



S.A.(MD)No.609 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.01.2026

Pronounced on : 26.02.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)No.609 of 2019

and

C.M.P.(MD)No.43 of 2020

U.A.Ramanatha Pillai

... Appellant/
1st Respondent/
Plaintiff

Vs.

1.Thirupathy @ Venkatasamy (Died)

... 1st Respondent/
1st Appellant/
1st Defendant

2.Saraswathy

... 2nd Respondent/
2nd Appellant/
3rd Defendant

3.Sivakumar

... 3rd Respondent/
2nd Respondent/
2nd Defendant

4.Pounthai

... 4th Respondent/
3rd Respondent/
4th Defendant



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5.Indurani

... 5th Respondent/
4th Respondent/
5th Defendant

6.R.Sasikala

7.Lavanya

8.V.V.Azhagarasu

*(name of R8 is amended vide Court order dated
22.08.2025 made in CMP(MD)No.12203 of 2025
in CMP(MD)No.3885 of 2025 in SA(MD)No.609
of 2019)*

... Respondents 6 to 8

*(Respondents 6 to 8 are brought on record as LRs
of the deceased 1st respondent vide Court order
dated 24.07.2025 made in CMP(MD)No.3885 of
2025 in SA(MD)No.609 of 2019)*

PRAYER : Second Appeal filed under Section 100 C.P.C., against the judgment and decree passed in A.S.No.15 of 2015 on the file of the learned Subordinate Judge, Uthamapalayam dated 27.08.2019, reversing the judgment and decree dated 21.04.2015 passed in O.S.No.280 of 2010 on the file of the learned District Munsif Court, Uthamapalayam.

For Appellant : Mr.G.Solairaja

For Respondents : Mr.R.Suriya Narayanan for R8

No appearance of R2 to R5

R6 & R7 paper publication



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JUDGMENT

The Second Appeal is directed against the judgment and decree made in A.S.No.15 of 2015 dated 27.08.2019 on the file of the Subordinate Court, Uthamapalayam, reversing the judgment and decree passed in O.S.No.280 of 2010 dated 21.04.2015 on the file of the District Munsif Court, Uthamapalayam.

2. The appellant is the plaintiff and he filed the suit in O.S.No.280 of 2010 on the file of the District Munsif Court, Uthamapalayam claiming permanent injunction restraining the respondents / defendants from in any manner alienating or encumbering the suit properties.

3. For the sake of convenience and brevity, the parties hereinafter will be referred to as per their status / ranking in the trial Court.

4. The case of the plaintiff, in short, is as follows:

(a) The suit properties are belonging to Arulmighu Bhagavati Amman Temple, Chinnamannur, Uthamapalayam Taluk and are Trust



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properties. Several cases were filed with regard to temple Trust issues and the suit in O.S.No.74 of 2007 was pending before the Subordinate Court, Uthamapalayam at the time of filing of the present suit. The defendants 1 and 2 herein were the plaintiffs 3 and 4 in O.S.No.74 of 2007 and the defendants 3 to 5 and the plaintiff herein were the defendants 3, 4, 6 and 9. Founders of the Trust had intended that the suit properties should not be alienated. In the partition deed entered into between the plaintiff, his father and brothers on 04.09.1955, it was specifically recited that the suit properties should not be alienated but the defendants, by colluding themselves, attempted to alienate and encumber the suit properties. The plaintiff being a Trustee or in his individual capacity is duty bound to protect the suit properties. The defendants have absolutely no right to alienate or encumber the suit properties. If the suit properties are sold, then the temple rituals cannot be conducted as wished by their ancestors.

(b) The third defendant, by showing the first schedule of the suit properties as his ancestral property, sold it to the first defendant on 03.09.2010 and on that date itself, the third defendant had executed a registered power of attorney deed in favour of Ramakrishnan,



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S/o.Appadurai. Though the said documents are legally invalid, the first defendant is attempting to alienate the suit properties to third parties. Hence, the plaintiff was constrained to file the above suit for permanent injunction.

