

A.S. NO.731 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 26 / 02 / 2026

JUDGMENT PRONOUNCED ON : 03 / 06 / 2026

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CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

A.S. NO.731 OF 2018

AND

C.M.P. NOS.16630 AND 15359 OF 2023

AND

C.M.P. NO.25998 OF 2025

A.S.NO.731 OF 2018

M.Balasundaram
S/o. M.Mani
No.10-A/9, Negareeswarar Koil Street,
Kancheepuram Town.

... Appellant /
1st defendant

Versus

1.A/M Vaikunda Perumal Temple
Kancheepuram,
Rep. By its Executive Officer
Having Office at A/M Katchabeswarar Temple
Nellukara Street, Kancheepuram.

... 1st Respondent /
plaintiff

2.Kanchipuram Municipality
Rep. By its Commissioner
Nellukara Street,
Kancheepuram.



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3.Superintending Engineer
Tamilnadu Electricity Board
Anna Maligai,
Olimohamedpet, Kanchipuram.

... Respondents 2&3 /
defendants 2&3

PRAYER: First Appeal filed under Section 96 and Order XLI Rule 1 of the Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree dated December 22, 2017 passed in O.S. No.208 of 2010 by the learned District Judge, District Court - II, Kancheepuram.

For Appellant : Mr.T.M.Hariharan

For Respondent-1 : Mr.K.Hariharan

For Respondent-2 : Mr.RA. Gopinath
Standing Counsel

For Respondent-3 : No appearance

CMP NO.15359 OF 2023

A/M Vaikunda Perumal Temple
Kancheepuram,
Rep. By its Executive Officer
Having Office at A/M Katchabeswarar Temple
Nellukara Street, Kancheepuram.

... Petitioner /
1st Respondent

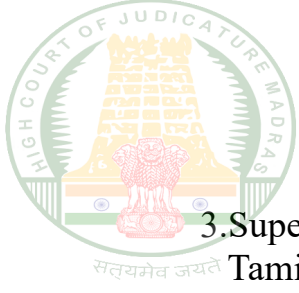
Versus

1.M.Balasundaram
S/o. M.Mani
No.10-A/9, Negareeswarar Koil Street,
Kancheepuram Town.

... 1st Respondent /
Appellant

2.Kanchipuram Municipality
Rep. By its Commissioner
Nellukara Street, Kancheepuram.

... 2nd Respondent /
2nd Respondent



3. Superintending Engineer
Tamilnadu Electricity Board
Anna Maligai,
Olimohamedpet, Kanchipuram.

... 3rd Respondents /
3rd Respondent

PRAYER: Civil Miscellaneous Petition filed under Order XLI Rule 27 and Section 151 of the Code of Civil Procedure, 1908, praying to receive the documents filed with the list as additional evidence on the side of the first respondent in the appeal and mark the same on the side of the plaintiff/first respondent as Exhibits A11, A12 and A13 in the appeal.

List of documents annexed in CMP No.15359 of 2023

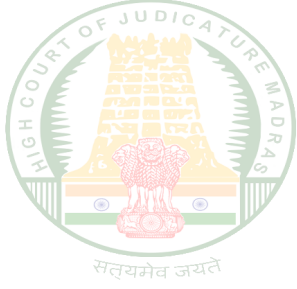
S.No.	Date	Description of Documents
1	29.06.2022	Photostat copy of the order passed by the Settlement Officer in Appeal ந.க.ஈ.1/8553/2010
2	19.10.2022	Photostat copy of the order passed for change of pattas in favour of temple in proceedings ந.க.82/2022/அ by Special Tahsildar, Kancheepuram
3	26.01.1929	Photostat copy of the T.D.No.1042 in favour of temple, issued by District Collector, Kancheepuram

For Petitioner : Mr.K.Hariharan
For Respondent-1 : Mr.T.M.Hariharan
For Respondent-2 : Mr.RA. Gopinath
Standing Counsel
For Respondent-3 : No appearance

CMP NO.16630 OF 2023

M.Balasundaram
S/o. M.Mani
No.10-A/9, Negareeswarar Koil Street,
Kancheepuram Town.

... Petitioner /
Appellant

**Versus**

1.A/M Vaikunda Perumal Temple
Kancheepuram,
Rep. By its Executive Officer
Having Office at A/M Katchabeswarar Temple
Nellukara Street, Kancheepuram.

2.Kanchipuram Municipality
Rep. By its Commissioner
Nellukara Street,
Kancheepuram.

3.Superintending Engineer
Tamilnadu Electricity Board
Anna Maligai,
Olimohamedpet, Kanchipuram.

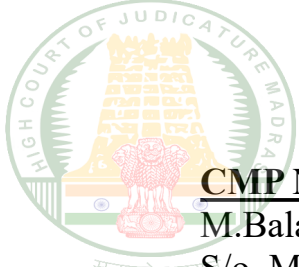
... Respondents /
Respondents

PRAYER: Civil Miscellaneous Petition filed under Order XLI Rule 27 of the Code of Civil Procedure, 1908, praying to receive the document set out in the Schedule to the petition as additional document in A.S.No.731 of 2018 and to mark the same as Ex-B.15 on the side of the first defendant / appellant.

Schedule to the petition in CMP No.16630 of 2023

<i>S.No.</i>	<i>Date</i>	<i>Description of the Document</i>	<i>Nature</i>
1	26.06.2023	Proceedings of the Commissioner of Land Administration, Chepauk, Chennai – 600 005, in K1/2935124/2022	Photostat Copy

For Petitioner : Mr.T.M.Hariharan
For Respondent-1 : Mr.K.Hariharan
For Respondent-2 : Mr.RA. Gopinath
Standing Counsel
For Respondent-3 : No appearance



A.S. NO.731 OF 2018

CMP NO.25998 OF 2025

M.Balasundaram

S/o. M.Mani

No.10-A/9, Negareeswarar Koil Street,
Kancheepuram Town.... Petitioner /
Appellant***Versus***

1.A/M Vaikunda Perumal Temple
Kancheepuram,
Rep. By its Executive Officer
Having Office at A/M Katchabeswarar Temple
Nellukara Street, Kancheepuram.

