



AS(MD) No.25 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	21.11.2025
Pronounced on	27.02.2026

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

A.S(MD) No.25 of 2022

1. The State of Tamil Nadu

The District Collector,

Karur District, Karur

2. The Commissioner,

Karur Panchayat Union,

Vennamalai,

Kathapparai Post,

Karur Taluk and District

..Appellants/Defendants

Vs.

Arulmighu Balasubramniya Swamy Temple

Rep. by its Executive Officer,

Karur@ Vennamalai

: Respondent/Plaintiff

Prayer:-Appeal Suit filed under Section 96 of the Civil Procedure Code to set aside the judgment and decree dated 04.09.2021 passed in O.S. No. 17 of 2012 on the file of the District Court,Karur.



AS(MD) No.25 of 2022

For Appellants : Mr.A.Baskaran
Additional Advocate General

For Respondent : Mr.R. Madhavan

J U D G M E N T

P.VELMURUGAN, J.,

This Appeal Suit has been filed to set aside the judgment and decree, dated 04.09.2021 passed in O.S No.17 of 2012 on the file of the District Court, Karur.

2. The averments contained in the plaint are as follows:

The suit was originally filed by the plaintiff namely Arulmighu Balasubramania Swamy Temple, Vennaimalai, represented by its Executive Officer, seeking the relief of a declaration that the suit property belongs to the temple and for a consequential direction to the defendants to hand over the vacant possession of the suit property after removing the existing construction and also to pay *mesne* profits for the occupation of the suit property. Subsequently, by the Proceedings of the Commissioner, Hindu Religious and Charitable Endowment Department (hereinafter called as HR & CE Department), an Executive Officer was appointed and he was conferred with the power to proceed



AS(MD) No.25 of 2022

with the suit. According to the plaintiff, the suit property belongs to the plaintiff's temple. As per the Settlement Register of the year 1912, it stands in the name of the plaintiff's temple in respect of suit S.F.No. 234/A to an extent of 1.25 Acres, out of 7.13 Acres. U.D.R. register also shows the title of the suit property in the name of the plaintiff's temple. The second defendant is said to have trespassed into the suit property 20 years ago and put up a construction for its office for the purpose of the first defendant. There were no land acquisition proceedings initiated before taking over the suit property by the defendants. The defendants, taking advantage of their position and power, have misused the same and encroached the suit property. The plaintiff requested the defendants to vacate and hand over the possession, but they are not amenable and evasive. As per Section 109 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, there is no limitation for recovery of possession and there can be no adverse possession. The plaintiff issued a notice to the defendants on 05/03/2011, regarding the illegal encroachment, due to which, the revenues available to the plaintiff's temple have been lost. As the defendants are in illegal possession and enjoyment of the property, the plaintiff filed the suit for the reliefs as stated above.



AS(MD) No.25 of 2022

WEB COPY

3.The defendants, in their written statement, have inter alia stated as follows:-

The second defendant filed a written statement denying all the allegations and averments made in the plaint. The contention of the plaintiff that as per 1912 Settlement Register, the suit property belongs to the temple is denied and the same will not confer any title to the plaintiff; the Settlement Register produced by the plaintiff does not disclose that the suit property belongs to the plaintiff temple and it was classified as 'Government poramboke land' under the control of the first defendant herein; the plaintiff has not filed any title document to show that it has exclusive title over the suit property; as per the records produced by the plaintiff, the suit property is classified only as 'poramboke land' and no Vinayagar temple is situated in the said suit property; since the property is a Government poramboke land, the plaintiff cannot make any claim; the allegation of the plaintiff that 20 years ago, all of a sudden, the second defendant trespassed into the suit property and put up the construction for its office, is denied; the suit property is a Government poramboke land and it was under the control



AS(MD) No.25 of 2022

and custody of the first defendant; the second defendant with the concurrence of the Government, has put up the construction of office in the suit property and the Hereditary Trustee of the temple and also the entire village people are aware of the construction put up in the suit property for public purpose, hence there is no necessity to initiate land acquisition proceedings to acquire the suit property which is a Government poramboke land; even as per the admission of the plaintiff, the defendants are in peaceful possession and enjoyment of the property for the past 20 years; the suit was originally filed by the Hereditary Trustee and he was well aware of the construction put up by the second defendant and he had not raised any objection nor obstructed at the time of construction, hence the plaintiff is estopped claiming title to the suit property; the office constructed in the suit property is used as Panchayat Union Office for the larger benefit of the entire villagers; proper court fee was not paid and hence, the second defendant prayed for dismissal of the suit.