5. The defence of the defendants, in short, is as follows:

(a) The suit properties are Trust properties relating to Arulmighu Bhagavati Amman temple. It was founded by Periyasamy Pillai and Karuppana Pillai @ Vellaiya Pillai during 20th century and the Temple and its properties were under the joint management of the said founders and subsequently, by their legal heirs. The Trust was administered by the legal heirs of founder Periyasamy Pillai, namely, Alaguvel Pillai and his son Raja @ Periyasamy Pillai and the legal heirs of U.V.Kanthasamy Pillai, Sudhadhara Pandiyan, S/o.Ramasamy Pillai and grandson of U.V.Kanthasamy Pillai and sons of U.V.K.Alagappa Pillai, namely, U.A.Kanthasamy (father of the defendants 3 to 5), U.A.Subramania Pillai, U.A.Velusamy Pillai (father of the first defendant) and Ramanatha Pillai (plaintiff) jointly.

(b) As per the partition deed dated 04.09.1955, the properties were



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allotted to the legal heirs of Periyasamy Pillai and Karuppana Pillai. After the death of Alagappa Pillai, the first defendant's father U.A.Velusamy Pillai and his elder brothers U.A.Kanthasamy, U.A.Subramania Pillai and his younger brother plaintiff became the Trustees. Subsequently, the legal heirs of Alagappa Pillai and his brothers had relinquished their rights in favour of the first defendant's father and on that basis, the suit properties came to be owned by the first defendant's father and as such, the other legal heirs of the Alagappa Pillai and the plaintiff had no right over the suit properties.

(c) The first defendant's father Velusamy Pillai executed a registered Will dated 03.07.2005 in favour of the first defendant by bequeathing all the properties to him and the first defendant's elder paternal uncle U.A.Subramania Pillai and younger paternal uncle, the plaintiff herein, had attested the said Will and thereby, relinquished their rights and authority over the Trust and the Trust properties. The defendants 1 and 2 and their fathers filed a suit in O.S.No.74 of 2007 before the Subordinate Court, Uthamapalayam and in that suit, Subramania Pillai and the plaintiff were arrayed as defendants 8 and 9. Both of them have taken a stand in that suit that since they have not



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claimed any right over the Trust and the Trust properties, they are unnecessary parties to the suit. Pending the suit, negotiations were held between the parties in the presence of elders and relatives and an agreement came to be entered into. Pursuant thereto, the suit in O.S.No. 74 of 2007 was withdrawn as having been settled out of the Court. The plaintiff, who was the 9th defendant in the said suit, did not raise any objections nor take any steps to seek a review or to reopen the order disposing of the said suit.

(d) The first defendant and Alaguvel Pillai had made necessary arrangements and Kumbabhishekam for Arulmighu Bhagavati Amman temple was conducted on 15.09.2011 in a grand manner and at that time, the plaintiff has not raised any objections. Since the plaintiff has not impleaded the other Trustees, the suit is bad for non-joinder of necessary parties. The plaintiff having admitted that the suit properties are Trust properties has not claimed any declaration that he is a Trustee to Arulmighu Bhagavati Amman temple or that the properties are Trust properties and as such, the suit for bare injunction is not maintainable. The plaintiff has no cause of action and the one alleged is false and untenable. Hence, the suit is liable to be dismissed.



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6. The learned trial Judge, upon considering the pleadings of both the parties, framed the following issues and additional issue,

- 1. Whether the plaintiff is entitled to get the relief of permanent injunction?*
- 2. To what other relief, the plaintiff is entitled to?*

Additional Issue

- 1. Whether the suit is bad for non-joinder of necessary parties?*

7. During trial, the plaintiff examined himself as P.W.1 and exhibited 11 documents as Ex.A1 to Ex.A11. The defendants examined the defendants 1 and 2 as D.W.1 and D.W.5 respectively and 3 other witnesses Thiru.Mahendran, Thiru.Senthil and Thiru.Sekar as D.W.2 to D.W.4 respectively and exhibited 22 documents as Ex.B1 to Ex.B22.