2.Kanchipuram Municipality
Rep. By its Commissioner
Nellukara Street, Kancheepuram.

3.Superintending Engineer
Tamilnadu Electricity Board
Anna Maligai,
Olimohamedpet, Kanchipuram.

... Respondents /
Respondents

PRAYER: Civil Miscellaneous Petition filed under Order XLI Rule 27 of the Code of Civil Procedure, 1908, praying to receive the Order of the Commissioner of Land Administration, Chepauk, Chennai, dated September 15, 2025 in R.O.No.K1/2935124/2022 set out in the schedule to the petition as additional document in A.S.No.731 of 2018 and to mark the same as B-16 on the side of the petitioner / appellant.

For Petitioner : Mr.T.M.Hariharan

For Respondent-1 : Mr.K.Hariharan

For Respondent-2 : Mr.RA. Gopinath
Standing Counsel

For Respondent-3 : No appearance

**J U D G M E N T****R.SAKTHIVEL, J.**

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Feeling aggrieved by the Judgment and Decree dated December 22, 2017 passed in O.S. No.208 of 2010 by 'the learned District Judge, District Court-II, Kancheepuram' ['Trial Court' for convenience], the first defendant therein has preferred this Appeal Suit under Section 96 and Order XLI Rule 1 of 'the Code of Civil Procedure, 1908' ['CPC' for brevity].

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

PLAINTIFF'S CASE IN BRIEF:

3. Case of the plaintiff is that 'the Arulmighu Vaikundaperumal Temple' [hereinafter 'plaintiff-temple'] is an ancient temple built by Pallavas. It is a public temple governed by the 'Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959' ['HR & CE Act' for brevity].

3.1. The vacant site comprised in Survey No.847/49-B and C, having Door No.33-A in Vaikundaperumal South Mada Street, Kanchipuram is the suit property herein and the same belongs to the plaintiff-temple. It is a

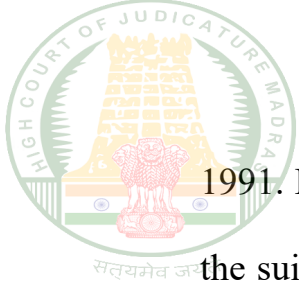
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minor Inam granted to the plaintiff-temple. The suit property forms part of a larger extent in Town Survey No.847 totally measuring 8 Acre 37 Cents which also belongs to the plaintiff-temple.

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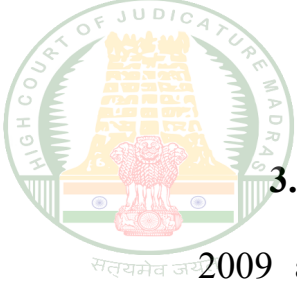
3.2. On April 29, 1941, the plaintiff-temple represented by its then Devasthanam Dharmakarthi - M.Thiruvankadamudaya Iyer executed a *Cawl* (lease) Deed in favour of one K.K.Venkatarama Iyer for a monthly rent of Rs.2/- for the Suit vacant land, for the purpose of house construction. K.K.Venkatarama Iyyar transferred the *Cawl* to one Kodadhanda Mudhaliar on March 22, 1948 on the condition that the transferee shall pay the lease amount to the plaintiff-temple as per the original *Cawl* Deed. On January 17, 1957, the said Kodadhanda Mudhaliar transferred the *Cawl* in favour of one R.S.Nataraja Mudhaliar, who in turn on February 12, 1959, transferred the *Cawl* in favour of one R.Nataraja Mudhaliar.

3.3. The said R.Nataraja Mudhaliar, who is the only a transferee of the *Cawl*, without any legal right, as if he is the absolute owner of the suit property, sold a portion of suit property to one Deivasigamani Mudhaliar *vide* registered Sale Deed dated April 30, 1991 (Document No.608 of 1991) and the remaining portion to one R.K.Krishnan under registered Sale Deeds dated April 30, 1991 (Document No.609 of 1991) and February 2,

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1991. In turn, said R.K.Krishnan and the legal heirs of Deivasigamani sold the suit property to the first defendant herein *vide* Sale Deed dated August 3, 2009. The sale in favour of the first defendant is not valid and binding upon the plaintiff-temple. It will not confer any right, title or interest on the first defendant or anyone else for that matter.

3.4. The aforesaid R.Nataraja Mudhaliar, during his lifetime claimed Ryotwari Patta before the Assistant Settlement Officer, Thanjavur. As it went against the plaintiff-temple, it filed an appeal before the Settlement Officer, Chepauk, Chennai. The first defendant and his predecessors are under the erroneous impression that they had become the owner of the suit property after passing of the Tamil Nadu Minor Inams Abolition and Conversion into Ryotwari Act, 1963 (Tamil Nadu Act No.30/1963). The plaintiff - temple continues to be the owner of the suit property even after passing of the said Act. The suit property is not vested with the Government. The defendants who purchased the suit property from the ex-tenants of the plaintiff-temple cannot set up title themselves and they are estopped from doing so. As they are claiming title against the plaintiff-temple, they have forfeited their tenancy rights, if any. They are to be treated as trespassers of the suit property.

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3.5. Further, the first defendant purchased the suit property in August 2009 and started to put up construction there in January 2010. The plaintiff-temple raised objection immediately for the construction. Despite objection, the first defendant is proceeding with the illegal construction work without obtaining proper permission from the Municipality. The plaintiff-temple is trying to get permission and electricity service connection from defendants 2 and 3. The plaintiff-temple has also raised objections to the defendants 2 and 3 not to accord any sanction or service connection to the first defendant in respect of suit property. The first defendant does not have any right to be in possession of the Suit land. Hence, the plaintiff filed a Suit for recovery of possession of the suit property after removing the superstructure put up by the first defendant and also for permanent injunction restraining the first defendant from putting up any further construction in the suit property.

