircraft Registration VT-NAL. According to the 10th respondent, its attempt is to propagate 'sanatana dharma' and 'Ramacharithmanasam', which is totally in tune with the traditions and rituals that are being followed in Sabarimala Temple. The 10th Respondent would undertake that the recital of 'Ramakatha' at Pamba will be conducted strictly in compliance with the rules and regulations insisted by the authorities.

18. In the statement filed on behalf of the 3rd respondent Travancore Devaswom Board, it is stated that, on Annexure R3(a) application dated 26.08.2021 made by the 10th respondent to conduct 'Ramakatha' recitation by Morari Bapu at Pamba Manalppuram, the Travancore Devaswom Board obtained the report of the Devaswom Commissioner, and thereafter decided in principle to grant permission to the Trust to conduct the programme at Pamba Manalppuram from 19.02.2022 to 27.02.2022, subject to the terms and conditions prescribed by the Board and the instructions and guidelines

prescribed by the Devaswom and Maramath wings and also the Superintendent of Police (Vigilance and Security). Annexure R3(b) communication dated 31.12.2021 required the 10th respondent to execute an agreement embodying the terms and conditions for the use. Pursuant to the permission granted by the Board, the 10th respondent has levelled and cleaned Pamba Manalppuram and started the construction of an open stage. Along with the statement, a copy of the communication dated 27.01.2022 of the District Medical Officer (Health), Pathanamthitta is produced as Annexure R3(c), whereby the 10th respondent was informed that, since Pathanamthitta district is in 'Category C' the programme at Pamba can be conducted only online. On 28.01.2022, the Executive Officer, Sabarimala has requested the District Collector, Pathanamthitta, vide Annexure R3(d) communication, the services and cooperation of all Departments for the programme.

19. In the statement, it is stated that, the 10th respondent has agreed to pay Rs.8 lakhs towards rent, Rs.6 lakhs as donation to Annadhanam Fund, sponsored annadhanam at Sabarimala on 18.02.2022, agreed to bear the

charges at the rate of Rs.20,000/- per landing for using the helipad at Nilakkal, and provide food kits for one month to 450 tribal families in Nilakkal. The 10th respondent has also remitted Rs.3 lakhs as security deposit. The 3rd respondent Travancore Devaswom Board granted permission to the 10th respondent, considering the fact that it is a spiritual and devotional programme conducted without affecting the sanctity of Sabarimala and Pamba and respecting the rituals and custom of the Temple. The permission is given to conduct the programme from 19.02.2022 to 27.02.2022, after 'kumbamasa pooja', without causing any inconvenience or difficulties to pilgrims.

20. In the statement filed by the 5th respondent District Collector, Pathanamthitta dated 10.02.2022, it is stated that, Pathanamthitta district was included in 'Category B' in view of the third wave of Covid-19 Pandemic. Now the district is included in 'Category B' and the maximum persons permitted for religious functions is 20 persons as per G.O. (Rt)No.109/2022/Disaster Management dated 04.02.2022. The area including Sabarimala and Pamba is in Periyar Tiger Reserve, under the Ministry of Environment, Forest and

Climate Change. The organisers have to obtain requisite permission from the Forest and Wildlife Department, Irrigation Department and Revenue (Devaswom) Department. In such circumstances, the 5th respondent has issued Annexure R5(a) communication dated 03.02.2022 to the Travancore Devasom Board, informing the Board that the permission granted to 10th respondent for conducting the 'Ramakatha' at Pamba Manalppuram may be cancelled. It was also informed to the Board that before giving consent for conducting such events, opinion of the Departments concerned and that of the Government may be obtained. No intimation regarding the use of Nilakkal helipad from 19.02.2022 to 27.02.2022 has been received in the office of the 5th respondent, till the date of filing of the statement, i.e., till 10.02.2022.

21. The stand taken in the counter affidavit filed by the 9th respondent Deputy Director, Periyar Tiger Reserve West Division is that, Pamba Manalppuram lies well within Periyar Tiger Reserve and the Travancore Devaswom Board has permitted the 10th respondent to use Pamba Manalppuram for an activity that is not related to Sabarimala pilgrimage. The Board granted such permission to the 10th respondent for

using Pamba Manalppuram situated within the Periyar Tiger Reserve for rent, without any consent from the Kerala Forest Department or Chief Wildlife Warden. The Kerala Forest Department has given 10 acres of land on lease to the Board at Pamba as per Government Order G.O (Ms.)No.410/70/Agri. dated 28.12.1970 and 8.5 acres of land diverted to the Board around Ganapathi Temple as per Government Order G.O. (Ms.)No.97/86 dated 22.10.1986 to arrange facilities for the Sabarimala pilgrims. In the above Government Order dated 28.12.1970 it is specifically mentioned as condition No.(vii) that, "if the land is put to any use other than for providing amenities to pilgrims, the lease will be terminated and the land will revert to Government". According to the 9th respondent, the event, 'Ramakatha' proposed to be conducted at Pamba Manalppuram is an activity with no connection with the pilgrimage. Therefore the permission issued by the Travancore Devaswom Board to conduct the programme has to be set aside.

