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SA No. 661 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 27-11-2025

Pronounced On: 30.01.2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

SA No. 661 of 2015

and M.P. No.1 of 2015

1. Manivannan S/o. Velayutham Pillai
 2. A. Rajendran S/o Angusami Pillai
 3. Usha Rani (died) W/o Velayutham Pillai
 4. U. Velayudham Pillai S/o. Umapathy Pillai,
 5. V. Senthilkumar S/o. U.Velayudham Pillai
- [Since the 3rd appellant died, the appellants
4 and 5 are brought on record as legal
representatives of the deceased 3rd appellant
vide court order dated 08/08/2025 made in
C.M.P. nos.4991 and 4994 of 2022)

..Appellant(s)

Vs

1. Sri Angalamman Temple
Shevapet Salem-2
represented by its Hereditary Trustee
N. ANGURAJ (died).
2. G. Saraswathi W/o Govindarajan
3. B. Vijaya W/o C.L Balakrishnan



4. S. Visalakshi W/o Senthil Kumar
5. Santhi W/o Sivagnanam
6. Radha W/o Karthikeyan
7. Chitra W/o. Sivakumar
8. A. Manikandan S/o. Late. N. Anguraj.
9. A. Balaji S/o. Late. N. Anguraj.
- 10.A. Karthick @ Rajiv Gandhi

S/o. Late. N. Anguraj.

[The respondents 8 to 10 are brought on record as legal representatives of the deceased Anguraj, the Hereditary Trustee of the 1st respondent Sri Angalamman temple vide court order dated 08/08/2025 made in C.M.P. No.4994 of 2022]

..Respondent(s)

PRAYER: The Second Appeal has been preferred under Section of 100 of Code of Civil Procedure as against the judgment and decree dated 09.06.2015 made in A.S. No.85 of 2014 on the file of the III Additional District and Sessions Court, Salem reversing the judgment and decree dated 27.08.2014 made in O.S. No.390 of 2011 on the file of the II Additional Sub Court, Salem.

For Appellant(s):

Mr. T. Murugamanickam, Senior Counsel for
M/s.Zeenath Begum

For Respondent(s):

Mr. R. Singaravelan, Senior Counsel for
M/s.R.Jayaprakash [for R8 to R10]



No appearance [For R3 To R7]

R1 – died.

R2 – Notice served – No appearance.

JUDGMENT

The Second Appeal has been preferred as against the decree and judgment passed in A.S. No.85 of 2014 on the file of the III Additional District and Sessions Court, Salem dated 09.06.2015 wherein the 1st respondent herein, has filed the Suit before the trial Court / II Additional Sub Court, Salem in O.S. No.390 of 2011 for the reliefs of declaration and permanent injunction and since the Suit was dismissed, aggrieved by the said decree and judgment, the Plaintiff preferred the first appeal and the First Appellate Court reversed the judgment and decree and decreed the Suit. Aggrieved by the said judgment and decree, the present Second Appeal has been preferred by the defendants.

2. The *case of the Plaintiff* before the trial Court is that the Plaintiff is a temple represented by its hereditary Trustee and Poojari of the temple. Previously his brother Govindaraj was acted as a Trustee and Poojari and before that, his father namely Natesan Pillai was the Hereditary Trustee and rendered poojas to the Deity. The said Natesan Pillai transferred his right of Trustee and Poojari to his son namely Govindaraj through a Will dated 10.09.1982. The said Govindaraj died on 16.01.2004 leaving behind his wife and daughters as



his legal heirs. The legal heirs of the said Govindaraj are the defendants 4 to 9 herein. Thereafter, an agreement was entered into between the legal heirs of the said Govindaraj and one N. Anguraj, the Plaintiff, who is the brother of said Govindaraj, in respect of the trusteeship and Pooja. The property originally belonged to the deity Sri Angalamman. The family of the said N. Anguraj are only entitled to the said properties. The said temple is 800 years old ancient temple. In fact, one Thayumanavan constructed the temple in the year 1940 and administered the same. He had two sons namely Narayana Pillai and Dakshinamoorthy Pillai. The said Dakshinamoorthy Pillai had acted as 'Dharmakartha' and Poojari. The said Dakshinamoorthy had three sons namely Natesan Pillai., Angusami Pillai and Neelamegam Pillai. There was a Suit filed by Angusami Pillai and Neelamegam Pillai as against their father Dakshinamoorthy and brother Natesan Pillai in O.S. No.490 of 1949 on the file of District Munsif Court, Salem. In the said Suit, a compromise decree was passed on 07.10.1950. Thereafter, again a case in O.S. No.369 of 1996 was filed and the same was also entered into compromise on 06.06.1966.