FIRST DEFENDANT'S CASE IN BRIEF:

4. The first defendant filed written statement stating that after passing of the Tamil Nadu Act No.30 of 1963, *vide* proceedings conducted before the Assistant Settlement Officer, Thanjavur in S.R. No.2512 of 1967 dated January 29, 1968, the Settlement Officer granted patta to the first



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defendant's predecessor-in-title in respect of the suit property. The revision preferred by the plaintiff-temple in S.R. No.3/KPM/79-13 was dismissed on December 21, 1979. In the revision, it was also ordered that the plaintiff-temple is not entitled to enforce any *Cawl* Deeds from the notified date.

4.1. Aggrieved by the order, the plaintiff-temple filed Revision before the Special Commissioner, Commissioner of Land Administration, Chepauk, Chennai in R.P. No.49 of 1980. In the said proceedings, the claim of the plaintiff-temple was negated with regard to the suit property. In the meantime, the plaintiff-temple had filed a Writ Petition in W.P. No.13642 of 1996 before the High Court. The High Court remitted the matter back to the Assistant Settlement Officer to examine whether anything further survives in the claim of the plaintiff-temple, *vide* its Order dated February 25, 1997.

4.2. The Assistant Settlement Officer after due enquiry, dismissed the plaintiff-temple's claim petition on April 29, 2008. All the patta proceedings went against the plaintiff-temple. So first defendant's predecessors had valid title from whom the first defendant lawfully purchased the suit property. Since the date of purchase, the first defendant

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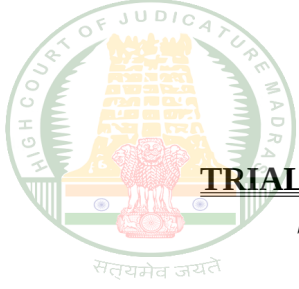
is in uninterrupted possession and enjoyment of the suit property. Revenue records which stood in the name of the first defendant's predecessors-in-title, after purchase by first defendant, were mutated to his name. After Tamil Nadu Act No.30 of 1963, there is no tenancy between the plaintiff-temple and the first defendant or his predecessor-in-title. First defendant did not pay any rent to the plaintiff-temple at any point of time. Further, the first defendant invested huge amount in the Suit construction. Accordingly, the first defendant prayed to dismiss the Suit.

SECOND DEFENDANT'S CASE IN BRIEF:

5. The second defendant filed written statement stating that no building permission was accorded to the first defendant for construction of the building on the suit property by the second defendant till date and the second defendant is ready to abide by any Order of the Court. There are no merits or *bonafide* or cause of action in filing the Suit against the second defendant. Stating so, the second defendant prayed to dismiss the Suit.

CASE OF THIRD DEFENDANT:

6. No written statement on the side of third defendant.

**TRIAL COURT:**

7. Based on the above pleadings, the Trial Court framed the following issues:

- '1. Whether the plaintiff temple is entitled to the relief of possession?
2. Whether the first defendant's vendor had title to the property as alleged by the first defendant?
3. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?
4. To what relief the plaintiff is entitled?'

8. At trial, one Vajaravelu, Executive Officer attached to the plaintiff-temple was examined as P.W.1 and Ex-A.1 to Ex-A.10 were marked on the side of the plaintiff. On the side of the defendants, the first defendant himself was examined as D.W.1 and Ex-B.1 to Ex-B.14 were marked.

9. After full-fledged trial, the Trial Court concluded that the plaintiff-temple is the owner of the suit property and they are entitled to recover the suit property after removing the unauthorized construction in the suit property and also entitled to get patta from the Government. The Trial Court further concluded that since the plaintiff-temple is the owner of the suit property and entitled to recovery of possession, the plaintiff-temple is also entitled to permanent injunction against the first defendant not to

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make any further construction in the suit property. Accordingly, the Trial Court decreed the Suit as prayed for by the plaintiff-temple.

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APPEAL SUIT

10. Feeling aggrieved by the Decree and Judgment, the first defendant therein has preferred this First Appeal under Section 96 read with Order XLI Rule 1 of C.P.C.

11. In the Appeal Suit, the plaintiff-temple filed a petitioner under Order XLI Rule 27 of C.P.C. in C.M.P. No.15359 of 2023, praying to receive three documents viz., (i) Photocopy of the Order passed by the Settlement Officer in Na.Ka. No.1/8553/2010, (ii) Photocopy of the Order passed by the Special Tahsildhar, Kancheepuram in Na.Ka. No.82/2022/A directing issuance of patta in favour of the plaintiff-temple and (iii) Photocopy of Inam Fair Register, as additional evidence._

12. Similarly, the first defendant filed two Order XLI Rule 27 Applications in C.M.P. Nos.16630 of 2023 and 25998 of 2025, seeking to receive the proceedings of the Commissioner of Land Administration Chepauk dated March 26, 2003 in Proceedings No.K1/2935124/2022 and that dated September 15, 2025 in Proceedings No.K1/2935124/2022.

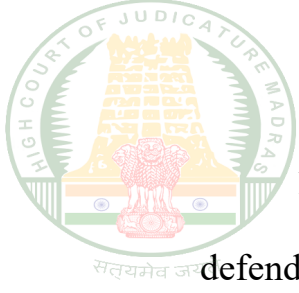
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13. Heard either side on the Order XLI Rule 27 Applications.

Perused the affidavits filed in support of the Applications.

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14. As far as the Civil Miscellaneous Petition in C.M.P. No.15359 of 2023 is concerned, the earlier patta proceedings relevant to the petition mentioned Document Nos.1 and 2 are already marked in this Suit and the documents sought to be received as additional evidence are of proceedings pursuant thereto. The petition mentioned Document Nos.1 and 2 being Orders passed by a Statutory Authority in which the first defendant is also a party, he cannot deny the same and there may not be any impediment or prejudice to him. Therefore, this Court is inclined to receive the petition mentioned Document Nos.1 and 2, and mark them as Ex-A.11 and Ex-A.12 respectively, without resorting to Order XLI Rule 28 of C.P.C. considering the nature of the documents. As far as the petition mentioned Document No.3 - Inam Fair Register goes, the same is already on record on the plaintiff-temple's side as Ex-A.8 - Extract of Inam Fair Register, and hence, there is no need to receive and mark the same again. Consequently, C.M.P. No.15359 of 2023 filed by plaintiff-temple is partly allowed. Petition mentioned Document Nos.1 and 2 are received and marked as Ex-A.11 and Ex-A.12 respectively.