22. in the statement filed by the 9th respondent, it is stated that Sabarimala is a heavily visited shrine located amidst the wet evergreen forest in the western part of Periyar

Tiger Reserve. The Periyar Tiger Reserve is considered as a very important protected area for the tigers and other wildlife including elephants, gaurs, leopards, sloth bears, etc. and several other endemic and endangered flora and fauna. Periyar is one of the best protected tiger habitats in the country and it is the source population for the adjoining vast forest landscape of Ranni Forest Division and other Forest Divisions. Sabarimala Temple is located within the core habitat of the Periyar Tiger Reserve, which attracts millions of pilgrims annually with considerable impact on the environment of the sacred forests around Sabarimala (Poomkavanam). The main pilgrimage season is from mid-November to mid-January every year. The temple also opens during the first five days of every Malayalam month and on special occasions like Onam and Vishu. Over the years, with the increase in the number of pilgrims, large-scale development has taken place at Sabarimala and Pamba causing severe degradation of the sacred forests of Poomkavanam and the adverse impact on wildlife during these periods is substantial. The wildlife movement is very high during the days on which the temple is closed and substantial presence including that of tiger is being

recorded in and around Pamba and Sannidhanam landscape via camera traps especially during the days on which the temple is closed. Therefore a program during the days on which the temple is closed in Pamba will affect the normal life of wildlife in and around Pamba. The movement of wild animals near the river may also cause man-animal conflict issues during the off-season days. Moreover, the sound and light arrangements as part of the programme inside the Periyar Tiger Reserve during the days on which the temple is closed may affect the movement of wildlife as well as cause disturbance to the wildlife in their natural habitat. Therefore the program which has no connection with the Sabrimala Temple ought to be cancelled. The 10th respondent has agreed to pay lakhs of rupees to the Travancore Devaswom Board as rent for using Pamba Manalppuram and it is learned that the Board has further rented out the Nialakkal base camp and helipad at Nilakkal also to the said respondent to discourse 'Ramakatha' which will also be against the security concerns in a High Security Zone like Sabarimala, besides being an unwarranted disturbance to the wildlife habitats in these areas. Further it is against the terms and conditions of the

G.O(Ms.)No. 410/70/Agri. Dated 28.12.1970 and the Forest Conservation Act 1980.

23. According to the 9th respondent, the Travancore Devaswom Board in the present instance is trying to rent out Pamba Manalppuram for financial gains. The Board has deliberately issued permission illegally for financial gains and they are trying to justify it on the basis of false and hypothetical arguments. Financial considerations of the Board have gained precedence over environmental considerations as well as religious sentiments. The activity of discourse of 'Ramakatha' in Pamba is not essential or integral part of the pilgrimage to Sabarimala or traditional religious activity at Sabarimala (either at Pamba or Sannidhanam or any other place connected with Sabarimala) and is only intended as an activity with commercial eye and with the intention of initially opening up Pamba Manalppuram space and thereafter other spaces in Sabarimala and Nilakkal for commercial exploitation. The grant of permission by the Board to conduct non-forest activities and activities prejudicial to wildlife inside a tiger reserve area without the permission of the Chief Wildlife Warden and without permission under the Forest Conservation

Act is illegal and liable to be set aside. The damage that may be caused to the wildlife and its habitat by such activity will be substantial and it will also cause adverse impact on the habitat of tigers in Periyar Tiger Reserve. Therefore, the order of the Board granting permission to the 10th respondent is liable to be set aside.

24. The 10th respondent has filed reply affidavit to the statements filed by the 5th and 9th respondents. By Exhibit R5(a) communication dated 03.02.2022, the District Collector has required the Travancore Devaswom Board to cancel the permission granted to the 10th respondent for conducting 'Ramakatha' on the ground that Pathanamthitta District is included in 'Category C'. But, since then Pathanamthitta District has been re-categorised and included in 'Category B', and as per the latest guidelines religious functions also can be conducted with attendance of 20 persons. In the affidavit filed before this Court, the 10th respondent has given an undertaking that the event will be conducted strictly adhering to the guidelines issued by the Government relating to Covid restrictions. Therefore, there is absolutely no issue in permitting the event of the 10th respondent scheduled to be

held from 19.02.2022 to 27.02.2022. Moreover, two large religious conventions, viz., Maramon Convention and Cherukolpuzha Convention are permitted.

25. As far as the statement filed by the 9th respondent is concerned, the main objection taken is that the event cannot be conducted in Pamba as the land has been given to the Devaswom Board on lease by order G.O. (Ms.)No.410/70/Agri dated 28.12.1970 exclusively for providing amenities to pilgrims and since the event 'Ramakatha' proposed to be conducted in Pamba Manalppuram is an activity which has no connection with Sabarimala pilgrimage. It is further stated that the sound and light arrangement as part of the programme inside Periyar Tiger Reserve during the days when temple is closed will affect the movement of wildlife as well as it will cause disturbance to the wildlife in their natural habits. This statement has been filed by the officer of the Forest Department without knowing the connection of Pamba River and its Manalppuram with Ramayana. It is believed that during the Vanavasa of Lord Rama and Lakshmana, they met a girl called 'Neli' and she invited Lord Rama and Lakshmana to the Ashram of Mathanga