2.1. As per the said compromise, the property was divided into four parts. The 4th part was kept as common and all the other properties were administered by the parties as Trustees and the temple properties cannot be partitioned between them. In the said partition, 'A' Schedule was allotted to Natesan Pillai. However, he has not taken any property and the other two



brothers had taken their shares and the 4th item was also sold. Though the grand father of the Plaintiff Anguraj was also a party to the said Partition Deed, it will not bind upon the Plaintiff. There is no any independent right to the parties in respect of the Suit properties and they can enjoy the properties only as Trustees of the Temple. Therefore, the said partition deeds are not binding upon the parties. The temple properties had situated in 'A' Schedule property. The said Natesan Pillai had only acted as Poojari and maintained the temple. The 'B' Schedule was allotted to Angusami Pillai. Thereafter, wife of Mr. Angusami Pillai namely Padmavathy and his son and two daughters, purchased the property and thereafter she executed a Will in favour of her daughter Manonmani and the said Manonmani executed a Will in favour of her sister's son Manivannan, who is the 1st defendant herein. The 'C' schedule property was allotted to Neelamegam Pillai and he sold the property to one Govindaraj. The said Govindaraj was doing pooja and maintained the temple and he died on 16.01.2004. The legal heirs of the said Govindaraj, who are the 5 to 10 defendants, sold the property to the 1st defendant. As per the agreement between the Plaintiff Anguraj and the legal heirs of the Govindaraj, the said Anguraj has been rendering poojas to the deity. Originally, the Suit property belonged to Zamin and thereafter, on 12.01.1951, the Suit property was taken by the Government. At that time, the property was given in the name of Sri Angalamman Temple and Survey number was changed from 1109 to 321. Thereafter, the property was sub-divided. The entire property to an extent of



1581 sq. ft. belongs to Sri Angalamman deity and to that effect, an application was given to Revenue Divisional Officer, Salem and he also passed an order dated 14.06.2010 that the property belongs to the temple. Challenging the said order, a Writ petition was filed and the said Writ petition was dismissed by giving liberty to the parties to approach the Civil Court. Till 1966, none claimed any right to the property. The Suit property belonged to the temple. The Plaintiff and his predecessors had been in possession and enjoyment of the property as Hereditary Trustees and Poojaries. The Plaintiff Anguraj is rendering poojas to the deity. The temple property cannot be partitioned between the parties. Therefore, the Plaintiff has filed a Suit for declaration and for recovery of possession and for permanent injunction.

3. The *brief averments of the 1st defendant and adopted by the other defendants are as follows:-*

The Suit is not maintainable. The relationship between the parties are admitted. The Suit has been filed with false allegations. One Thayumana Pillai performed poojas to the Deity Sri Angalamman in his house. The house was called as 'Temple House'. The said Thayumana Pillai had two sons Narayana Pillai and Dhakshinamurthy Pillai. After the demise of Thayumana Pillai, his son Dhakshinamurthy Pillai had enjoyed the property. The sons of Thayumana Pillai had rendered poojas to the deity. There was a misunderstanding between the Dhakshinamurthy and his sons in respect of managing the temple. The Suits



in O.S. No.490 of 1949 and O.S. No.396 of 1966 were filed and compromise arrived. Thereafter on 06.06.1966, a Partition Deed was executed between the sons of said Dhakshinamurthy. As per the said Partition, 'A' Schedule property was allotted to Natesan Pillai, 'B' Schedule property was allotted to Angusami Pillai, 'C' Schedule property was allotted to Neelamegam Pillai and the 'D' Schedule property was kept in common. After the partition, the parties had enjoyed their respective shares.

3.1. The common 'D' schedule property was sold by the sons of Dhakshinamurthy through a Sale Deed dated 17.07.1967 to one Padmavathy. Thereafter, the said Padmavathy bequeathed her property to her daughter Manonmani through a Will dated 10.02.1986. The said Padmavathy died in the year 1999. On 22.07.1988, the said Manonmani after demise of her mother enjoyed the property and she also bequeathed her property to one Manivannan, who is the 1st defendant herein. After the demise of said Manonmani, the 1st defendant is entitled to 'B' Schedule property. The said 'D' schedule property in T.S. No.321 has been sub-divided into T.S. No.321/1 to T.S. No.321/5. The said Neelamegam Pillai enjoyed his share of 'C' Schedule property and sold the same to one Govindaraj through a Sale Deed dated 02.10.1970. Thereafter, the legal heirs of the Govindaraj, sold the property to the 1st defendant through a Sale Deed dated 06.06.2005. Thereafter, the 1st defendant is enjoying the property. The said property has been subdivided in T.S. No.321/2. The said



properties have been shown as 'A' and 'B' schedule properties in the Suit properties. As such, the 1st defendant is entitled to the properties and those properties are the separate properties of the 1st defendant. The property allotted to Angusami Pillai as 'B' Schedule property in the Partition Deed, was given to his son A. Rajendran, who is the 2nd defendant in the Suit, through a Settlement Deed. Therefore, the said property has been described as 'C' schedule property in the Suit and the same was sub-divided into T.S. No.321/3. Therefore, 'A' and 'B' Schedule properties are exclusively belong to the 1st defendant and 'C' schedule property belongs to the 2nd defendant.