8. The learned trial Judge, upon considering the pleadings and the evidence both oral and documentary and on hearing the arguments of both the sides, passed a judgment and decree dated 21.04.2015 granting the relief of permanent injunction as sought for. Aggrieved by the said judgment and decree, the defendants 1 and 3 preferred an appeal in



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A.S.No.15 of 2015 and the learned Subordinate Judge, Uthamapalayam, considering the materials available on record and on hearing the arguments of both the sides, passed the impugned judgment and decree dated 27.08.2019 allowing the appeal and thereby setting aside the judgment and decree of the trial Court and consequently dismissed the suit. Challenging the impugned judgment and decree, the plaintiff has filed the present Second Appeal.

9. At the time of admission, the following Substantial Question of Law came to be formulated.

1. Whether the lower appellate Court was right in dismissing the suit for injunction solely on the ground that the plaintiff has not sought for declaratory relief?

10. Heard Mr.G.Solairaja, learned counsel appearing for the appellant / plaintiff and Mr.R.Suriya Narayanan, learned counsel appearing for the 8th respondent.

11. The learned first appellate Judge, mainly on the ground that the plaintiff had not sought a declaratory relief to the effect that he is a



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Trustee of Arulmighu Bhagavati Amman temple and that the suit properties are Trust properties belonging to the said temple, has held that the suit itself is not maintainable and by reversing the judgment and decree of the trial Court, dismissed the suit.

12. The defendants, in their written statement as well as in their evidence before the trial Court, have taken a specific stand that the suit properties belong to Arulmighu Bhagavati Amman Temple and are Trust properties of the said temple. In view of the defendants' own admission that the suit properties are Trust properties, the question of the plaintiff seeking a declaration to that effect does not arise at all.

13. The plaintiff, claiming to be a Trustee, has filed the above suit seeking permanent injunction restraining the defendants and their men from in any manner alienating or encumbering the suit properties. The second defendant, in the written statement, has taken a stand that the plaintiff is not a Trustee and that he has no connection whatsoever with the Trust or its properties. However, the defendants 1 and 3, in their written statement, stated that when the first defendant's father executed a



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Will dated 03.07.2005 in favour of the first defendant, the plaintiff and others had attested the said Will and that the plaintiff had relinquished his rights over the Trust and its properties.

14. The learned counsel appearing for the 8th respondent / son of the first defendant would submit that the brother of the founder Trustee had filed a suit in O.S.No.162 of 1982 on the file of the Subordinate Court, Periyakulam, claiming joint trusteeship, and that the said suit was decreed on 31.03.1984. It is further submitted that the plaintiff did not claim any trusteeship along with the father of the first defendant and his elder brother, Kanthasamy Pillai. Subsequently, the said Kanthasamy Pillai and Velusamy Pillai preferred an appeal in A.S.No.132 of 1984 before this Court, and the parties entered into a compromise, pursuant to which a compromise decree was passed on 30.04.1992, wherein it was agreed that there shall always be two Trustees, one representing the plaintiffs therein and another representing the defendants therein. On that basis, Kanthasamy Pillai and, after him, Velusamy Pillai alone conducted the Trust along with the joint Trustee till his demise. It is further contended that the said Velusamy Pillai executed a Will under Ex.B3 in



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favour of the first defendant to manage the Trust, in which the plaintiff had signed as an attesting witness, being aware of the bequest therein, and as such, he is estopped from claiming trusteeship.

15. Admittedly, the defendants have not chosen to produce the decree passed in O.S.No.162 of 1982 on the file of the Subordinate Court, Periyakulam or the compromise decree passed in A.S.No.132 of 1984 by this Court.