4. Based on the above pleadings of both parties, the trial Court framed the following issues:



AS(MD) No.25 of 2022

(a) Whether the plaintiff is entitled to the relief of declaration, recovery of possession and mesne profits as claimed?

(b) Whether the suit property was classified as Government poramboke as stated by the defendants?

(c) Whether the Court fee paid is not correct as alleged?

(d) To what relief the plaintiff is entitled for?

5. During trial, in order to substantiate the case, on the side of the plaintiff, the Executive Officer of the suit temple was examined as P.W.1 and 20 documents were marked as Exs.A1 to A20. On the side of the defendants, two witnesses were examined as D.W.1 and D.W.2 and two documents were marked as Exs.B1 and B2.

6. Upon completion of the trial and after hearing of the arguments advanced on either side, the trial Court decreed the suit, holding that the plaintiff is entitled to possession of the suit property as per the rights under Rule 13 of the Revenue Standing Order No.26. However, since the defendants are wings of the Government Departments and public



AS(MD) No.25 of 2022

money was involved in the construction of the buildings for the welfare of the public, the trial Court directed the defendants to approach the Commissioner of Tamil Nadu Hindu Religious and Charitable Endowment Department and shall enter into a rental or lease agreement within a period of three months from the date of receipt of a copy of the judgment, failing which the plaintiff is entitled for recovery of possession as prayed for.

7. Aggrieved over the said judgment and decree of the Trial Court, the defendants as appellants have filed this appeal suit.

8. M.R. Baskaran, learned Additional Advocate General appearing for the appellants would submit that the suit property is a Government poramboke land belongs to the Government and that the first appellant was in possession and enjoyment of the same. Even in the settlement register, it is mentioned only as 'Government Poramboke'; The second appellant had put up construction in the suit property with the concurrence of the Government and once the property has been classified and mentioned as Government poramboke in the revenue



AS(MD) No.25 of 2022

records, the respondent Temple has no title over the suit property. He would further submit that the trial Court failed to consider the oral and documentary evidence, which established that in the revenue records, the suit property was classified only as 'Government Poramboke' and hence, the respondent-Temple is not the owner of the suit property and it has no right or title over the same. Therefore, the suit itself is not maintainable. However, the trial Court without considering the above aspects, has erroneously decreed the suit. Thus the impugned judgment and decree passed by the trial Court are liable to be set aside and the appeal is to be allowed.

9.The learned counsel for the respondent would submit that Ex.A3-copy of Survey and Resettlement Register of Kadhaparai Village and Ex.A5-copy of UDR Register categorically mention the suit land as "Temple Poramboke" and in Ex.A3, the respondent temple's name is explicitly reflected in the remarks column. Therefore, the contention of the appellants that 'poramboke' implies only the Government's

ownership is factually incorrect and legally un-sustainable. As



AS(MD) No.25 of 2022

explained in Sundara Iyengar's Land Tenures in the Madras Presidency

(p.83), "Puramboke" merely denotes land from which no revenue was assessed; it does not denote government ownership. Historically temples, mosques, churches, ponds, channels, kalams, schools and roads were classified as "poramboke," because the sovereign did not levy tax on such community/charitable lands. Revenue Standing Order (RSO) 26, Rule 13 classifies "Temple Poramboke" as distinct from Government Puramboke and mandates protection of such lands. GO(Ms)No.3333, Revenue Department, dated 25.08.1960 reinforces this protection and prohibits alienation or departmental assignment of temple poramboke lands. Even if long-standing encroachment is pleaded, Section 109 of HR&CE Act exempts temple property from any bar of limitation. Thus, the appellants cannot claim title or adverse possession over temple lands. Long possession does not create any title against a temple. Therefore, the finding of the Trial Court is correct and requires no interference of this Court. The trial Court has rightly held that (i) the suit property is temple property, (ii) appellants are encroachers, and (iii) State has no right over the temple poramboke land. Therefore, the appeal deserves to be dismissed with costs.



AS(MD) No.25 of 2022

WEB COPY

10. Heard both sides and perused the materials available on record.

11. Admittedly, the respondent Temple filed the suit against the appellants for declaration, declaring the suit property comprised in S.No.234/A, Kathaparai Village as belonged to the respondent Temple and for a consequential relief of recovery of possession after removing the encroachment. The trial Court decreed the suit, as against which, the present appeal has been filed by the Government.