3.2. The Plaintiff has no any right over the properties and the defendants are innocent parties. The said N. Anguraj is neither a Dharmakartha nor a Poojari at any point of time. The 'A' Schedule property mentioned in the Partition Deed was allotted to Natesan Pillai along with temple house. The said property was bequeathed to his son Govindaraj and that property has not been described as Suit property in the Suit. In the Will executed by Natesan Pillai, it has been categorically stated that the Govindaraj has to select the persons to manage the temple and the other sons of Natesan Pillai namely Anguraj, Krishnamurthy and Balasubramaniam have no right over the properties. As such, the said Govindaraj has not selected the Plaintiff Anguraj as Poojari. Therefore, as per the alleged agreement executed by the defendants 4 to 9 in favour of the Anguraj in respect of the right of Poojari, is not valid document.



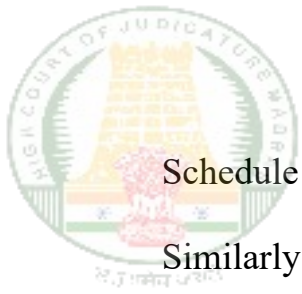
Therefore, the said Anguraj has no locus standi to file the Suit.

3.3. In fact, the said Natesan Pillai alone was managing the temple house.

Already the Suit was filed in O.S. No.369 of 1966 and the same was compromised. The properties are the family properties. In the said family properties, in one portion, the deity was installed. The said temple is situated in the Partition Deed 'A' Schedule property. The Partition Deed dated 06.06.1966 was acted upon. The Suit properties were classified as 'Natham'. Patta was granted in the name of the 1st defendant for T.S. 321/1 and 321/2. Patta was granted in the name of the 2nd defendant for the property situated in T.S. No.321/3. The property in T.S. No.321/4 was in the name of Sri Angala Amman Deity and T.S. No.321/5 was kept as common. Now, in order to grab the entire properties, the Plaintiff has filed this Suit. Therefore, the Suit is not maintainable and the same is liable to be dismissed.

4. The *brief averments of the 5th defendant and adopted by the other defendants 4 and 6 to 9 are as follows:-*

It is true that as per the Will, the right to select the Poojari was vested with Govindraj, son of Natesan Pillai. It is false to state that defendants 4 to 9 have granted permission to Anguraj to conduct pooja through an agreement is not correct. The said Anguraj never acted either as a Trustee or a Poojari. After the demise of Dhakshinamurthy, his son Natesan Pillai rendered Poojas to the Deity. The Partition Deed dated 06.06.1966 is true. After the partition, the 'D'



Schedule property, which was kept as common, was sold by all the parties.

Similarly, Partition Deed-mentioned 'C' Schedule property was sold through Neelamegam Pillai to Govindaraj. After the demise of Govindaraj, 'C' Schedule property was sold to the defendants 4 to 9. The said Angusami Pillai executed a Settlement Deed in favour of 'B' Schedule property to his son. Therefore, the Suit properties are no way connected with the temple. The property in T.S. No.321 originally stood in the name of Thayumana Pillai. The Natesan Pillai had executed a Will dated 10.09.1982. As per the said Will, his son Govindaraj has to perform poojas to the Deity. As such, the said Govindaraj has rendered poojas to the Deity. The said Govindaraj, in the year 2000, handed over the administration of the temple to the 5th defendant and the defendants 5 and 6 have managed and maintained the properties. The said Govindaraj conducted Kumbabhishekam in the year 1991. After the demise of Govindaraj, the Plaintiff demanded the defendants 4 to 9 to handover the properties to him. Therefore, the 4 to 9 defendants on 08.05.2004, put their signatures. Thereafter, the said Anguraj had forcibly taken the control and administration of the temple and he never acted as a Trustee. Therefore, the Suit is liable to be dismissed.