Rishi and impressed with devout treatment that she had given to Lord Rama and Lakshmana, Lord Rama has given Neli 'moksha' and she became the Pamba River. It is believed that Sahyanuman and Sabari are the father and mother of Neli. In Ramayana it is stated that Lord Rama has met with Lord Hanuman at 'Rishimukhachalam' which is the Pamba Manalppuram. Lord Rama and Lakshmana have also performed the ritual of 'bali' for his father and has taken a dip as part of this ritual at Pamba river which is called Triveni, and it is believed that taking a bath at Triveni Sangam after offering 'balidarppana' is a way to attain 'moksha'. It is in this background Morari Bapu had decided to recite 'Ramakatha' at Pamba Manalppuram because of the connection Pamba and its banks have with Rama and Ramayanam. So, the event is aimed at increasing the divinity of divine Pamba Manalppuram which is directly connected with pilgrimage. Spreading the Sanadhana Dharma and its tenets including Ramacharithamanasam cannot be considered as a commercial activity. The recital of 'Ramakatha' at Pamba is not done on payment of any money. It is purely a religious affair with direct connection with the historical background of Pamba and its

banks. So, in no way it can be said that the recital of 'Ramakatha' has nothing to do with Sabarimala Pilgrimage. The recital of Vedas and other scriptures like 'Ramacharithmanasam' will increase divinity and it is in such background such recitals have regularly been done in temples. If the stand of the Forest Department is accepted, then the recital of any scriptures like Ramayana or Mahabharatha or chanting of manthras contained in Vedas cannot be done at Pamba Ganapathy Temple. In Pamba Temple deities of Lord Rama, Lord Sita and Lord Hanuman are there. On the day of Sree Rama Navami full day programme is conducted at Pamba Temple and during the Malayalam month of Karkkidakam, Ramayana recital is also a regular affair. If the stand of the Forest Department is accepted such practice are to be stopped as it has nothing to do with Sabarimala Pilgrimage, as stated by the Officer of the Forest. As stated earlier during the month of Karkkidakam several persons recite Ramayana at the temple and recital of 'Ramakatha' is an offering of Morari Bapu to Lord Rama, Sita and Hanuman at Pamba. The permission was sought from the District authorities for conducting event as Morari Bapu is a widely followed religious and spiritual leader

and large number of people may attend the programme. It was in such circumstances, the 10th respondent has approached the district authorities and undertook that the event will be conducted strictly in compliance with the Covid Protocol.

26. In the additional statement filed by the 3rd respondent, it is stated that, the Travancore Devaswom Board owns the helipad at Nilakkal. It was constructed by the High Power Committee constituted for the implementation of Sabarimala Master Plan and handed over to the Board. It is a temporary helipad being operated in terms of the minimum safety requirements and other site requirements prescribed by the Ministry of Civil Aviation, Government of India. The minimum safety requirements are prescribed for the purpose of smooth and efficient operation of helicopters, given their versatility and ability to land and take off from any terrain. As per Para-3.6 of Annexure-R3(e) Minimum Safety Requirements for Temporary Helicopter Landing Areas prescribed by the Director General of Civil Aviation, permission of the owner of the site shall be obtained, before it is used for helicopter operations and the district authorities notified in advance.

Considering the fact that helicopter is meant to operate at very short notice even from unprepared surfaces, delay in the clearance process and the restrictions placed by district authorities negate the very benefit of using the versatility of the helicopter as it is intended to be used. Given the inherent advantage of helicopter versatility, the DGCA, had issued the CAR, apportioning the responsibility of safe helicopter operations from temporary helipads with the operator (who must merely notify the district authorities). As per Annexure-R3(f) communication given from the Ministry of Civil Aviation dated 14.06.2019, no approval is required from the district authorities for helicopter operations. The permission to use the helipad will be given by the Executive Engineer, Sabarimala Development Project, Travancore Devaswom Board, on getting request from the operator and paying the requisite fees.

27. Heard the learned Senior Government Pleader for respondents 1, 2, 5, 6 and 8, the learned Standing Counsel for Travancore Devaswom Board for respondents 3, 4 and 7, the learned Special Government Pleader (Forest) for additional respondents 9 and 11 and also the learned counsel for the 10th respondent.

28. The learned counsel for the 10th respondent would contend that the conduct of 'Ramakatha' recitation by Morari Bapu at Pamba Manalppuram is totally in tune with the traditions and rituals that are being followed in Sabarimala. On the strength of the permission granted by the Travancore Devaswom Board, as evidenced by Ext.R10(b) communication dated 31.12.2021, the 10th respondent is legally entitled to conduct the said programme from 19.02.2022 till 27.02.2022 subject to the terms and conditions to be insisted by the Board. On account of the restrictions imposed in connection with Covid-19 pandemic the programme will be conducted limiting the number of participants to 20. On the strength of the permission granted in Ext.R10(b) the 10th respondent can put up temporary structures at Pamba Manalppuram. The learned Standing Counsel for Travancore Devaswom Board would submit that the Board granted permission to the 10th respondent to conduct the programme 'Ramakatha' at Pamba Manalppuram, considering the fact that it is a spiritual and devotional programme conducted without affecting the sanctity of Sabarimala and Pamba and respecting the rituals and custom of the Temple. The permission is granted to conduct

the said programme from 19.02.2022 to 27.02.2022, after 'Kumbamasa Pooja', without causing any inconvenience or difficulties to the pilgrims.

29. Per contra, the learned Senior Government Pleader and also the learned Special Government Pleader (Forest), would contend that the land at Pamba Manalppuram was leased out to Travancore Devaswom Board, vide Government Order dated 28.12.1970 for providing amenities to pilgrims. The event, namely, 'Ramakatha' proposed to be conducted at Pamba Manalppuram is an activity with no connection with the pilgrimage. They would also point out that the land around Pamba Ganapathy Temple was leased out to Travancore Devaswom Board for the specific purpose to arrange facilities for Sabarimala pilgrims. They would contend that the conduct of the 10th respondent in putting up structures for the programme 'Ramakatha' in Pamba Manalppuram is legally impermissible.