16. As rightly observed by the learned trial Judge, the plaintiff and others had subscribed their signatures as attesting witnesses to Ex.B3 Will. Even assuming for arguments sake that the plaintiff and other attestors were aware of the contents of the Will, that by itself is not sufficient to held that the plaintiff had admitted the contents of the Will nor can it be inferred that he had relinquished his right over the Trust and its properties. It is not the specific case of the defendants that the plaintiff had executed any document relinquishing his status as a Trustee of Arulmighu Bhagavati Amman Temple or his rights over the Trust properties.



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17. As rightly contended by the learned counsel appearing for the appellant / plaintiff, since the defendants 1 and 3 have themselves stated that the plaintiff had relinquished his rights over the Trust and its properties by attesting in the Will, it can reasonably be inferred that they have admitted that the plaintiff continued to be a Trustee as on the date of Ex.B3 Will. Be that as it may, even assuming for the sake of argument, that the plaintiff is not a Trustee, as rightly contended by the learned counsel appearing for the appellant / plaintiff, the plaintiff being a former Trustee and having had connection with the Trust and its properties, is certainly entitled to question any alienations or encumbrance in respect of the Trust properties, which are otherwise prohibited.

18. In EX.A3 partition deed entered into between the plaintiff, Alagappa Pillai, Kanthasamy Pillai, Subramania Pillai and Velusamy Pillai, while referring to Arulmighu Bhagavati Amman Temple and Trust properties, it was recited,

“மேற்படி H சாப்தா சொத்துக்களைப் பொறுத்து
நமக்காவது நமது வாரீஸ்களுக்காவது
எக்காரணத்தைக்கொண்டும் எவ்வித பந்தகபராதீனங்கள்
செய்ய உரிமையும் அதிகாரமும் கிடையாது.”



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19. Moreover, in the suit in O.S.No.74 of 2007 filed by defendants 1 and 2 on the file of the Subordinate Court, Uthamapalayam, while referring to the properties dedicated to the Temple, it has been stated that the Temple and its properties have been treated and possessed as belonging jointly to the branches of the two founders, namely, Periasami Pillai and his younger brother Karuppana Pillai. It is relevant to refer to paragraph No.III (b) of the plaint,

“These properties including the temple are inalienable, and none of the trustees including the Managing Trustees of the temple can alienate the temple and / or its properties, by sale, mortgage, othi, gift, Will, perpetual or long term leases etc.”

20. In view of the above, it is clear that the defendants have specifically stated that the Trust properties cannot be alienated by anybody, including the Managing Trustees.

21. The second defendant as D.W.5, in his evidence, would say,

□வா.சா.ஆ.3ல் ஹெச் ஜாபிதா சொத்துக்களைப் பொறுத்து நமக்காவது நமது வாரிசுகளுக்காகவது எக்காரணத்தைக் கொண்டும் எவ்வித பந்தகபாராசீனம்