5. Based on the above said pleadings and after hearing both sides, the trial Court has framed the following *issues*:

Issues:



- a. Whether the Plaintiff is a Hereditary Trustee of Sree Angalamman Temple?
- b. Whether the Suit properties belong to the Plaintiff temple?
- c. Whether the Partition Deed dated 06.06.1966 is valid?
- d. Whether the Sale Deed dated 17.07.1967 is valid?
- e. Whether the Will dated 10.02.1986 is valid?
- f. Whether the Will dated 11.02.2002 is valid?
- g. Whether the Sale Deed dated 06.06.2005 pertaining to 'A' Schedule Suit property is valid?
- h. Whether the Gift Settlement Deed dated 20.12.1971 is valid?
- i. Whether the Suit is barred by Limitation?
- j. Whether the defendants are entitled for adversary right?
- k. Whether the Plaintiff is entitled to a relief of declaratory?
- l. Whether the Plaintiff is entitled to the possession of properties?
- m. Whether the Plaintiff is entitled to a relief of permanent injunction?
- n. To what reliefs, the Plaintiff is entitled to?

6. Before the trial Court, on the side of the Plaintiff, PW1 to PW5 were examined and Ex.A.1 to Ex.A.32 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B.1 to Ex.B.17 were marked. The trial Court, after evaluating the oral and documentary evidences adduced on both sides, dismissed the Suit by holding that *already the properties were partitioned*



between the predecessors of the Plaintiff temple and the defendants and thereafter, the parties had alienated the properties and no any objection made for that partition and the said alienation. As per the Will executed by Natesan Pillai, Govindaraj had right to select the persons for conducting poojas and after his demise, his legal heirs have no any right to execute agreement in favour of the Plaintiff. The Plaintiff has not challenged the said partition and the 1st defendant had purchased the 'A' Schedule property and 'C' Schedule property has been purchased by the 2nd defendant. Therefore, dismissed the Suit. Aggrieved by the said decree and judgment, the defendants have preferred an appeal Suit in A.S. No.85 of 2014 on the file of the III Additional District Court, Salem. The First Appellate Court also framed the following points for determination:

- (i) Whether the decree and judgment of the trial Court are correct?***
- (ii) Whether the contention of the appellant that the decree and judgment of the trial Court have to be set aside is acceptable?***
- (iii) Whether the appeal is to be allowed for the grounds raised in the appeal?***

7. After hearing both sides and perusing the records, the First Appellate Court reversed the judgment and decree of the trial Court and allowed the appeal and decreed the Suit by holding that the properties belonged to the Temple and the documents executed are not binding upon the temple.



Aggrieved by the said decree and judgment, this second appeal has been preferred.

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8. At the time admitting the second appeal, this Court has formulated the following *substantial questions of law*:

- 1. Whether the Lower Appellate Court, while reversing the judgment of the trial Court, had assigned proper reasons for differing from the findings of the trial Court as mandated under Order XLI Rule 31 of Code of Civil Procedure?*
- 2. Whether the Lower Appellate Court failed to appreciate the fact that the Plaintiff, even without seeking for the cancellation / setting aside of the documents executed by the ancestors of the parties, is entitled for the relief sought for in the Suit?*
- 3. Whether the person who represented the Plaintiff temple ought to have obtained a decree declaring him as a hereditary trustee for maintaining the present Suit.*
- 4. Whether the findings of the Lower Appellate Court can be termed as perverse due to improper appreciation of the oral and documentary evidence?*

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



10. The learned Senior counsel appearing for the appellant would submit that originally the properties belonged to one Dakshinamoorthy Pillai. The said Dakshinamurthy Pillai had three sons namely Natesan Pillai, Angusami Pillai and Neelamegam Pillai. The said Neelamegam Pillai and Angusami Pillai filed a Suit in O.S. No.490 of 1949 as against their father Dakshinamoorthy Pillai and brother Natesan Pillai in respect of the properties. Thereafter, the said Suit was compromised between the parties. After the demise of said Dakshinamoorthy, his three sons partitioned the properties through a Partition Deed dated 06.06.1966. In the said partition, 'A' schedule property was allotted to Natesan Pillai, where the temple is situated and 'B' Schedule property was allotted to Angusami Pillai, 'C' Schedule property was allotted to Neelamegam Pillai and 'D' Schedule property was kept as common. Thereafter, on 17.07.1967, all the sons of Dakshinamoorthy Pillai sold the 'D' schedule property to one Padmavathy. After purchase of the property, the said Padmavathy executed a Will dated 10.02.1986 in favour of her daughter, Manonmani and died on 27.02.1990. Thereafter, the said Manonmani also executed a Will dated 11.02.2002 in favour of her sister's son Manivannan. After demise of the said Manonmani, the said Manivannan, who is the 1st defendant, is enjoying the property. The said property has been sub-divided into T.S. No.321/1. On 02.10.1970, the Neelamegam Pillai sold the property to Govindaraj, who is the son of the Natesan Pillai through a Sale Deed. The said Govindaraj, died