30. Sabarimala Sree Dharma Sastha Temple, which is situated inside Periyar Tiger Reserve, is a prominent pilgrim centre in Kerala, where lacks of pilgrims trek the rugged terrains of Western Ghats to have darsan of Lord Ayyappa.

Sabarimala Sree Dharma Sastha Temple and Malikappuram Temple come under the Travancore Devaswom Board. At Pamba Ganapathy Temple, which is a holy spot on the way from Pamba to Sannidanam is dedicated to Lord Ganesha, where the pilgrims offer prayer for safe trekking to Sannidanam. Pamba Ganapathy Temple also has subsidiary shrines dedicated to Nagarajavu, Goddess Parvati Devi, Adimoola Ganapati, Hanuman Swami, and Bhagvan Sree Rama. The main offering at Pamba Ganapathi Temple is coconut. The pilgrims trekking to Sannidanam carry an extra coconut to break it at Pamba Ganapathi Temple, before climbing the mountain.

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

32. Travancore-Cochin Hindu Religious Institutions Act, 1950 enacted by the State Legislature makes provision for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious

Endowments and Funds. As per sub-section (3) of Section 1 of the Act, substituted by the Kerala Adaptation of Laws Order, 1956, Part I of the Act shall extend to Travancore, Part II of the Act shall extend to Cochin and Part III of the Act shall extend to the whole of the State of Kerala, excluding the Malabar District.

33. Clause (a) of Section 2 of the Act defines the term 'Board' to mean the Travancore Devaswom Board constituted under Chapter II of the Act in accordance with the covenant. Clause (c) of Section 2 defines the term 'incorporated Devaswoms' to mean the Devaswoms mentioned in Schedule I, and 'unincorporated Devaswoms' to mean those Devaswoms including Hindu Religious Endowments whether in or outside Travancore which were under the management of the Ruler of Travancore and which have separate accounts of income and expenditure and are separately dealt with. Sabarimala Devaswom is an incorporated Devaswom mentioned in Schedule I of the Act, under Chengannur Group, Pathanamthitta Taluk. As per sub-clause (i) of clause (d) of Section 2, 'person interested' includes, in the case of temple, a person who is entitled to attend at or is in the habit of

attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat.

34. Chapter II of the Act deals with the Travancore Devaswom. Section 3 of the Act deals with vesting of administration in Board. As per Section 3, the administration of incorporated and unincorporated Devaswoms and of Hindu Religious Endowments and all their properties and funds as well as the fund constituted under the Devaswom Proclamation, 1097 M.E. and the surplus fund constituted under the Devaswom (Amendment) Proclamation, 1122 M.E. which were under the management of the Ruler of Travancore prior to the first day of July, 1949, except the Sree Padmanabhaswamy Temple, Sree Pandaravaka properties and all other properties and funds of the said temple, and the management of all institutions which were under the Devaswom Department shall vest in the Travancore Devaswom Board.

35. Section 4 of the Act deals with constitution of the Travancore Devaswom Board. As per sub-section (2) of Section 4, the Board shall be a body corporate having perpetual

succession and a common seal with power to hold and acquire properties for and on behalf of the incorporated and unincorporated Devaswoms and Hindu Religious Institutions and Endowments under the management of the Board.

36. Section 15 of the Act deals with vesting of jurisdiction in the Board. As per sub-section (1) of Section 15, subject to the provisions of Chapter III of Part I, all rights, authority and jurisdiction belonging to or exercised by the Ruler of Travancore prior to the first day of July, 1949, in respect of Devaswoms and Hindu Religious Endowments shall vest in and be exercised by the Board in accordance with the provisions of this Act. As per sub-section (2) of Section 15, the Board shall exercise all powers of direction, control and supervision over the incorporated and unincorporated Devaswoms and Hindu Religious Endowments under their jurisdiction.

37. Section 15A of the Act, inserted by Act 5 of 2007, with effect from 12.04.2007, deals with duties of the Board. As per Section 15A, it shall be the duty of the Board to perform the following functions, namely, (i) to see that the regular traditional rites and ceremonies according to the practice

prevalent in the religious institutions are performed promptly;
(ii) to monitor whether the administrative officials and employees and 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 the temples for the devotees. Section 16 of the Act deals with supervision and control by the Board. As per Section 16, the Board shall, subject to the provisions of Part I 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.

38. Section 24 of the Act deals with maintenance of Devaswoms, etc., out of Devaswom Fund. As per Section 24, the Board shall, out of the Devaswom Fund constituted under Section 25, maintain the Devaswoms mentioned in Schedule I [i.e. incorporated Devaswoms], keep in a state of good repair the temples, buildings, and other appurtenances thereto, administer the said Devaswoms in accordance with recognised usages, make contributions to other Devaswoms in or outside the State and meet the expenditure for the customary

religious ceremonies and may provide for the educational uplift, social and cultural advancement and economic betterment of the Hindu community.

39. Section 27 of the Act deals with Devaswom properties. As per Section 27, immovable properties entered or classed in the revenue records as Devaswom Vaga or Devaswom Poramboke and such other Pandaravaga lands as are in the possession or enjoyment of the Devaswoms mentioned in Schedule I after the 30th Meenam, 1097 corresponding to the 12th April, 1922, shall be dealt with as Devaswom properties. The provisions of the Land Conservancy Act of 1091 (IV of 1091) shall be applicable to Devaswom lands as in the case of Government lands.

