

S.A.(MD) Nos.370 to 376 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2025**

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

S.A.(MD) Nos.370 to 376 of 2025

and

CMP(MD)Nos.12898,12900, 12903, 12905, 12915,
12916 & 12917 of 2025

Theni Maavatta Rajakambalathar

Andipatti Maalikovil Sangam,

Thalaivar T.Navaneethakrishnan,

S/o.Thangapandian, Andipatti Town & Taluk,

Theni District.

.. Appellant/Respondent/Plaintiff

in all Second Appeals

Vs.

P.Singaraj

S/o.Late.Periyana Thevar,

Door No.8-1/660, Theni Madurai Main Road,

Eastern Side of Andipatti Police Station,

Andipatti Town, Andipatti Taluk, Theni District.

... Respondent / Appellant / Defendant

in SA(MD)No.370 of 2025

V.Thavamani

S/o.Late.Vellaichamy,

Theni Madurai Main Road,

Eastern Side of Andipatti Police Station

Andipatti Town, Andipatti Taluk,

Theni District.

... Respondent / Appellant / Defendant

in SA(MD)No.371 of 2025

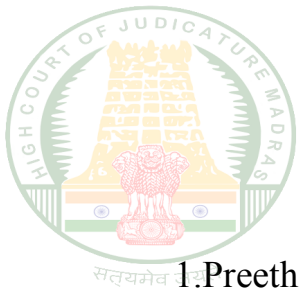
P.Meena

W/o.Late.Paramasivam, Theni Madurai Main

Road, Eastern Side of Andipatti Police Station,

Andipatti Town, Andipatti Taluk,

Theni District. ... Respondent/Appellant/Defendant in SA(MD)No.372/2025



S.A.(MD) Nos.370 to 376 of 2025

1.Preethi

Malaikovil Complex,
Theni Madurai Main Road,
Eastern Side of Andipatti Police Station,
Andipatti Town, Andipatti Taluk, Theni District.

2.Deepak,

S/o.Late.Sathishkumar,
Malaikovil Complex, Theni - Madurai Main Road,
Eastern Side of Andipatti Police Station,
Andipatti Town, Andipatti Taluk,
Theni District.

... Respondents / Appellants / Defendants
in SA(MD)No.373/2025

P.Jeyakumar

S/o. Late. Palanichamy Asari,
Old D.No.11- 12-233, New D.No.1/666,
Theni Madurai Main Road,
Eastern Side of Andipatti Police Station,
Andipatti Taluk,Theni District.

... Respondent / Appellant / Defendant
in SA(MD)No.374/2025

1. A.Murugan

S/o.Late. Ayyavu, Door No.8-1/656, Theni
Madurai Main Road, Eastern Side of
Andipatti Police Station, Andipatti Town,
Andipatti Taluk, Theni District.

2. A.Raja

S/o.Late. Ayyavu, Door No.8-1/656, Theni
Madurai Main Road, Eastern Side of
Andipatti Police Station, Andipatti Town,
Andipatti Taluk, Theni District.

... Respondents/ Appellants / Defendants
in SA(MD)No.375/2025

R.Tamilarasan

W/o. Late. Ramasamy Nadar,
Theni Madurai Main Road,Andipatti Police Station East,
Andipatti Town, Andipatti Taluk, Theni District.

... Respondent/Appellant/Defendant in SA(MD)No.376/2025



S.A.(MD) Nos.370 to 376 of 2025

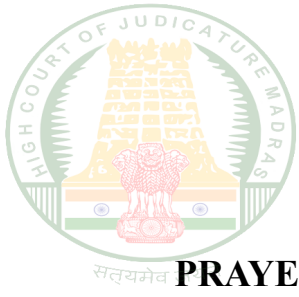
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PRAYER in S.A.(MD)No.370 of 2025: Second Appeal filed under Section 100 of C.P.C., to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge, Theni, in A.S.No.20 of 2023 dated 26-02-2025 by reversing the judgment and Decree passed by the District Munsif Court, Andipatti, O.S.No.80 of 2019 dated 25-01-2023 and set aside the same and decree the suit and thus render justice.

PRAYER in CMP(MD)No.12898 of 2025:

To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.371 of 2025: Second Appeal filed 100 of under Section Civil Procedure Code, to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge Theni in A.S.No.27 of 2023 dated 26-02-2025 by reversing the judgment and Decree passed by the learned District Munsif Court Andipatti O.S.No.81 of 2019 dated 25-01-2023 and set aside the same and decree the suit and thus render justice.