intestate leaving behind his wife and daughters to succeed his estate and the legal heirs of the said Govindaraj sold the property to the 1st defendant through a Sale Deed dated 06.06.2005 and the same was sub-divided into Survey No.321/2. As such, the 1st defendant is entitled to the 'C' and 'D' schedule properties allotted through a Partition Deed dated 06.06.1966. The said properties have been shown in the Plaint as 'A' and 'B' schedule properties. Therefore, the 1st defendant is the absolute owner of 'A' and 'B' schedule properties of the Suit. The property described as 'B' schedule in the Partition Deed dated 06.06.1966, which was allotted to Angusami Pillai, was settled by Angusami in favour of his son Rajendran, who is the 2nd defendant, through a Settlement Deed and that has been sub-divided as T.S. No.321/3. The said property has been described as 'C' Schedule in this Suit. Therefore, the Suit 'A' and 'B' schedule properties are exclusively belonging to the 1st defendant and the 'C' schedule property belonged to the 2nd defendant and the Plaintiff has no right over the properties.

10.1. The learned Senior Counsel further submitted that the Plaintiff never acted as either a Trustee or a Poojari. The temple was situated in 'A' schedule property, which was allotted to Natesan Pillai through Partition Deed. Therefore, the Plaintiff is not entitled to any relief. Before the trial Court, on the side of the Plaintiff, PW1 to PW5 were examined and Ex.A.1 to Ex.A.32 were marked. On the side of the defendants, DW1 to DW4 were examined and



Ex.B.1 to Ex.B.17 were marked. The trial Court, after considering the evidences adduced on both sides, has correctly dismissed the Suit. However, the First Appellate Court without appreciating the case of the defendants, has erroneously decreed the Suit. The defendants' father was a party to the Partition Deed and he was also allotted a share through the said Partition Deed dated 06.06.1966 and 'A' Schedule property was allotted to him. Thereafter, he enjoyed the property and the remaining properties were alienated by other parties, particularly, 'D' Schedule property which was kept as common through Partition Deed, was sold by the sons of the Dakshinamoorthy Pillai including the father of the defendants. Therefore, the said Partition Deed was acted upon and now the Plaintiff cannot turn around and say that the Partition Deed has not been acted upon. The First Appellate Court failed to consider the same and erroneously decreed the Suit. Therefore, this second appeal is liable to be allowed.

11. The learned Senior counsel appearing for the respondents would submit that the property belonged to the temple and the temple properties cannot be subjected for any alienation and the Partition Deed dated 06.06.1966 is not binding upon the parties because the properties belong to temple. The temple properties cannot be partitioned. The grand father of the Plaintiff Dakshinamurthy Pillai had rendered poojas to the deity and thereafter, his elder son Natesan Pillai, who is the father of the Plaintiff had performed poojas to the



deity and the said Natesan Pillai executed a Will dated 10.09.1982 in favour of one Govindaraj, who is the brother of Anguraj, the Plaintiff, by giving right of rendering poojas to deity and he also rendered poojas to deity and after his demise, the legal heirs of the said Govindaraj have executed a Deed of Agreement by authorising the Plaintiff to render poojas to the deity. The deity is a family deity and the properties are the temple properties. Therefore, the Plaintiff has filed the Suit for declaration and before the trial Court, PW1 to PW5 were examined and Ex.A.1 to Ex.A.32 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B.1 to Ex.B.17 were marked. The documents created as against the temple properties are not valid in the eye of law. However, the trial Court failed to appreciate the case in proper perspective manner and erroneously dismissed the Suit. Whereas the First Appellate Court, after elaborate discussions, came to a fair conclusion that the properties belonged to the Temple and the deity Sri Angalaamman. The documents executed between the parties will not bind upon the temple and thereby, decreed the Suit. Therefore, the present second appeal is liable to be dismissed.