12. In the amended plaint, the respondent-Temple has clearly stated that the suit property is the temple property and the 2nd appellant encroached upon the temple property and constructed an office twenty years ago and at that time, the temple was under the control of the Hereditary Trustee of the suit temple and subsequently, the temple was brought under the control of the HR & CE Department and an Executive Officer was appointed by the department to look after the affairs of the temple. Therefore, the respondent Temple filed the suit for declaration

10/24



AS(MD) No.25 of 2022

and recovery of possession.

WEB COPY

13.A reading of the plaint shows that the respondent-Temple has clearly pleaded that the suit property is the temple property and in order to substantiate the same, on the side of the temple, the Executive Officer of the temple was examined as PW1. He has clearly spoken about the nature of the property and in support of the same, Exs.A3 and A5 were marked.

14.A reading of Exs.A3 and A5 makes it clear that the said land has been classified as 'temple poramboke'. In Ex.A3, the name of the respondent's temple is specifically mentioned in Col.No. 12. Though, in Ex.A3 and A5 in the other columns, it is mentioned as 'Government Poramboke', whereas in the last column, it is only mentioned as 'temple poramboke', which means that the suit property belongs to respondent temple and not the Government. Revenue Standing Order (RSO) 26, Rule 13 classified 'Temple Poramboke' as distinct from Government Poramboke and mandates protection of such lands. G.O.(Ms) No.3333 Revenue Department, dated 25.08.1960 also reinforced this protection

11/24



AS(MD) No.25 of 2022

and prohibits alienation or departmental assignment of temple poramboke lands.

15.A combined reading of Exs.A3 and A5, Revenue Standing Order (RSO) 26, Rule 13 and also G.O.(Ms) No.3333, Revenue Department, dated 25.08.1960 shows that the respondent temple has proved its case that the suit property is classified only as 'temple poramboke'.

16.Now the only issue to be decided in this appeal is as to whether the suit property is Government poramboke, which belongs to the appellants or the temple poramboke, which belongs to the respondent temple.

17.As already stated, a reading of the plaint averments shows that the respondent has clearly stated that the suit property belongs to the temple and in order to substantiate the pleadings, on the side of the



AS(MD) No.25 of 2022

temple, the Executive Officer of the temple was examined as P.W.1 and through him, among other documents, the copy of the survey and Resettlement Register of the village of Kathaparai and the copy of the UDR register were also marked as Exs.A3 and A5 respectively.

18.Further, to substantiate his contention, PW1 has also produced G.O.(Ms) No.3333, Revenue Department, dated 25.08.1960 and Revenue Standing Order 26 Rule 13. Therefore, once it is proved that the suit property belongs to the respondent temple, the question of limitation would not arise in view of Section 109 of the HR & CE Act. Though admittedly the second appellant constructed an office in the suit property and the appellants claimed that they are the owners of the property asserting right that the suit property is the Government poramboke under the control of the first appellant and in the enjoyment of the second appellant, the records show that without the knowledge of the respondent temple, the appellants made a construction in the portion of the suit property. Therefore, the trial Court held that the respondent temple is entitled to declaration and recovery of possession after removing the construction.



AS(MD) No.25 of 2022

WEB COPY

19.Once, it is proved that the suit property, which is classified as 'temple poramboke', as already stated, no limitation is applicable to the temple properties, and the doctrine of adverse possession also will not apply and therefore, the respondent temple is entitled to recovery of possession.

20.Though the learned Additional Advocate General appearing for the appellants vehemently contended that since the suit properties are classified as Government poramboke, the temple has no right over the same and consequently the temple is not entitled to the relief, either for declaration or for recovery of possession and once the appellants denied the title of the temple, it is for the temple authorities to establish their title. Since the respondent-Temple has proved its case, the Temple is entitled for declaration and consequential relief of recovery of possession.

21.A combined reading of G.O.(Ms) No.3333, Revenue Department, dated 25.08.1960 and the Revenue Standing Order 26, Rule 14/24



AS(MD) No.25 of 2022

13 coupled with Exs.A3 and A5 shows that the respondent-Temple has proved that the suit property is classified as 'temple poramboke' standing in the name of the temple. Therefore, this Court finds that the respondent-Temple has proved the title.