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15. As regards C.M.P. Nos.16630 of 2023 filed by the first defendant, he thereby seeks to receive the Interim Order of the Commissioner of Land Administration granting *status-quo inter-alia* in respect of the Suit land. In effect, Ex-A.11 - Order was stayed by the Commissioner. The document sought to be received being an Order of Statutory Authority in pursuance of Ex-A.11 - Order, this Court is inclined to allow the Civil Miscellaneous Petition. Accordingly, C.M.P. Nos.16630 of 2023 is allowed and the document is marked as Ex-B.15, without resorting to Order XLI Rule 28 of C.P.C. considering the nature of the documents.

16. As regards C.M.P. No.25998 of 2025 which is another Civil Miscellaneous Petition filed by the first defendant, the document sought to be received is the Final Order passed in Revision over Ex-A.11 - Order. Again considering the nature of the document, this Court is inclined to receive and mark the same without resorting to Order XLI Rule 28 of C.P.C. Accordingly, C.M.P. No.25998 of 2025 is allowed and the document is received and marked as Ex-B.16.

**ARGUMENTS FOR APPEAL SUIT:**

17. Mr.T.M.Hariharan, learned Counsel appearing for the appellant / first defendant would submit that though the plaintiff-temple has both *Melvaram* and *Kudivaram* on the appointed date, the Suit construction was already in existence on that date. Hence, as per Section 13 of the Tamil Nadu Act No.30 of 1963, an occupant has the right to get patta. He would rely on the Sale Deed dated April 30, 1991 and submit that the first defendant established that on the date of commencement of the Tamil Nadu Act No.30 of 1963, there was a building in the suit property. Hence, the plaintiff-temple has no right over the suit property in view of Section 13 of the Tamil Nadu Act No.30 of 1963.

17.1. He would further submit that the Trial Court failed to appreciate the fact that the patta was issued in favour of the predecessor-in-title of the first defendant *vide* Tamil Nadu Act No.30 of 1963. Referring to Ex-B.16, he would submit that the patta proceedings under the Tamil Nadu Act No.30 of 1963 reached finality in which patta was granted to the first defendant.

17.2. He would further submit that the plaintiff-temple filed similar cases against the adjacent land owners and the same ended against the plaintiff-temple. After commencement of Tamil Nadu Act No.30 of 1963,

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the temple lost its right and the building was vested with the Government.

The Settlement Tahsildar rightly held that patta has to be issued outside the purview of the Tamil Nadu Act 30 of 1963.

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17.3. He would further submit that the right of the defendants have been recognised by the Authorities constituted under Tamil Nadu Act No.30 of 1963. Hence, the Statutory Orders recognizing the rights of the defendants and his predecessor-in-title, clearly creates a cloud over the title of the plaintiff-temple and hence, the relief of possession without a prayer of declaration of title of plaintiff is not maintainable. Accordingly, he would pray to allow the Appeal Suit and set aside the Decree and Judgment passed by the Trial Court.

17.4. In support of his arguments, the learned Counsel appearing for the appellant / first defendant relied on the following judgments: (i) Sathyanarayanan -vs- The Sub Registrar (W.P.No.12053 of 2023 decided on July 16, 2024); (ii) K.Somasundaram Pillai -vs- R.Dorairaj, reported in (1979) 1 MLJ 443; (iii) K.S.Thirugnasambandam Chettiar -vs- The Settlement Thesildar, reported in 1996-1-L.W.19; (iv) R.Surendran -vs- Arulmighu Ekambareswarar Thirukoil (S.A.No.32 of 2019 decided on October 18, 2024); (v) R.Manicka Naicker -vs- E.Elumalai Naicker,



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reported in (1995) 4 SCC 156; (vi) Jagdish Narain -vs- Nawab Said Ahmed Khan, reported in 1959 L.W. 268 (PC); (vii) Brahma Nand Puri -vs- Neki Puri, reported in AIR 1965 SC 1506; (viii) Moran Mar Basselios Catholicos -vs- Most Rev. Mar Poullose Athanasius, reported in (1954) 2 SCC 42; (ix) Anathula Sudhakar -vs- P.Buchi Reddy, reported in (2008) 4 SCC 594; (x) Sudha Ravi Kumar -vs- The Special Commissioner & Commissioner, reported in 2017 (3) CTC 135; (xi) D.Satyanarayana -vs- P.Jagadish, reported in (1987) 4 SCC 424; (xii) Mangat Ram -vs- Sardar Meharban Singh, reported in (1987) 4 SCC 319.

18. *Per contra*, Mr.K.Hariharan, learned Counsel appearing for the first respondent / plaintiff-temple would submit that the plaintiff-temple has both *Kudivaram* as well as *Melvaram*. Reiterating the plaint averments *qua Cawl* Deed and subsequent transfers of *Cawl*, he would submit that the Suit land belongs to the plaintiff-temple. R.Natraja Mudhaliar who was a mere *Cawl* transferee had no right to execute Ex-B.6 and Ex-B.7 - Sale Deeds in respect of the Suit land in favour of the predecessor-in-title of the first defendant. Hence, Ex-B.6 and Ex-B.7 - Sale Deeds would not bind the plaintiff. As the first defendant himself has admitted that he did not pay rent as per the Original *Cawl* Deed, he is to be termed as a trespasser and had no right to put up construction, that too without permission from the



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plaintiff-temple. When the Suit land belongs to the plaintiff-temple, the plaintiff-temple can maintain the Suit without seeking the relief of declaration of title. Further, patta proceedings issued under the Tamil Nadu Act No.30 of 1963 cannot decide title, Civil Court alone is the competent forum to do so. The Trial Court after considering the entire facts and circumstances rightly granted relief of delivery of possession and permanent injunction. There is no warrant to interfere with it. Accordingly, he would pray to dismiss the Appeal Suit and sustain the Judgment and Decree of the Trial Court.