12. This Court heard both sides and perused the entire materials available on record.

13. It is an admitted fact that there is no dispute in respect of the



relationship between the parties. One Dakshinamoorthy Pillai had three sons namely Natesan Pillai, Angusami Pillai and Neelamegam Pillai. The Plaintiff is the son of Natesan Pillai. The said Dakshinamoorthy Pillai and his three sons entered into partition over the properties through a Partition Deed dated 06.06.1966. As per the said Partition Deed, the 'A' Schedule property was allotted to the share of Natesan Pillai. 'B' schedule property was allotted to Angusami Pillai and 'C' schedule property was allotted to Neelamegam Pillai and 'D' Schedule property was kept as common. Thereafter, the said 'D' Schedule property sold to one Padmavathy through a Sale Deed dated 17.07.1967. The said copy of Sale Deed was marked as Ex.A.4. On a careful perusal of the above said document, it reveals that the said Natesan Pillai, Angusami Pillai and Neelamegam Pillai have sold the property to one Padmavathy. Thereafter, the said Natesan Pillai died on 21.05.1984. The said Natesan Pillai had four sons namely Govindaraj, Anguraj, Krishnamurthy and Balasubramaniam. The said Govindaraj had no male issues and during his life time, he rendered poojas to the deity and executed a Will in respect of conducting poojas to the deity, which is installed in the property allotted to him through a Partition Deed and he nominated his son Govindaraj to render poojas to the deity and after his demise, the Plaintiff obtained Deed from the legal heirs of the said Govindaraj claiming that he is the Poojari for the temple and he is the Trustee of the temple.



14. In this case, there is no dispute in respect of the Trusteeship of the temple and for conducting poojas. According to the Plaintiff, the properties belonged to the temple, but the documents show that the properties were enjoyed as personal properties by the predecessors of the Plaintiff and the defendants. Thereby, they filed two Suits in O.S. No.490 of 1949 and O.S. No.396 of 1966 and thereafter, they partitioned the property in the said Partition Deed 'A' Schedule property, was allotted to Natesan Pillai, who is the father of the Plaintiff Anguraj, along with deity. Therefore, the said property alone can be treated as temple property. The other properties were treated as separate properties and thereby, they entered into a Partition. The Plaintiff, who is the son of Natesan Pillai, cannot deny the character of the property. During the lifetime of the father of the Plaintiff, they had not questioned the partition and the nature of the property and the Plaintiff filed the original Suit in the year 2011 alleging that the properties are temple properties.

15. The Plaintiff knows very well about the transactions, which happened in respect of the properties and after the Partition Deed dated 06.06.1966, one portion of the property was sold and thereafter, the same was bequeathed by the 1st defendant through a Will dated 11.02.2002. Another property allotted to the share of Neelamegam Pillai, was also sold to the Plaintiff's brother Govindaraj through a Sale Deed dated 02.10.1970 and after the demise of the said Govindaraj, his legal heirs sold the said property to the 1st defendant through a



Sale Deed dated 06.06.2005 and another property which was allotted as 'B' Schedule property to Angusami Pillai was settled in favour of his son A. Rajendran, the 2nd defendant and those documents have not been challenged by the Plaintiff. The brother of the Plaintiff, Govindaraj himself had purchased the property from his paternal uncle Neelemegam Pillai through a Sale Deed. Therefore, the Plaintiff estopped from denying the nature of the property and he is enjoying the property derived through his father. These aspects have been considered by the trial Court and the trial Court has correctly held that the *Plaintiff is not entitled to the reliefs*. However, the First Appellate Court without considering the above said aspects, sale deeds, partition deed and subsequent transactions through the legal heirs and without any evidence, held that the properties belonged to the temple. Once the predecessors of the Plaintiff, treated the properties as their own and partitioned the properties and thereafter made alienation as their own, later after a long period, the Plaintiff cannot question the same.

16. The Plaintiff filed the Suit as 'Hereditary Trustee' to the temple. It is admitted by both the parties that the temple is situated in the share allotted to the Natesan Pillai, father of the Plaintiff and he rendered poojas to the Deity and after his demise, his son Govindaraj, who is the brother of the Plaintiff, administered the temple and rendered pooja to the deity, as per the Will of Natesan Pillai. The said Govindaraj had no male issues and he died leaving his



wife and daughters. According to the Plaintiff, after demise of Govindaraj, his legal heirs authorised the Plaintiff to render poojas to the deity. But the legal heirs of Govindaraj, the 4 to 6 defendants, denied the said authorisation given to the Plaintiff and they stated in the written statement that under compulsion and coercion, he obtained agreement from them. Therefore, the Plaintiff has to prove that he is the Hereditary Trustee to the temple and poojari to the Deity. But no sufficient evidence adduced to prove the same. Further the father of Plaintiff Natesan Pillai appointed his son Govindaraj to render poojas and the said Govindaraj has to select the poojari and Trustee to the temple, but the said Govindaraj never selected the Plaintiff as Poojari to the deity. Therefore, the Plaintiff failed to prove that he is the 'Hereditary Trustee' and Poojari to the temple. Therefore, the Plaintiff has no right to file the Suit and he is not entitled to the reliefs as prayed for.