22. The Government has classified lands into two categories, namely, poramboke land and private land. Private land belongs to an individual person and the poramboke land belongs to the Government. However, for the poramboke, the Government is the owner of the property and subsequently, the poramboke has been further classified as Government Poramboke, Natham Poramboke, Road Poramboke, Water Bodies, Burial Grounds, Threshing Floor, Meikkal Poramboke, etc., Even the Government is the owner of all the poramboke lands. The land is to be utilized only for that purpose it was classified, for example, Maikkal Poramboke has to be used for grazing cattle, Temple Poramboke has to be utilized for temple purpose, Natham Poramboke has to be used for construction of dwelling houses and the Road Poramboke has to be used for laying the road. If it is classified as Government Poramboke, the same can be used only for public purpose



AS(MD) No.25 of 2022

by the Government. Even though, other classifications are there, the Government cannot use that land for any other purposes. In case, if the Government wants to utilize the other poramboke lands for public purposes, alternative land has to be given for that purpose, however, as regards the temple poramboke, deity is the owner of the property. Even if the Government was the original owner of the property, subsequently the said property was converted as temple poramboke and title was passed on to the Temple and the enjoyment is also vested with the administration of the Temple authorities, the said property is absolutely belonged to the temple. Hence, the contention of the learned Additional Advocate General is not acceptable.

23.The learned counsel appearing for the respondent-Temple, in support of their contention, has placed reliance on the following judgments:-

(i) M.Perumal Vs. The District Collector, Kanchipuram and Ors in W.P.No.3236 of 2017 and W.M.P.No.3183 of 2017 dated 09.02.2017, wherein it is held as follows:



AS(MD) No.25 of 2022

"11. Mr.V.B.R.Menon, Advocate, present in Court also pointed out the judgment of the Hon'ble Supreme Court in Subramaniaswamy Temple, Ratnagiri v. V.Kanna Gounder (Dead) by LRs, reported in 2008 (3) Supreme 741 = (2009) 3 SCC 306, wherein G.O.Ms.No.3333, Revenue dated 25.08.1960 has been referred to in the context of classification of the temple poramboke land in the revenue records. The judgment recognizes that such a land consists of unassessed waste land by the temple and it may also include common passage, water ponds, thrashing floor etc. By such classification, the temple obtained full right to possession and exercise right to transfer of the lands and such a land does not cease to be a poramboke property, over which the Government will have control subject only to the rights of the temple. We may reproduce paragraphs 4 and 5 as under:-

4. For the purpose of effectuating the aforementioned purpose, the Government of Madras issued GONo.3333 on or about 25.8.1960 permitting the temple to lease out the said lands for the purpose of augmenting its revenues subject of course to the conditions laid down therein, which are :

1. The temple authorities before applying for assignment of the porambokes found in excess of the requirements of the temple and worship should obtain the consent of the H.R. & C.E. ADMN DEPARTMENT. Such lands should be granted for cultivation only if they are cultivable and only if they are not cultivable they should be to other uses for the benefit of the temple and the land should be used only for the purposes for which it is assigned"

(ii). Papala Narayanaswamy Naidu and Ors.vs. The Secretary of



AS(MD) No.25 of 2022

State for India in Council and Ors reported in MANU/TN/0009/1912

WEB COPY

“Turning now to the grant to the plaintiff's predecessor, we find that it is expressly stated to be "on Shrotriem tenure." A Shrotriem is stated in Wilson's Glossary to be "Lands, or a village held at favorable rate, properly an assignment of land or revenue to a Brahman learned in the Vedas, but latterly applied generally to similar assignments to native servants of the Government, Civil or Military, and both Hindus and Mahomedans as a reward for past services. A Shrotriem grant gives no right over the lands and the grantee cannot interfere with the occupants as long as they pay the established rents." The object of the grant was to make a provision for an official whose office was no longer necessary. What was regarded was the value of the lands as producing an income. This appears very clearly from the terms of the Inam title deed, though no doubt in the margin the words "beside poramboke" are added. These words would indicate a right to poramboke land, such as un assessed waste, but it could not include all porambokes, since that word includes all kinds of communal property such as burying grounds, temple sites, threshing floors and so forth, and also public roads (called road poramboke) and rivers (called river porambokes). It could never be supposed that government in making a grant like Exhibit F. as a reward for services rendered included in the grant the property of private



AS(MD) No.25 of 2022

persons, or the communal property of the villagers such as temples, threshing floors, cattle-stands, burying grounds or the like, or public roads, simply because they are included in the area of the village as shown in the village and survey accounts, and are not in terms excepted from the grant. Nor do we think that there is any reason to hold that the Government intended to convey or did in fact convey to the grantee any rights in the bed of the river, because for administrative and survey purposes a part of it was included in the village.

(iii). PL. Murugappan vs. The State of Tamil Nadu, rep. by the District Collector, District Collector's Officer, Sivagangai and others in SA(MD) No.443 of 2017

As far as limitation is concerned, for any encroachment of temple land there cannot be any limitation. Since the Hon'ble Division Bench of this Court in Suo Moto W.P.No.574 of 2015 had directed for recovery of all temple lands and directed the HR and CE Department to recover the temple lands and there cannot be limitation for any encroachers. In the present case, even though the temple authorities are aware of the construction, the temple authorities have submitted objections, but the objections of the temple were not considered by the defendants. Therefore, this Court is of the considered opinion limitation will not arise.