18.1. In support of his contentions, the learned Counsel appearing for the first respondent relied on the following judgments: (i) K.S.Thirugnasambandam Chettiar -vs- The Settlement Thasildar, reported in 1996-1-L.W.19; (ii) Subramania Gurukkal -vs- Shri Patteswaraswami Devasthanam, reported in 1996-1-L.W. 166; (iii) R.Manicka Naicker -vs- E.Elumalai Naicker, reported in (1995) 4 SCC 156; (iv) T.K.Ramanujam Kavirayar -vs- Sri-La-Sri Sivaprakasa Pandara Sannadhi Avargal, reported in 1988-2-L.W.513; (v) State of Tamil Nadu -vs- Ramalinga Samigal Madam, reported in AIR 1986 SC 794; (vi) Srinivasan -vs- Sri Madhyarjuneswaraswami, reported in (1988) 2-L.W.189; (vii) Sri-La-Sri Sivaprakasa Pandara Sannadhi Avargal -vs- Smt.T.Parvathi Ammal,



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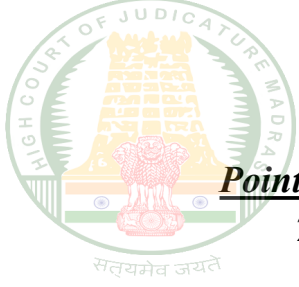
reported in 1998-2-L.W.188; and (viii) Sri Kumarakattalai Subrahmanyaswami Devasthanam -vs- K.S.Sundararajulu Chettiar, reported in (1975) ILR 1Mad 501.

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DISCUSSION ON THE APPEAL SUIT:

19. This Court has considered both sides' submissions and perused the evidence available on record. The points that arise for consideration in this Appeal Suit are:

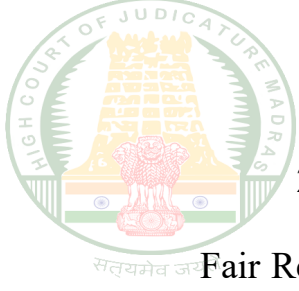
- (i) *Whether the plaintiff-temple is the owner of the Suit land ?*
- (ii) *Whether Exs-B.6 and B.7 - Sale Deeds are binding on the plaintiff-temple ?*
- (iii) *Whether the patta issued under Section 13 of the Tamil Nadu Act No.30 of 1963 would confer title to the first defendant's vendor and the first defendant ?*
- (iv) *Whether the plaintiff - temple is entitled to the relief of recovery of possession as prayed for ?*
- (v) *Whether the plaintiff - temple is entitled to the relief of permanent injunction as prayed for ?*
- (vi) *Whether the Trial Court's Judgment and Decree is to be interfered with ?*



Point Nos.(i) to (iii)

20. The plaintiff's side marked Ex-A.8 - Photocopy of the Inam Fair

Register issued by Inam Commissioner. From Ex-A.8, it could be seen that an extent of 5 Acre 28 Cents was originally a *Devadayam* land granted vide Title Deed No.1042 by the Deputy Collector, Inam Settlement Commissioner on June 22, 1961. Further, in Column No.2 thereof, it has been mentioned as "*Devadayam*". Column No.3 thereof reads as "*an extent of 1.32 acres Dry Poonthottam and an extent of 3.96 acres Tope totaling 5.28 acres*". In Column No.8 thereof, it has been noted as "*for the service of Vaikunda Perumal, the service is rendered to this day*". In Column No.9 thereof, it has been mentioned as "*Sarva Inam*". In Column No.10 thereof, it has been noted as "*so long as the service is rendered*". In Column Nos.16 and 17 thereof, it has been stated that "*Parameswara Vinnagharam Conjivaram Sri Vaikuntha Perumal's Tope manages for the time being Kodandarama Nayak Guruvamma, Adilakshammammal priest for the time being Aiyatari Bhattar*". In Column No.21 thereof, it has been mentioned as "*To be confirmed to Sri Vaikuntha Perumal Pagoda so long as the institution is well maintained*". Further, from the perusal of Ex-A.8, it is seen that an extent of 28 Cents was acquired for the purpose of construction of a school building and Rs.0-4-7 has been deducted as *Beriz* deduction.

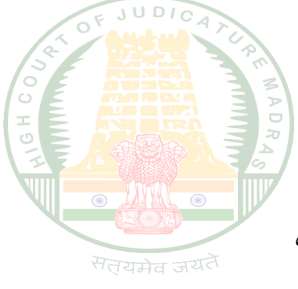


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21. A conjoint and careful perusal of entries made in Ex-A.8 Inam

Fair Register would show that the Suit land along with the larger extent of land is a service *inam* land given to the service provider of the temple viz., *Kodandarama Nayak, Guruvammal, Adilakshmammal* and *Aiyatari Bhattar*. It is apposite to mention here that the first defendant did not claim right through the aforesaid Service *Inamdars*. On the other hand, as detailed *supra*, he is claiming title through the *Cawl* Transferees from the plaintiff-temple.