40. Section 31 of the Act deals with management of Devaswoms. As per Section 31, subject to the provisions of Part I and the rules made thereunder, the Board shall manage the properties and affairs of the Devaswoms, both incorporated, and unincorporated as heretofore, and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.

41. In view of the provisions under the Travancore-

Cochin Hindu Religious Institutions Act referred to hereinbefore, conclusion is irresistible that, the administration of Sabarimala Devaswom, which is an incorporated Devaswom mentioned in Schedule I of the Act, and all its properties and funds shall vest in the Travancore Devaswom Board. The Board shall hold and acquire properties for and on behalf of Sabarimala Devaswom, under the management of the Board. Subject to the provisions of Chapter III of Part I, all rights, authority and jurisdiction belonging to or exercised by the Ruler of Travancore prior to the first day of July, 1949, in respect of the Sabarimala Devaswom shall vest in and be exercised by the Board in accordance with the provisions of this Act and the Board shall exercise all powers of direction, control and supervision over the Devaswom.

42. Under the provisions of the Act, the Board is duty bound to see that the regular traditional rites and ceremonies according to the practice prevalent in Sabarimala are performed promptly; to monitor whether the administrative officials and the employees, and also the employees connected with religious rites are functioning properly; and to establish and maintain proper facilities in Sabarimala for the devotees.

The Board shall, out of the Devaswom Fund, maintain and administer Sabarimala Devaswom in accordance with recognised usages and meet the expenditure for the customary religious ceremonies. Subject to the provisions of Part I of the Act and the Rules made thereunder, the Board shall manage the properties and affairs of Sabarimala Devaswom and arrange for the conduct of the daily worship and ceremonies and of the festivals in Sabarimala according to the usage.

43. The Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 enacted by State Legislature provides for better provisions for the entry of all classes and sections of Hindus into places of public worship. Clause (b) of Section 2 of the Act defines 'place of public worship' to mean a place, by whatever name known or to whomsoever belonging, which is dedicated to, or for the benefit of, or is used generally by, Hindus or any section or class thereof, for the performance of any religious service or for offering prayers therein, and includes all lands and subsidiary shrines, mutts, devasthanams, namaskara mandapams and nalambalams, appurtenant or attached to any such place, and also any

sacred tanks, wells, springs and water courses the waters of which are worshipped or are used for bathing or for worship, but does not include a 'sreekoil'.

44. Section 3 of the Act provides that places of worship to be open to all sections and classes of Hindus. As per Section 3, notwithstanding anything to the contrary contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of court, every place of public worship which is open to Hindus generally or to any section or class thereof, shall be open to all sections and classes of Hindus; and no Hindu of whatsoever section or class shall, in any manner, be prevented, obstructed or discouraged from entering such place of public worship, or from worshipping or offering prayers thereat, or performing any religious service therein, in the like manner and to the like extent as any other Hindu of whatsoever section or class may so enter, worship, pray or perform. As per the proviso to Section 3, in the case of a place of public worship which is a temple founded for the benefit of any religious denomination or section thereof, the provisions of this Section shall be subject to the right of that religious

denomination or section, as the case may be, to manage its own affairs in matters of religion.

45. Section 4 of the Act deals with power to make regulations for the maintenance of order and decorum and the due performance of rites and ceremonies in places of public worship. As per sub-section (1) of Section 4, the trustee or any other person in charge of any place of public worship shall have power, subject to the control of the competent authority and any rules which may be made by that authority, to make regulations for the maintenance of order and decorum in the place of public worship and the due observance of the religious rites and ceremonies performed therein. As per the proviso to sub-section (1) of Section 4, no regulation made under this sub-section shall discriminate in any manner whatsoever, against any Hindu on the ground that he belongs to a particular section or class. As per sub-section (2) of Section 4, the competent authority referred to in sub-section (1) shall be, (i) in relation to a place of public worship situated in any area to which Part I of the Travancore-Cochin Hindu Religious Institutions Act, 1950, extends, the Travancore Devaswom Board; (ii) in relation to a place of public worship situated in

any area to which Part II of the said Act extends, the Cochin Devaswom Board; and (iii) in relation to a place of public worship situated in any other area in the State of Kerala, the Government.

46. In view of the provisions under Section 4 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act referred to hereinbefore, conclusion is irresistible that, the competent authority to make regulations for the maintenance of order and decorum and the due observance of the religious rites and ceremonies performed in a place of public worship situated in any area to which Part I of the Act of 1950 extends is the Travancore Devaswom Board. The competent authority in the case of a place of public worship situated in any area to which Part II of the Act of 1950 extends is the Cochin Devaswom Board. State Government is the competent authority in the case of a place of public worship situated in any other area in the State, i.e., an area to which Part I or Part II of the Act of 1950 has no application. Since Sabarimala is a place of public worship situated in an area to which Part I of the Act of 1950 extends, the competent authority to make regulations for the maintenance of order and decorum and the

due observance of the religious rites and ceremonies performed in Sabarimala is the Travancore Devaswom Board.