S.A.(MD) Nos.370 to 376 of 2025

PRAYER in CMP(MD)No.12900 of 2025:

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To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.372 of 2025: Second Appeal filed 100 of under Section Civil Procedure Code, to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge Theni in A.S.No.19 of 2023 dated 26-02-2025 by reversing the judgment and Decree passed by the learned District Munsif Court Andipatti O.S.No.86 of 2019 dated 25-01-2023 and set aside the same and decree the suit and thus render justice.

PRAYER in CMP(MD)No.12903 of 2025:

To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.373 of 2025: Second Appeal filed 100 of under Section Civil Procedure Code to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge Theni in A.S.No.43 of 2023 dated 26-02-2025 by reversing the judgment and Decree passed by the District Munsif Court Andipatti O.S.No.83 of 2019 dated 25-01-2023 and set aside the same and decree the suit and thus render justice.



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PRAYER in CMP(MD)No.12905 of 2025:

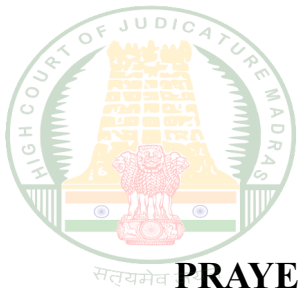
To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.374 of 2025: Second Appeal filed 100 of under Section Civil Procedure Code, to call for the records pursuant to the judgment and decree passed by the Subordinate Judge Theni in A.S.No.17 of 2023 dated 26.02.2025 by reversing the judgment and Decree passed by the learned District Munsif Court, Andipatti, O.S. No.82 of 2019 dated 25.01.2023 and set aside the same and decree the suit and thus render justice.

PRAYER in CMP(MD)No.12915 of 2025:

To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.375 of 2025: Second Appeal filed 100 of under Section Civil Procedure Code, to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge Theni in A.S.No.18 of 2023 dated 26.02.2025 by reversing the judgment and Decree passed by the learned District Munsif Court Andipatti O.S.No.85 of 2019 dated 25.01.2023 and set aside the same and decree the suit and thus render justice.



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PRAYER in CMP(MD)No.12916 of 2025:

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To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

PRAYER in SA(MD)No.376 of 2025:Second Appeal filed 100 of under Section Civil Procedure Code, to call for the records pursuant to the judgment and decree passed by the learned Subordinate Judge Theni in A.S.No.23 of 2023 dated 26.02.2025 by reversing the judgment and Decree passed by the learned District Munsif Court Andipatti O.S.No.84 of 2019 dated 25.01.2023 and set aside the same and decree the suit and thus render justice.

PRAYER in CMP(MD)No.12917 of 2025:

To grant an order of Ad-interim injunction restraining the respondent herein from making any alteration of construction in the suit property pending disposal of the main second appeal and thus render justice.

APPEARANCE OF PARTIES:

(In all Second Appeals)

For Appellant : Mr. Laxmi Gopinathan, Advocate,
for Mr.M.Prabu, Advocate

COMMON JUDGMENT

Heard.



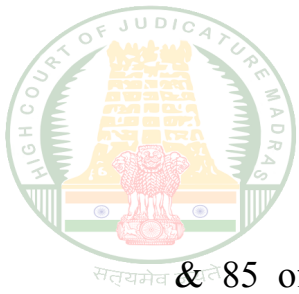
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2. This batch of Second Appeals [S.A.(MD) Nos. 370 to 376 of 2025] is taken up together for final disposal, as all the appeals arise from suits instituted by the same plaintiff in respect of the same suit property, though the defendants in each suit are different. The Trial Courts and the First Appellate Courts have rendered separate judgments and decrees in each of these cases. However, since the core questions of law, the documentary evidence, and the nature of relief claimed are substantially identical, a common judgment is being pronounced to govern all the appeals.