22. As narrated in the plaint, the plaintiff-temple's then *Dharmakartha* executed Ex-C.1- *Cawl* Deed in respect of 'land measuring north-south 90 feet X east-west 44 feet in Survey No.847' (Suit land) in favour of one K.K.Venkatrama Iyer, whereunder the then *Dharmakartha* on behalf of the plaintiff-temple received Rs.50/- as premium, the ground rent was fixed at Rs.2/- per month, the *Cawl* period was agreed to be renewable every 21 years, and the *Cawl* holder was permitted to put up construction and also to alienate the superstructure to anyone other than Muslims, Christians and *Panjavars* as long as the ground rent is being duly paid. For ready reference, portion of Ex-C.1 containing relevant recitals is extracted hereunder:

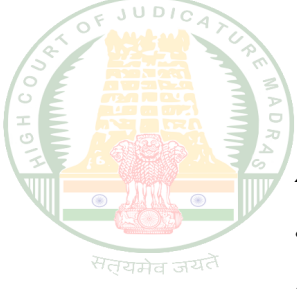


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"ஓராவது பார்ட்டியார் ஷை தேவஸ்தான நன்மையையும் லாபத்தையும் அபிவிருத்தியையும் உத்தேசித்து ஷையார் சுவாதீனத்தில் இருக்கும் அடியில் கண்ட காலிமனையை வீடுகட்டி அனுபவித்துக் கொள்ள 2வது பார்ட்டி கேட்டுக் கொண்டபடி ஓராவது பார்ட்டி ஒப்புக் கொண்டு 2 மனைக்கு ஷை தேவஸ்தானத்திற்காக பிரிமியம் ரொக்கம் ரூ 50.00 எழுத்தால் ரூபாய் ஐம்பதும் 2வது பார்ட்டி மகா மகா ஸ்ரீ சப்ரிஜிஸ்டார் அவர்கள் முன்பாக 1வது பார்ட்டிக்கு செலுத்துவதாகவும் ஒப்புக் கொண்ட வகையில் ஷை 1வது பார்ட்டிக்கு சேர்ந்து விட்டபடியால் இது முதல் 21 வருஷங்களுக்கு 2வது பார்ட்டி வீடுகட்டி அனுபவித்துக் கொள்ள ஷை மனையை 1வது பார்ட்டி 2வது பார்ட்டிக்கு நாளது தேதியில் ஸ்வாதீனம் செய்து விட்டாராகையால் நாளது தேதி முதல் 2வது பார்ட்டி ஷை அடிமனையை கைபற்றி அதற்கு மாதம் 1க்கு வாடகை ரூ 2.00 இரண்டு வீதம் மாதம் பிரதி மாதம் 30க்குள் தேவஸ்தான தற்கால தர்மகத்தாவாகிய 1வது பார்ட்டியிடமாவது அல்லது அதிகாரம் பெற்றவர்களிடமாவது செலுத்தி ரசீது பெற்று அடியில் கண்ட இரு பார்ட்டிகளுக்குண்டான நிபந்தனைகளின்படி ஆண்டு அனுபவித்துக் கொள்ள வேண்டியது.

ஷை மனைக்கும் ஷை மனையின் மீது கட்டும் கட்டடத்திற்கும் முனிசிபல் வரி முதலியவைகளை 2வது பார்ட்டியே செலுத்திக் கொள்ள வேண்டியது, ஷை மனையையாவது அதில் கட்டியிருக்கும் கட்டிடத்தையாவது டிரான்சபர் முதலானதுகள் செய்தால் 1வது பார்ட்டிக்கோ அவர்பின் வரும் டிரஸ்டிக்கோ தெரிவித்து கொள்ள வேண்டியது.



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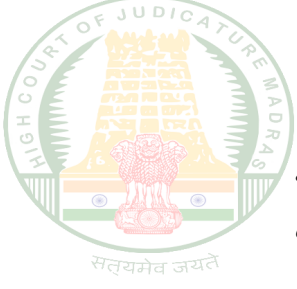
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2வது பார்ட்டி ஷை ஜாகாவையாவது அதன் மேல் கட்டும் கட்டிடத்தையாவது ஜாதி இந்து மதஸ்தர்கள் தவிர முகமதியர் கிறிஸ்துவர் பஞ்சமர் இந்த ஜாதியார்களுக்கு குடக்கூலிக்கு விட்டாலும் அல்லது எவ்வித பராதீனம் செய்தாலும் அது செல்லதக்கினதல்ல இந்த நிபந்தனைக்கு மாறாக 2வது பார்ட்டி நடக்கும் பட்சத்தில் அப்போது இருக்கும் தேவஸ்தான தர்மகத்தாகளுக்கு இந்த கவுளை ரத்து செய்து ஷை ஜாகாவை அதன்பேரிலுள்ள கட்டிடத்தை அப்புறப்படுத்தி சுவாதீனம் செய்துக் கொள்ள அதிகாரமுண்டு.

இப்பத்திரத்தில் குறித்த 21 வருஷ காலமுடிவிலும் அதற்கு பின்னர் ஒவ்வொரு 21 வருஷங்கள் முடிவிலும் 2வது பார்ட்டியாவது அவர் வாரிசுகளாவது இன்னொரு 21 வருஷங்களுக்கு இந்த கவுளை புதுபித்துக் கொள்ள வேண்டியது.

1வது பார்ட்டியாவது அல்லது அப்போதைக்கப்போது ஏற்படும் தர்மகத்தாக்களாவது இந்த தஸ்தாவேஜில் கண்ட ஷரத்து படி அடியில் கண்ட அடிமனையை மறுபடியும் 21 வருஷங்களுக்கு மரு பிரிமியம் கேளாமலும், அப்படி புதுபித்தால் தேவஸ்தானத்துக்கு அக்காலத்தில் லாபகரமில்லை என்று சொல்லாமலும் கவுளை புதுபித்து கொடுக்கப்பட்டவர்களாவார்கள்,

2வது பார்ட்டி கிரயபடி தேவஸ்தானத்திற்கு அடி மனை வாடகை செலுத்த தவறினால் 1வது பார்ட்டியாவது அல்லது அதிகாரம் பெற்றவர்களாவது பாக்கி வாடகையை இந்த மனையின் பேரில் கட்டியிருக்கும்



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கட்டிடத்தின் பேரில் முதல் சாஜ் கோர்ட்டு முலமாக
வசூல் செய்துக் கொள்ளலாம்,