47. As already noticed hereinbefore the 10th respondent Trust submitted Ext.R10(a) application dated 24.11.2021 before the Executive Officer, Pamba. It is stated in Ext.R10(a) application that the programme organised and sponsored by the Trust, with a limited audience of 40-60 people, will be aired live on Aastha TV channel. As per Ext.R10(a) application, the requirements for the programme are as follows; New Annadhana Mandapam - full building - kitchen dining and labour stay (50 to 100 staff); space for putting up 10 to 30 VIP tents in the space between new and old Annadhana Mandapam; 10,000 sq.ft. space at Pamba Manalppuram from Triveni Bridge to Foot Bridge for VIP tents and 'Katha Pandal'; space at Pamba Manalppuram from Foot Bridge Aarattu Kadavu for temporary house for Morari Babu; 10 rooms at Pamba; parking space for cars; Nilakkal helipad; water and electricity, permission to shoot the event and make it live in Aastha TV channel; recommendation to Forest and Health Departments; recommendation to Police and Fire Services; arrangement for Sabarimala darshan of Morari Babu on

17.02.2022. The Trust sought permission to have access to the aforesaid space and facility from 21.01.2022.

48. The learned Special Government Pleader (Forest) has made available for the perusal of this Court few photographs to show the nature of constructions undertaken by the 10th respondent at Pamba Manalppuram for conducting the programme 'Ramakatha' from 19.02.2022 till 27.02.2022. Soft copy of the photographs has already been sent through WhatsApp on 15.02.2022 with copy to the learned Standing Counsel for Travancore Devaswom Board and also to the learned counsel for the 10th respondent. Few of those photographs are reproduced hereunder;





View from Thriveni Bridge, temporary sheds in back ground



Pampa Manalppuram- PTR



Stage- 31m x19.5 m



49. As evident from the aforesaid photographs, temporary structures have been put up at Pamba Manalppuram, which is leased out to the Travancore Devaswom Board, vide Government Order dated 28.12.1970 for providing pilgrim facilities. The construction of temporary structures were going on from 24.01.2022 onwards. As per Ext.R10(a), one of the requirements is to provide dining and labour stay for 50-100 staff, who are employed for putting up

structures like VIP tents, 'Katha Pandal', etc.

50. On a query made by this Court, the learned counsel for the 10th respondent would submit that, about 50-60 employees were engaged daily from 24.01.2022 onwards, in connection with various activities including cleaning up of Pamba Manalppuram, in order to put up such VIP tents, Katha Pandal, etc. As evident from the photographs re-produced hereinbefore, considerable extent of Pamba Manalppuram is now being occupied by the 10th respondent, with effect from 24.01.2022. After putting up such temporary structures, the entire area is fenced with tin-fence.

51. 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 'fences eating the crops' should be dealt with sternly. The Government, members or trustees of boards/trusts, and devotees should be 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.

52. 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 is having inherent jurisdiction and the doctrine of parents patriae will also apply in exercising the jurisdiction. Therefore, when a complaint has

been raised by the Temple Advisory Committee, which was formed by the devotees of the Temple, about the loss of properties of the Temple itself, the truth of the same can be gone into by the High Court in these proceedings.

53. In **Mrinalini Padhi v. Union of India [2018 SCC OnLine SC 667]** - order dated 05.07.2018 in W.P.(C)No.649 of 2018 - the Apex Court noticed that the issue of difficulties faced by the visitors, exploitative practices, deficiencies in the management, maintenance of hygiene, proper utilisation of offerings and protection of assets may require consideration with regard to all Shrines throughout the India, irrespective of religion practiced in such shrines. It cannot be disputed that this aspect is covered by List III Item 28 of the Seventh Schedule to the Constitution of India and there is need to look into this aspect by the Central Government, apart from State Governments. Section 92 of the Code of Civil Procedure, 1908 permits a court also to issue direction for making a scheme or making an arrangement for any charitable or religious institution. Accordingly, the Apex Court directed that, if any devotee moves the jurisdictional District Judge throughout the India with any grievance on the above aspect, the District

Judge may either himself/herself or by assigning the issue/matter to any other court under his/her jurisdiction examine above aspects and if necessary send a report to the High Court. The High Court will consider these aspects in public interest, in accordance with law, and issue such judicial directions as becomes necessary having regard to individual fact situation.

54. In **Nandakumar v. District Collector and others [2018 (2) KHC 58]** a Division Bench of this Court noticed that the legal position has been made clear by the Apex Court as to the role to be played by the High Court in exercising the 'parens patriae' jurisdiction in **Gopalakrishnan v. Cochin Devaswom Board [(2007) 7 SCC 482]**. The said decision was referred to and relied on by a Division Bench of this Court in **Travancore Devaswom Board v. Mohanan Nair [2013 (3) KLT 132]**. In the said circumstances, the properties of the Devaswom, if at all encroached by anybody and if any assignment/conveyance has been effected without involvement of the Devaswom, securing 'pattayam' or such other deeds, the same cannot confer any right upon the parties concerned, unless the title so derived is clear in all

respects. There cannot be any dispute that the remedy to retrieve such property belonging to the Devaswom is by resorting to the course stipulated in the Kerala Land Conservancy Act, 1957.