AS(MD) No.25 of 2022

(iv) M/s.Arulmighu Thiru Neelakanda Nayanar Mayandi

Swamigal Trust .vs. The District Collector/Chairman, Local Planning

Authority, Pudukottai District, Pudukottai in WP(MD) No.6966 of 2023

9.In N.S.Kuppuswamy Odayar v. The Panchayat Narthangudi (1971) 1 MLJ 190, it was held that the mere fact that in the re-settlement register, a particular piece of land has been described as 'Poramboke' will not by itself establish title of the government to the land in question. S.Sundararaja Iyengar in his classic work Land Tenures in the Madras Presidency writes as follows :

The whole area of a Tamil village is divided into (1) warapat, (2) tirwapat, (3) tarisu, and (4) poramboke. Warapat are the cultivable lands which give waram or share of the produce, generally nanja or wet lands; tirwapat, lands which pay a tirwa or money tax, generally punjas or cultivated wastes, and gardens; tarisu, waste divided into two classes, sheykal carambo i.e., cultivable waste and anadi carambo i.e. immemorial waste; and poramboke, lands incapable of cultivation consisting of rocks, public roads, beds of rivers, tanks and watercourses, burning grounds, the paracheri or suburbs of the village occupied by the huts of pariahs and other outcastes, the lands on which the different temples stand and the site of the village itself called nuttum.

A learned Judge of this Court in the judgment reported in (2006) 3 MLJ 216 (Muthammal v. State of Tamil Nadu) had noted that patta was issued only for assessed lands and that is why, even Natham was called as



AS(MD) No.25 of 2022

'poramboke'. *Puram means outside . Poke means revenue record .*

Poramboke lands means the lands which were not assessed in the revenue records and which were outside the revenue accounts. It only means that property which fell outside the tax assessment net was referred to as poramboke .

10.The foregoing discussion is sufficient to conclude that the classification of the land as poramboke will not make any difference or take away the rights of the temple. There is yet another way of approaching the issue. In England, all land was deemed to vest in the Crown. The position in India was however the opposite. S.Sundararaja Iyengar in his work says thus :

both under Hindu and Mahomedan laws land was not vested in the king and that the proprietor had an absolute ownership and dominion therein, subject to the payment of a share of the produce which was, however, liable to variation at the will of the sovereign .

Possession has always been held to be prima facie evidence of ownership and called as nine points in law [Shanti Kumar Panda v. Shakuntala Devi (2004) 1 SCC 438]. The revenue records produced by the respondents themselves show that the land has been in possession of the temple for several decades. The State itself has recognized the possession of the temple. A simple conclusion from the aforementioned precedents (Subramania Swamy Temple, Rathnagiri v. Kanna Gounder (dead) by LRs and S.Sridhar v. State of Tamil Nadu) is that mentioning of the temple in column 12 actually means that the land should be called as temple poramboke. Once a land is classified as temple poramboke, the consequence is that it has to be



AS(MD) No.25 of 2022

used only for the benefit of the temple. Yet another approach is that when the temple has been in settled possession of the lands in question beyond the limitation period, even assuming that the government had right originally, it would stand extinguished. In this case, we have to come to such a conclusion in view of the entries not only in the Town Survey Register but also in the Re-settlement register as well as the A Register

24. Therefore, on a combined reading of the pleadings, oral and documentary evidence, decisions referred to above and also the Law laid down by the Hon'ble Apex Court in the subject matter, this Court finds that in Exs.A3 and A5, the suit property has been specifically mentioned only '**temple poramboke**' and therefore, the respondent-Temple is the owner of the property and they are entitled to get the relief as prayed for. The trial Court also has rightly granted relief as sought for by the respondent-Temple with certain conditions.

25. For all the reasons stated above, this Court finds no merit in the appeal suit and the same is liable to be dismissed.



AS(MD) No.25 of 2022

26. In the result, the Appeal Suit is dismissed, confirming the impugned judgment and decree of the trial Court passed in O.S. No.17 of 2012. No costs

(P.V.,J.) (B.P.J.,)

27.02.2026

Index : Yes/No.

Internet : Yes/No.

aav

To

The District Court, Karur



WEB COPY



AS(MD) No.25 of 2022

P.VELMURUGAN,J.

and

B.PUGALENDHI,J.

aav

A.S(MD) No.25 of 2022

27.02.2026