17. The learned Senior Counsel appearing for the appellant has relied upon the judgments of Hon'ble Supreme Court in *(i) P. Kishore Kumar v. Vittal K. Patkar reported in (2024) 13 Supreme Court Cases 553*, wherein the Hon'ble Supreme Court held that *mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title and mere mutation of records would not divest the owners of a land of their right, title and interest in the land and further there exists no universal principle that whatever will appear in the record of rights will be presumed to be*



correct, when there exists evidence to the contrary.

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18. The learned Senior Counsel appearing for the respondents has relied upon the following judgments:-

(i) A.A. Gopalakrishnan v. Cochin Devaswom Board and others reported in (2007) 7 SCC 482.

(ii) Idol of Sri Renganathaswamy represented by its Executive Officer, Joint Commissioner v. P.K. Thoppulan Chettiar, Ramanuja Koodam, Anandhana Trust, represented by its Managing Trustee and others reported in (2020) 17 Supreme Court Cases 96.

(iii) Manikka Narasimhachari v. Ramasubbier reported in (1969) 82 LW 677.

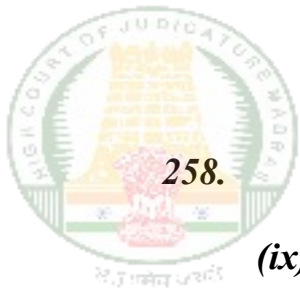
(iv) Shri Mahadeo Jew and another v. Balkrishna Vyas and another reported in AIR 1952 CAL 763 (1).

(v) Sree Sree Ishwar Sridhar Jew vs. Sushila Bala Dasi and others with Pasupati Nath Dutt and others v. Sree Sree Ishwar Sridhar Jew and others reported in AIR 1954 SC 69.

(vi) Gadigeyya Veerayya Kalmath and others vs. Sri Vishnu Dev and others reported in AIR 1973 Mysore 207 (V. 60, C72).

(vii) P. Sangili and others v. Ramakrishnan and others reported in AIR 1974 MAD 160 (V.61, C.53).

(viii) Mookka Velar v. Baluchami and ors. Reported in (1977) 2 MLJ



(ix) Sri Vallaba Ganesa Devasthanam & Ors vs. A. Anandanavadivelu Mudaliar & Ors reported in (1980) 1 MLJ 140.

(x) P. Raghupathi Naicker vs. The Commissioner and Secretary to the Government of Tamil Nadu and Ors reported in (1996) 1 MLJ 508.

(xi) Ranganathanswamy and ors v. P. Subramanian reported in (2002) 3 MLJ 585.

(xii) Basha Sahib vs. Valikandapuram Village, Kasi Visvanathanswamy Koil rep. by its Villagers of Sellamuthu and 5 others reported in (2003) 1 CTC 519.

(xiii) Joint Commr. Hindu Religious and Charitable Endowments, Admn. Department vs. Jayaraman and others reported in (2006) 1 SCC 257.

(xiv) S. Rangaraj vs. The District Registrar Tiruchirapalli and 2 others reported in (2008) 4 LW 411.

(xv) P. Arumugam vs. State of Tamil Nadu rep. by its Secretary reported in 2008 (1) CTC 279.

(xvi) Sozha Maruthva Mandagapadi Kattalai Trust, Rep. by its Chairman, Board of Trustees, A Sornavel S/o. Arumugapandithar vs. The Secretary to Government, and 2 others reported in (2014) 4 LW 430.

On a careful perusal of the above said judgments, it is clear that *the properties of deities, temples and Devaswom Boards, required to be protected and safeguarded by their trustees / archakas / shebaites / employees. The*



Government, members or Trustees of Boards / Trusts and devotees should be vigilant to prevent any such usurpation or encroachment and also the duty of Courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation. In the case on hand, there are no records that the properties belonged to the temple, but the available records show that the properties were enjoyed by the individuals and in one portion of the properties, which was allotted to the father of the Plaintiff, the deity was installed. Moreover, that property is not the subject matter of the Suit and the remaining properties allotted through partition, which were subjected for alienation have been included as Suit properties and without challenging the said transactions, the present Suit is not maintainable. Therefore, the above said case laws are noway helpful to decide the present facts of the case.