55. During the course of arguments, on a query made by this Court, the learned Standing Counsel for the Travancore Devaswom Board would submit that, but for the constructions undertaken by the 10th respondent, the aforesaid area in Pamba Manalppuram could have been used by the pilgrims during 'Kumbamasa Pooja' from 13.02.2022 to 17.02.2022. The learned Standing Counsel would point out that, on account of Covid restrictions, the total number of devotees permitted to have Darshan at Sabarimala on a single day is restricted to 15000 persons. Having considered the pleadings and materials on record and the submissions made by the learned counsel for the parties we find that when the land at Pamba Manalppuram is leased out to the Travancore Devaswom Board for the specific purpose of providing pilgrim facilities, the Board should not have permitted the 10th respondent to put up such structures in connection with the programme Ramakatha. Admittedly, those constructions were going on from

24.01.2022. Now a major portion of Pamba Manalppuram is occupied by the temporary structures erected by the 10th respondent, which is causing obstruction and inconvenience to the pilgrims proceeding to Sannidhanam through Pamba Manalppuram from 13.02.2022 onwards in connection with 'Kumbamasa Pooja'. No such construction can be permitted in Pamba Manalppuram and therefore such constructions will have to be removed forthwith. No such constructions can be utilised for conducting the programme 'Ramakatha' by the 10th respondent from 19.02.2022 till 27.02.2022. Any permission granted by the Travancore Devaswom Board for undertaking such constructions, based on its decision referred to in Ext.R10(b) communication dated 31.12.2021, a copy of which is marked as Annexure R3(b) along with the statement filed on behalf of the 3rd respondent, is *per se* illegal. Therefore, respondents 2 to 7 and also the 9th respondent shall take necessary steps to ensure that the constructions made by the 10th respondent at Pamba Manalppuram, as evidenced by the photographs reproduced hereinbefore, are removed without any delay.

56. The learned Special Government Pleader (Forest)

would submit that, the area where temporary constructions including erection of sheds have been made by the 10th respondent for 'Ramakatha' comes within the boundary of the Periyar Tiger Reserve-West Division. This area was constituted as a Game Reserve/Wildlife Sanctuary in 1950 under the Travancore Forest Regulation, 1068 (1893). The adjoining area on the south is part of Konni Reserve Forest which comes under the Goodrickal Forest Range of Ranni Forest Division, which is an immensely rich biodiversity area. The subject matter land is part of Mount Plateau area which was declared as a Game Sanctuary/Wildlife Sanctuary along with two other areas in 1950. The Periyar Lake Reserve Forest area was declared as Game Sanctuary by name 'Periyar Wildlife Sanctuary Proper' and the Mount Plateau area, within which the subject matter area comes, was declared as Game Sanctuary by name 'Annex No.2 to the Wildlife Sanctuary (Mount Plateau)' and Rattendon Valley area was declared as Game Sanctuary by name 'Annex No.1 to the Wildlife Sanctuary (Rattendon Valley)'. The above three areas namely Periyar Wildlife Sanctuary Proper and Annex No.1 and Annex No.2 to the Wildlife Sanctuary constitute the Periyar Wildlife

Sanctuary.

57. The learned counsel for the 10th respondent pointed out that the Pamba Ganapathi Temple opens during the entire year without any restrictions whatsoever and in such circumstances the activity as proposed by the 10th respondent cannot be termed as an objectionable activity.

58. The learned Special Government Pleader (Forest) would submit that during Mandala-Makaravilakku Festival there were obstructions to the movements of pilgrims at various places due to the presence of elephants on the route from Nilakkal to Pamba and other places. Nearly 15 occasions elephants have caused obstructions to the movement of pilgrims. The learned counsel for the 10th respondent would point out that such incidents happened in between Nilakkal and Chalakkayam. The learned Special Government Pleader would submit that Chalakkayam is nearly 7 kms. away from Pamba. The learned Standing Counsel for Travancore Devaswom Board would submit that elephants are not normally seen at Pamba, during Mandala-Makaravilakku festival season and the presence of elephants are noticed near Pamba mainly during off season.

59. The fact that Pamba Manalppuram is within the boundary of Periyar Tiger Reserve is not in dispute. It is also not in dispute that Periyar Wildlife Sanctuary, which was notified in the year 1950 became Periyar Tiger Reserve as part of 'Project Tiger'. Subsequently, in the year 2007 and 2011 the core and buffer areas of the Tiger Reserve were notified. The specific stand taken by the 9th respondent is that the area where construction of sheds is undertaken by the 10th respondent falls within Periyar Wildlife Sanctuary as well as Periyar Tiger Reserve and 10 Acres of forest land leased out to Travancore Devaswom Board is for the purpose of providing camping facility to the pilgrims visiting Sabarimala.

60. The learned counsel for the 10th respondent would point out that there are constructions by the Travancore Devaswom Board in Pamba Manalppuram and as such the 10th respondent cannot be found fault with in putting up temporary structures for conducting the programme 'Ramakatha'. The learned Special Government Pleader (Forest) would point out that the earlier constructions in Pamba Manalppuram are either in the periphery of the sand bank adjoining to the pathway to Sannidhanam or away from the river, leaving out

vacant space. The said vacant area is now used for putting up temporary structures by the 10th respondent. Having considered aforesaid submissions made by the learned counsel, we find that, when the land at Pamba Manalppuram is leased out to Travancore Devaswom Board for providing pilgrim facilities, putting up temporary structures on that land by causing obstruction or inconvenience to the pilgrims, as seen from the photographs reproduced hereinbefore is legally impermissible.

61. Insofar as the use of helipad at Nilakkal is concerned, along with the additional statement filed by the 3rd respondent, a copy of Annexure R3(e) Minimum Safety Requirement for Temporary Helicopter Landing Area as directed by the Director General of Civil Aviation is placed on record. During the course of arguments, the specific stand taken by the learned Standing Counsel for the 3rd respondent is that any use of helipad at Nilakkal will be strictly in conformity with the aforesaid requirements, with prior permission of the competent authorities and with prior intimation to the District administration.