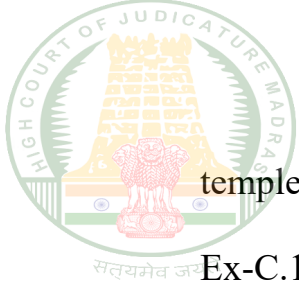
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2வது பார்ட்டியோ அல்லது அவர் வாரிசோ ஷை
மனையில் கட்டிடம் கட்டினாலும், கட்டாவிட்டாலும் இந்த
தஸ்தாவேஜ் ஷரத்துபடி வாடகை
கொடுக்கப்பட்டவர்களாவார்கள்,

எக்காலத்திலாவது இந்த மனையையாவது அல்லது
அதன்பேரில் கட்டியிருக்கும் கட்டிடத்தையாவது கிரயம்
முதலான பராதீனம் செய்தால் பராதீனம் பெற்றவர் முன்
சுவாதீனத்தில் வைத்துக்கொண்டு இருக்கிறவர்கள் ஷை
மனைக்கு மேற்படி பாக்கியிருந்தால் அதை
செலுத்தப்பட்டவர்களாவார்கள் இந்த குத்தகை நிலத்துக்கு
வருஷம் 1க்கு 0.15.0ம் கட்டிடம் கட்டாமல் இருந்தாலும்
2வது பார்ட்டி செலுத்துகிறேன்.

இந்த படிக்கு நாமிருவரும் ஏகோபித்து ஏற்படுத்திக்
கொண்ட புஞ்செய் நில தோட்ட மனை கவுல் பத்திரம்."

23. From the above recitals, the plaintiff-temple did not deny Ex-C.1
- Cawl Deed. It could be easily discerned from a cogent and conjoint
reading of Ex-A.8 - Inam Fair Register and Ex-C.1 - Cawl Deed that the
Suit land was originally a Service *Inam* land and probably as the Service
Inamdhar failed to render service, the land got vested with the plaintiff-

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temple and subsequently, the plaintiff-temple's Dharmakartha had executed

Ex-C.1. As stated above, the ground / Suit land belongs to the plaintiff-

temple and the *Cawl* Holder / Transferee is entitled to put up construction thereon and enjoy the same perpetually (renewable every 21 years) so long as the monthly rent of Rs.2/- is being paid duly. Further, the *Cawl* Holder / Transferee is also entitled to alienate the Suit land subject to the conditions stipulated in Ex-C.1. The validity of the conditions stipulated is not a subject matter here.

24. Under Ex-C.2 - *Cawl* Transfer Deed, the *Cawl* Holder - K.Venkatrama Aiyar transferred the *Cawl* in favour of one Kothandarama Mudhaliar on March 22, 1948 on the condition that the transferee shall pay the lease amount to the plaintiff-temple as per the original *Cawl* Deed (Ex-C.1). On January 17, 1957, the said Kothandarama Mudhaliar transferred the *Cawl* in favour of one R.S.Natraja Mudhaliar under Ex-C.3 - *Cawl* Transfer Deed, who in turn on February 12, 1959, transferred the *Cawl* in favour of one R.Nataraja Mudhaliar *vide* Ex-A.3- *Cawl* Transfer Deed. The said R.Nataraja Mudhaliar, who is the only a transferee of the *Cawl*, without any legal right, as if he is the absolute owner of the suit property, sold a portion of suit property to one Deivasigamani Mudhaliar subject to the *Cawl*, *vide* Ex-A.4 - Registered Sale Deed dated April 30, 1991 and the

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remaining portion to one R.K.Krishnan under Exs-A.5 and A.6 -

Registered Sale Deeds dated April 30, 1991 and February 2, 1991 subject

to the *Cawl*. As all the above transactions were made subject to the *Cawl*,

they are valid in nature. The problem begins with Ex-B.6 - Sale Deed dated

August 3, 2009 executed by the said R.K.Krishnan and Ex-B.7 - Sale Deed

dated August 31, 2009 executed by the legal heirs of Deivasigamani, as

they both are outright sale of suit property without any heed to the *Cawl*.

Both Ex-B.6 and Ex-B.7 were executed in favour of first defendant. The

first defendant is claiming right through the aforesaid documents which

originate from Ex-C.1 - *Cawl* Deed, and thus, he admits that the plaintiff-

temple is the owner of the Suit land as well as the landlord -tenant

relationship in respect of the Suit land. The first defendant *qua* tenant /

lessee cannot turn around and deny the plaintiff-temple's title; he is

estopped from doing so. Suppose, had first defendant derived any right or

title from the Service *Inamdar* / Service Provider to the Temple, then only

he is entitled to claim valid patta under the Tamil Nadu Act No.30 of 1963.

Hence, the patta proceedings under the Tamil Nadu Act No.30 of 1963 will

not be a bar to decide the plaintiff-temple's title. Even while assuming that

the Suit building is vested with the Government under the Tamil Nadu Act

No.30 of 1963, even then the Government alone is entitled to deny or

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question the plaintiff-temple's title. Therefore, this Court concludes that the plaintiff-temple is the owner of the Suit land in so far as the first defendant is concerned; that Ex-B.6 and Ex-B.7 - Sale Deeds would not be binding on the plaintiff-temple; and that the patta proceedings under the Tamil Nadu Act No.30 of 1963 would not confer any title to the first defendant or his predecessor-in-title. ***Point Nos.(i) to (iii) are answered accordingly.***

25. Whatever may be, the first defendant has a valid *Cawl* right over the suit property, as admittedly the plaintiff-temple did not terminate the *Cawl* / lease as per Section 106 of the Transfer of Property Act, 1882. He is in possession and enjoyment of the suit property *qua* lessee. Had the first defendant or his predecessor-in-title violated any of the terms of the *Cawl*, the plaintiff-temple is entitled to file a Suit for recovery of possession as per law. Without terminating the lease as per Section 106 of the Transfer of Property Act, 1882, the plaintiff-temple is not entitled to seek the reliefs of recovery of possession and permanent injunction. Since patta proceedings under the Tamil Nadu Act No.30 of 1963 eventually went against the plaintiff-temple, the plaintiff-temple ought to have filed a Suit for declaration of title adding the State Government as a party. The Trial Court is not right in granting the reliefs of recovery of possession and permanent

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injunction. The Judgment and Decree of the Trial Court are liable to be set aside. ***Point Nos.(iv) to (vi) are answered accordingly.***

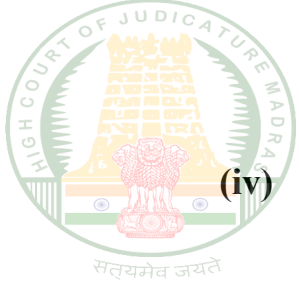
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26. This Court has considered the case laws relied on either side. No quarrel with them.

