



S.A.No.772 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A.No.772 of 2009

Alvaipatti Balasubramanisamy &
Egambaraswara Temple Rep. by Trustees-

1. Kumaravel
2. Narasimhamurthy
3. Rangasamy
4. K.Natesa Gounder
5. S.Palanisamy

... Appellants

vs.

1. Thirunavukkarasu
2. Rangasamy
3. Subramaniam
4. Duraisamy
5. S.Muthu
6. Natesa Mudaliar

..Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and Judgment dated 21.11.2008 in A.S.No.85 of 2008 on the file of the Subordinate Court, Rasipuram, reversing the decree and Judgment dated 01.09.2004 in O.S.No.229 of 2004 on the file of the District Munsif, Rasipuram.

For Appellant : Mr.T.R.Rajaraman

For Respondents : Mr.K.Karthikeyan,
Government Advocates (HR & CE)

JUDGMENT



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The plaintiffs in O.S.No.229 of 2004 on the file of the District

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Munsif Court at Rasipuram are the appellants herein. The suit had been filed with respect to the Administration of Trustees of Balasubramaniasamy Ekambareswarar Temple, Alavaipatti Village, Rasipuram in Namakkal District with specific reference to the Panchaloga Idols of Sri Subramaniam, Valli, Deivaanai, Eswarar, Vinayagar, Murugan and Kamatchi Amman and the right to take the idols in possession in the street around the temple and claiming that the plaintiffs alone have that right and that the defendants should not interfere with that particular right. By Judgment dated 01.09.2004, the suit had been decreed. The defendants filed A.S.No.85 of 2008 before the Sub Court at Rasipuram. By Judgment dated, 21.11.2008 the Appeal suit was allowed. This has necessitated the plaintiffs to file the present Second Appeal.

2. The Second Appeal had been admitted on the following two substantial questions of law:

1. *Whether the appellants, who were appointed as trustees by H.R.& C.E. are not entitled to perform festivals. If so, whether the Judgment reversing the Judgment and Decree passed by the Court below is legally sustainable?*
2. *Is the learned Subordinate Judge is right in holding that the Trustees whose period having expired are not entitled to*



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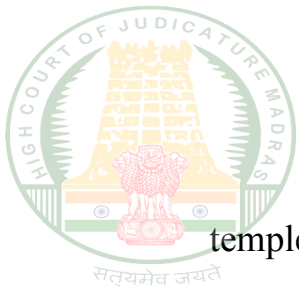


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maintain the suit, especially when the Trustees continued in office as Caretakers since fresh appointment has not been made by H.R.& C.E.?

3. Both the Substantial questions of law rotate around the appointment of Trustees of the appellants Temple by the H.R.& C.E., Department and therefore they vested interest exclusive to them to perform festivals or functions of the temple. The learned Sub Judge had held that the period of Trusteeship had expired and therefore had held that the suit is not maintainable, that had also been framed as a substantial question of law.

4. This Court had sought a report from the Executive Officer of the appellant Temple, viz., Arulmighu Balasubramaniasamy Ekambareswara Temple at Rasipuram which is the Temple involved in the litigation, from the Special Government Pleader (H.R.&C.E.) regarding the present Administration of the Temple. The report had been filed by the Executive Officer wherein it had been contended that by proceedings dated 28.06.1982 of the Commissioner, HR & C .E., Department, the Alavaipatti Arulmigu Balasubramaniasamy Temple and its sub-temple Arulmigu Ekambareswarar Temple have been merged into the group



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temple of the Kalipatti Arulmigu Kandasamy Temple and an Executive

Officer had been appointed under Section 45 (1) of the H.R.& C.E. Act

and Administration is being carried on. It had been further stated that the

Original Application in O.A.No.87 of 1970 had been initially filed under

Section 64 (1) of the H.R.& C.E. Act to frame the scheme to administer

the temple. An order had been passed by the Deputy Commissioner of

H.R.&C.E. Department, Coimbatore on 09.07.1973 which is as follows:

“The temple and its properties shall be administered by nonhereditary trustees selected from among the Thananjaya Vellala Gounder people residing at Alwaipatti Village, Rasipuram Taluk, Salem District, not exceeding five numbers appointed by the appropriate authority and by an Executive officer appointed by the appropriate Authority.

5. It is stated that subsequently O.A.No.33 of 2005 had been filed under Section 64(5) of the Act seeking modification of the scheme.

But this was dismissed by the Joint Commissioner, H.R.& C.E.

Department, Salem and an appeal had been filed under Section 69(1) of

the H.R.& C.E. Act in A.P.No.89 of 2019/D2 which is now pending

before the Commissioner, H.R.& C.E., Chennai and it is posted on

25.08.2025 for hearing. It had been stated that therefore as on date, there



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are no trustees who had been appointment according to the scheme and the

Executive Officer alone is carrying out the Administration of the temple.

6. In view of that particular fact, the two substantial questions of law have now become redundant. However, I would place an obligation on the Executive Officer to take into consideration all factors by conducting the festivals and functions of the two temples and ensure that the functions are conducted peacefully and to the satisfaction of all the villagers who may claim a right to be trustees and also of the devotees of the temples. Placing that obligation on the Executive Officer, this Second Appeal stands disposed of. No costs.

21.08.2025

vum

Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

C.V.KARTHIKEYAN, J.

vum

To

1. The Subordinate Court, Rasipuram.
2. The District Munsif, Rasipuram
3. The Section Officer, VR Section, High Court, Madras.



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