62. The learned counsel for the 10th respondent would

submit that Anjaneya Auditorium in the premises of Pamba Ganapathi Temple is now occupied by the Police, till 18.02.2022 for Virtual-Q booking. In case the said auditorium is available from 19.02.2022, the 10th respondent may be permitted to conduct the programme 'Ramakatha' in that auditorium, subject to the conditions that may be imposed by the Travancore Devaswom Board and also the District administration. The learned counsel would submit that the 10th respondent shall take necessary steps to ensure that the conduct of 'Ramakatha' in Anjaneya auditorium, if permitted by the Travancore Devaswom Board, is without causing any inconvenience whatsoever to the devotees coming to that temple and without causing any disturbance whatsoever to the daily rituals and ceremonies. The 10th respondent shall also ensure that the conduct of the said programme at Anjaneya auditorium causes any disturbance to the wildlife.

63. The learned Standing Counsel for Travancore Devaswom Board would submit that, if any such request is received from the 10th respondent for conducting the programme 'Ramakatha' at Anjaneya auditorium, the Board shall consider the same and take an appropriate decision on

that request in consultation with the District administration in view of the restrictions imposed in connection with Covid-19 pandemic. The aforesaid submission made by the learned Standing Counsel, on behalf of the 3rd respondent Travancore Devaswom Board, is recorded.

64. Considering the facts and circumstances borne out from the materials on record, we deem it appropriate to direct the Special Commissioner, Sabarimala to submit a report before this Court as to the measures that have to be taken to ensure that similar incidents are not repeated at Pamba-Manalppuram in future. The report of the Special Commissioner shall be placed on record within three weeks.

The DBP is disposed of as above.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

bkn/-

APPENDIX

3RD RESPONDENT'S ANNEXURES :

- ANNEXURE R3 (A) TRUE COPY OF THE REQUEST DATED 26.08.2021 GIVEN BY SHRI.NANDKISHORE BAJORIA CHARITABLE TRUST TO THE PRESIDENT, TRAVANCORE DEVASWOM BOARD.
- ANNEXURE R3 (B) TRUE COPY OF THE ORDER, ROC NO.5144/2021/SAB DATED 31.12.2021 GRANTING PERMISSION TO THE TRUST FOR CONDUCTING RAMAKATHA.
- ANNEXURE R3 (C) TRUE COPY OF THE COMMUNICATION DATED 27.01.2022 GIVEN BY THE DISTRICT MEDICAL OFFICER TO SHRI.NANDKISHORE BAJORIA CHARITABLE TRUST.
- ANNEXURE R3 (D) TRUE COPY OF THE REQUEST DATED 28.01.2022 GIVEN BY THE EXECUTIVE OFFICER, SABARIMALA TO THE DISTRICT COLLECTOR, PATHANAMTHITTA.
- ANNEXURE R3 (E) TRUE COPY OF THE CIVIL AVIATION REQUIREMENTS (CAR), MINIMUM SAFETY REQUIREMENTS FOR TEMPORARY HELICOPTER LANDING AREAS PRESCRIBED BY THE DIRECTOR GENERAL OF CIVIL AVIATION.
- ANNEXURE R3 (F) TRUE COPY OF THE COMMUNICATION GIVEN FROM THE MINISTRY OF CIVIL AVAITION, D.O.NO.AV.22011/1/2016-GA-MoCA DATED 14.06.2019 STATING THAT NO APPROVAL IS REQUIRED FROM THE DISTRICT AUTHORITIES FOR HELICOPTER OPERATIONS.

10TH RESPONDENT'S EXHIBITS :

- EXHIBIT R10 (A) TRUE COPY OF THE APPLICATION FILED BY THE 10TH RESPONDENT TRUST DATED 24.11.2021
- EXHIBIT R10 (B) TRUE COPY OF THE PERMISSION GRANTED BY THE DEVASWOM BOARD DATED 31.12.2021.

- EXHIBIT R10 (C) TRUE COPY OF THE REQUEST GIVEN BY THE 10TH RESPONDENT TRUST TO WILD LIFE WARDEN DATED 24.01.2022.
- EXHIBIT R10 (D) TRUE COPY OF THE REQUEST GIVEN BY THE 10TH RESPONDENT TRUST TO ASSISTANT ENGINEER, KERALA WATER AUTHORITY DATED 15.01.2022.
- EXHIBIT R10 (E) TRUE COPY OF THE LETTER ISSUED BY THE STATION HOUSE OFFICER PAMBA DATED 01.02.2022.
- EXHIBIT R10 (F) TRUE COPY OF THE LETTER ISSUED BY THE DISTRICT MEDICAL OFFICER DATED 27.01.2022.
- EXHIBIT R10 (G) TRUE COPY OF THE ORDER ISSUED BY THE REGIONAL FIRE OFFICER DATED 25.01.2022.
- EXHIBIT R10 (H) TRUE COPY OF THE PHOTOGRAPHS DATED NIL.
- EXHIBIT R10 (I) TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT BY INFORMING MODIFIED COVID PROTOCOLS AND DIRECTIONS G.O.NO.109/2022/DMD DATED 04.02.2022.
- EXHIBIT R10 (J) TRUE COPY OF THE CERTIFICATE OF AIRWORTHINESS ISSUED BY THE DIRECTOR GENERAL OF CIVIL AVIATION DATED 13.01.2022.
- EXHIBIT R10 (K) TRUE COPY OF THE APPLICATION SUBMITTED BY THE ADDITIONAL 10TH RESPONDENT BEFORE THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE DATED 14.02.2022.