3. For the sake of convenience, the parties would be referred to as per their ranks before the trial Court.

4. The plaintiff, describing itself as a society registered under the Tamil Nadu Societies Registration Act, 1975, has filed the present suit seeking recovery of possession of the suit property and permanent injunction. According to the plaintiff, the property belongs to the society, and the defendant's father was permitted to occupy it on the condition that he would vacate whenever required. As the defendants' father in O.S.Nos.80, 81, 83, 82



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& 85 of 2019 (in SA(MD)Nos.370, 371, 373, 374 & 375 of 2025), the defendant in O.S.No.84 of 2019 (in SA(MD)No.376 of 2025) and the defendant's husband in O.S.No.86 of 2019 (in SA(MD)No.372 of 2025), being a permissive occupier, failed to vacate even after the permission was revoked, the plaintiff society has instituted this suit for recovery and permanent injunction.

5. The two principal issues that arise for determination in the present case are:

- (i) the identity of the property in dispute, and
- (ii) whether the plaintiff society has ownership/ right to institute the suit.

6. The plaintiff claims that the suit property forms part of Survey No. 718, which belongs to the society, and that the defendant's is in possession of the same. The defendant, on the other hand, contended that his occupation relates to Government poromboke land situated in Survey No. 712. The first appellate court held that the plaintiff had failed to establish that the land in the defendant's occupation is Survey No. 718.



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7. It is noted that an Advocate Commissioner was appointed, who, with the assistance of the surveyor, inspected the suit property and submitted a report. The Commissioner's report, together with the survey sketch, established that the defendant is in occupation of the property in Survey No. 718. The trial court, upon consideration of the said report, categorically recorded in paragraph 51 of its judgment that the defendant is in possession of the suit property. However, this finding was ignored by the first appellate court.

8. With respect to ownership, it stands admitted that the suit property in Survey No. 718 belongs to the Andipatti Kambalathar Malai Koil Trust, as evidenced by Ex. A1, the order of the Settlement Tahsildar dated 15.10.1971. The property was endowed to the Trust for the purpose of conducting festivals and poojas in the Andipatti Kondama Nayakkanpatti Kambalathar Malai Koil, situated in Survey No. 716/2. This position is further reinforced by Ex. A2, the judgment dated 30.09.1983.



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9. The plaintiff society came into existence only on 26.03.2006 and was registered on 27.04.2006 under the Tamil Nadu Societies Registration Act, 1975. It is evident that the Trust and the Society are two distinct legal entities, and the mere adoption of a similar name has led to confusion. The property was originally endowed to the Trust, with the temple community as the beneficiary, and it is apparent that the Trust is a public religious trust administered by hereditary trustees.

10. The plaintiff's claim that the society is a continuation of the Trust is legally untenable. There exists no provision in law enabling the conversion of a Trust into a Society. A public trust endures until its objects are fulfilled; and even if those objects become incapable of performance, it is only a competent court that may, by invoking the doctrine of *cy pres* under Section 92(3) of the Code of Civil Procedure, redirect the trust property or its income to another similar trust. The extinguishment or merger of a public trust into a society is wholly unknown to law.



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11. Therefore, the plaintiff society, being a distinct legal entity with non-religious objectives, is not competent to maintain a suit for recovery of the property belonging to a public trust. The plea that the suit is instituted in the capacity of administrator of the temple is equally untenable, as the society's president is not shown to have acted in such capacity. On the contrary, the present president—who is also the son of the former hereditary trustee—has dealt with the trust property as though it were his personal or family property by executing a release deed (Ex. B2) along with his siblings. Significantly, one of the releasees later repudiated his right and sought to support the society's claim, thereby creating further encumbrance and confusion in respect of the trust property.

12. In light of the foregoing discussion, the first appellate court rightly dismissed the suit, holding that the plaintiff society lacks *locus standi* to maintain the action, and there is no error in its findings. This Court finds no merit in the appeal. The findings of the first appellate court are well-founded and warrant no interference. The appellant-society's contention that it represents a continuation of the public trust is legally untenable.



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13.This Court is of the considered view that no substantial question of law arises for consideration in this second appeal, as contemplated under Section 100 of the Code of Civil Procedure.

14. In the result, for the reasons stated above, all the Second Appeals viz., S.A.(MD) Nos. 370, 371, 372, 373, 374, 375 and 376 of 2025 are dismissed on the above terms. No costs. Connected miscellaneous petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Index : Yes / No
LS

28.08.2025



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Copy to:

- 1.The Subordinate Judge,
Theni.
- 2.The District Munsif Court,
Andipatti.
- 3.The Section Officer
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.A.D.MARIA CLETE, J.

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