CONCLUSION

27. Resultantly,

- (i) C.M.P. No.15359 of 2023 filed by the plaintiff-temple is partly-allowed and the petition mentioned Document Nos.1 and 2 are received and marked as Ex-A.11 and Ex-A.12 respectively.
- (ii) C.M.P. Nos.16630 of 2023 and C.M.P. No.25998 of 2025 filed by the first defendant are allowed and the petition mentioned documents are received and marked as Ex-B.15 and Ex-B.16 respectively.
- (iii) Appeal Suit is allowed. The Judgment and Decree of the Trial Court are set aside, however, leave is granted to the plaintiff-temple to file a fresh Suit for declaration, recovery of possession and permanent injunction after terminating the lease as per Section 106 of the Transfer of Property Act, 1882.



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(iv) Considering the facts and circumstances, there shall be no order as to costs.

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[N.S.K., J.] [R.S.V., J.]

03 / 06 / 2026

LIST OF DOCUMENTS MARKED BY THIS COURT, WITH CONSENT OF BOTH PARTIES, VIDE ORDER DATED FEBRUARY 26, 2026 IN A.S.NO.505 OF 2016

S.No.	Date	Description of document	Nature of transaction	Nature of document	Exhibits
1	29.04.1941	R/Kanchipuram II/Book 1/1774/1941 Joint	Cawl Transfer	Certified copy	Ex-C.1
2	22.03.1948	R/Kanchipuram II/Book 1/1166/1948 Joint	Cawl Transfer	Certified copy	Ex-C.2
3	17.01.1957	R/Kanchipuram II/Book 1/286/1957 Joint	Cawl Transfer	Certified copy	Ex-C.3

LIST OF ADDITIONAL DOCUMENTS MARKED ON THE SIDE OF THE FIRST RESPONDENT AS PER THE ORDER PASSED IN CMP NO.15359 OF 2023 IN A.S.NO.731 OF 2018

S.No.	Date	Description of Document	Nature of document	Exhibits
1	29.06.2022	Order passed by the Settlement Officer in Appeal ந.க.ஈ.1/8553/2010	Photostat copy	Ex-A.11
2	19.10.2022	Order passed for change of pattas in favour of temple in proceedings ந.க.82/2022/அ by Special Tahsildar, Kancheepuram	Photostat copy	Ex-A.12



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LIST OF ADDITIONAL DOCUMENT MARKED ON THE SIDE OF THE FIRST DEFENDANT / APPELLANT AS PER THE ORDER PASSED IN CMP NO.16630 OF 2023 IN A.S.NO.731 OF 2018

<i>S.No.</i>	<i>Date</i>	<i>Description of the Document</i>	<i>Nature of document</i>	<i>Exhibit</i>
1	26.06.2023	Proceedings of the Commissioner of Land Administration, Chepauk, Chennai- 600 005, in K1/2935124/2022	Photostat copy	Ex-B.15

LIST OF ADDITIONAL DOCUMENTS MARKED ON THE SIDE OF THE FIRST DEFENDANT / APPELLANT AS PER THE ORDER PASSED IN CMP NO.25998 OF 2025 IN A.S.NO.731 OF 2018

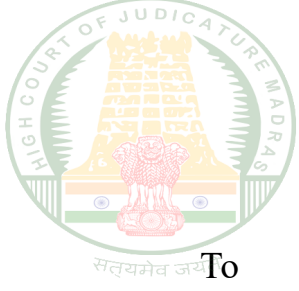
<i>S.No.</i>	<i>Date</i>	<i>Description of the Document</i>	<i>Nature of document</i>	<i>Exhibit</i>
1	15.09.2025	Proceedings of the Commissioner of Land Administration, Chepauk, Chennai – 600 005, in K1/2935124/2022	Photostat copy	Ex-B.16

[N.S.K., J.]

[R.S.V., J.]

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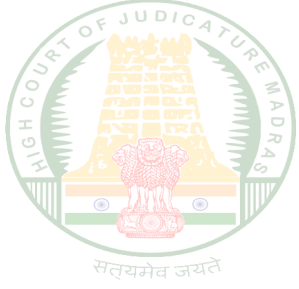
Index : Yes
 Speaking Order : Yes
 Neutral Citation : Yes
 TK



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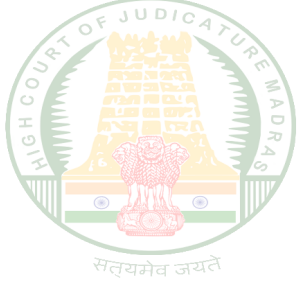
- 1.The District Judge
District Court – II
Kancheepuram.
- 2.The Executive Officer
A/M Vaikunda Perumal Temple
Kancheepuram,
Having Office at A/M Katchabeswarar Temple
Nellukara Street, Kancheepuram.
- 3.The Commissioner
Kanchipuram Municipality
Nellukara Street,
Kancheepuram.
- 4.Superintending Engineer
Tamilnadu Electricity Board
Anna Maligai,
Olimohamedpet, Kanchipuram.



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A.S. NO.731 OF 2018

N.SATHISH KUMAR, J.

AND

R.SAKTHIVEL, J.

TK

PRE-DELIVERY JUDGMENT MADE IN
A.S. NO.731 OF 2018

03 / 06 / 2026