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செய்யும் அதிகாரமும் உரிமையும் கிடையாது என்று உள்ளது. வாதி ராமநாதபிள்ளை வா.சா.ஆ.3ல் ஒரு நபர். வாதி ராமநாதபிள்ளைக்கு பந்தக பாராசீனம் செய்வதைக் கேட்க அவருக்கு உரிமை உள்ளது என்றால் சரிதான் என்று சொல்லிவிட்டு சரியல்ல என்று சாட்சி மீண்டும் மறுக்கிறார். டிரஸ்ட்டிகளுக்கு சொத்தை 3ம் நபர்களுக்கு விற்பதற்கு உரிமை உள்ளதா என்றால் இல்லை. கந்தசாமிபிள்ளையின் மகள் சரஸ்வதியிடமிருந்து 1ம் பிரதிவாதி சொத்தை கிரையம் வாங்கியுள்ளார். அவ்வாறு கிரையம் வாங்கியது தவறு. டிரஸ்ட்டிகளுக்குள்ளேயே தான் கிரையம் நடந்துள்ளது. டிரஸ்ட்டிகளுக்குள் சொத்தை கிரையம் கொடுக்கலாம் என்று 1955ம் வருட பாகப்பத்திரத்தில் சொல்லப்படவில்லை என்றால் சரிதான். எனக்கோ இதர பிரதிவாதிகளுக்கோ சொத்தை விற்கும் எண்ணம் உள்ளதா என்றால் இல்லை. வாதி டிரஸ்ட்டி சொத்துக்களை 3ம் நபர்களுக்கு விற்கக்கூடாது என்று தான் பரிகாரம் கோருகிறார் என்றால் நாங்களும் அதே எண்ணத்தில் தான் இருக்கிறோம். சரஸ்வதியம்மாள் வா.சா.ஆ.5படி அவருக்கு ஒதுக்கப்பட்ட சொத்தைத்தான் வா.சா.ஆ.1 படி கிரையம் கொடுத்துள்ளார் என்றால் சரிதான். நிர்வாக வசதிக்காக வா.சா.ஆ.5 போல் ஆவணம் உருவாக்கிக்கொள்ளலாம் என்றும், வா.சா.ஆ.1 போல் விற்கலாம் என்று 1955ம் வருட பாகப்பத்திரத்தில் சொல்லப்படவில்லை என்றால் சரிதான். வா.சா.ஆ.7ல் சொல்லப்பட்டுள்ள சொத்து பிராது சொத்துதான். வா.சா.ஆ.7ல் சொல்லப்பட்டுள்ள கிரையசாரர் வெங்கடேசன் என்பவர்



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எங்கள் டிரஸ்ட்டுக்கு சம்மந்தப்பட்டவர் அல்ல. அவர் 3வது நபர். மேற்படி சொத்தை 3வது நபருக்கு விற்பது தவறுதான். சரஸ்வதியிடமிருந்து 1ம் பிரதிவாதி கிரையம் பெற்ற சொத்தை 1ம் பிரதிவாதி 3ம் நபருக்கு விற்பனை செய்துள்ளார். இந்த விபரம் தவறுதான். பொதுசொத்தை 3ம் நபருக்கு விற்பனை செய்வது தவறு என்றால் சரிதான்.□

22. Considering the above, it is evident that the Trust properties were alienated not only among the family members but also in favour of third parties. As rightly contended by the learned counsel appearing for the appellant / plaintiff, any alienation or encumbrance of the Trust properties is completely prohibited, even among the Trustees or their family members. Despite such specific prohibition against alienating or encumbering the suit properties, the defendants have effected alienations not only inter se but also in favour of third parties. Hence, the plaintiff was constrained to file the above suit. The learned trial Judge, on a proper appreciation of the evidence available on record, has rightly come to the conclusion that the plaintiff is entitled to the relief of permanent injunction. However, the learned first appellate Judge has misdirected himself as to the scope of the appeal and, merely on the ground that the



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plaintiff had not sought a declaratory relief with regard to his trusteeship and that the suit properties are Trust properties, has held that the suit itself is not maintainable. The said findings are perverse and are liable to be set aside. Accordingly, the substantial question of law is answered. Considering the other facts and circumstances of the case, this Court further directs the parties to bear their own costs.

23. In the result, the Second Appeal is allowed and the judgment and decree dated 27.08.2019 passed in A.S.No.15 of 2015 on the file of the Subordinate Court, Uthamapalayam are set aside and the judgment and decree dated 21.04.2015 passed in O.S.No.280 of 2010 on the file of the District Munsif Court, Uthamapalayam are restored. The parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

26.02.2026

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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1. The Subordinate Judge, Uthamapalayam.



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K.MURALI SHANKAR, J

csn

2. The District Munsif, Uthamapalayam.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Judgment made in
S.A.(MD)No.609 of 2019
and
C.M.P.(MD)No.43 of 2020

Dated : 26.02.2026