19. As far as the ***substantial questions of law that 1) Whether the Lower Appellate Court, while reversing the judgment of the trial Court, had assigned proper reasons for differing from the findings of the trial Court as mandated under Order XLI Rule 31 of Code of Civil Procedure?*** is concerned, the trial Court after referring Partition Deed and the subsequent Deeds executed by the parties, came to a conclusion that *the Plaintiff has not challenged the Partition Deed and the other deeds executed by the parties and the Plaintiff has not impleaded all the male descendants of the Natesan Pillai and the property in S. No.321 has an extent of 1581 sq. ft. was subdivided. As per the 'A' Register, it*

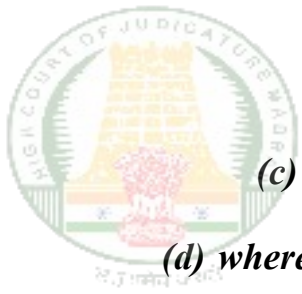


was mentioned as Angalamman temple land. The temple is a private temple and the entire property does not belong to the temple and in one portion, the temple is situated. The other remaining portions are classified as residential portions. There were houses sites in and around the temple. Thereafter, the Partition was effected on 06.06.1966 and the Plaintiff's father along with his brothers alienated the properties which were allotted commonly to them and the same was not challenged by the Plaintiff. Therefore, the said partition is valid and one of the properties allotted to Angusami Pillai was settled in favour of his son Rajendran, the 2nd defendant and Neelamegam Pillai sold the property to the brother of the Plaintiff Govindaraj, who sold the said property to the 1st defendant and therefore, the Plaintiff is not entitled to the properties and thereby, dismissed the Suit. The First Appellate Court, in the judgment, held that as per Ex.A.1, A2, A11 and A24, the entire properties belong to Sri Angalamman temple and in all the Deeds, Sri Angalamman Temple is not a party to the proceedings and thereby, the said documents will not bind upon the Plaintiff temple and decreed the Suit. The First Appellate Court has not given any reasons in reversing the judgment of the trial Court.

20. As per Order XLI Rule 31 of Code of Civil Procedure, the ***judgment of the Appellate Court shall be in writing and shall state ____***

(a) the points for determination;

(b) the decision thereon;



(c) the reasons for the decision; and

(d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled.

In this case, the judgment of the First Appellate Court is not in consonance with the Order XLI Rule 31 of Code of Civil Procedure and without cogent reasons varied the judgment of the trial Court. Thus, the **1st substantial question of law is answered.**

21. As far as the **2nd substantial question of law that “Whether the Lower Appellate Court failed to appreciate the fact that the Plaintiff, even without seeking for the cancellation / setting aside of the documents executed by the ancestors of the parties, is entitled for the relief sought for in the Suit?”**

is concerned, the Plaintiff on behalf of the temple, filed the Suit, whereas the plaintiff’s predecessors had entered into a partition in respect of the properties through a Partition Deed dated 06.06.1966, wherein ‘A’ schedule property was allotted to the father of the Plaintiff and in that property, the deity was identified and a house was allotted to the deity and the Plaintiff’s father can enjoy the property and can conduct poojas to the deity and can take the income from the temple. As per Partition Deed, the ‘D’ Schedule was kept as common and thereafter, the said property was sold to 3rd party through a Sale Deed, in which, the father of the Plaintiff is also a party. Further, the father of the Plaintiff was



allotted 'A' Schedule property through the partition and he had been enjoyed the property and after his demise, his successors enjoyed the property. The Plaintiff, who inherited the property through his father, cannot deny the nature and character of the property. After partition in the year 1966, the properties were subdivided and subjected for alienation, even during the life time of the father of the Plaintiff and no any reliefs sought for as against those transactions. Therefore, the said partition deed was acted upon and without seeking any cancellation of that Partition Deed and subsequent deeds executed in respect of the properties contained in the partition, the Plaintiff is not entitled to the reliefs sought for in the Suit. The trial Court has correctly appreciated the facts. However, the First Appellate Court failed to appreciate the above said facts and erroneously decreed the Suit. Thus, the ***2nd substantial question of law is answered.***

22. As far as the ***3rd substantial question of law that whether the person who represented the Plaintiff temple ought to have obtained a decree declaring him as a hereditary trustee for maintaining the present Suit*** is concerned, according to the Plaintiff, he is rendering poojas to the deity and he is maintaining the temple properties. It is an admitted fact that the father of the Plaintiff was rendering poojas and maintaining the temple properties. Thereafter, he had executed a Will dated 10.09.1982 and as per the Will Govindaraj was given right to conduct poojas to the deity and the Plaintiff also



admitted the same and thereafter, he obtained deed from the legal heirs of the said Govindaraj. The legal heirs of Govindaraj have filed their written statement denying the trusteeship of the Plaintiff and as per their written statement, the said agreement was obtained by coercion. As per Will of Natesan Pillai, his son Govindaraj was granted Power to select the Poojari and during his life time, he did not select the Plaintiff as 'Poojari'. After the demise of Govindaraj, the Plaintiff approached the legal heirs of Govindaraj and obtained an agreement, which is not sufficient to prove his trusteeship and poojariship. Therefore, he is not a Hereditary Trustee and he has appointed the competent persons as Trustees and therefore, the Plaintiff, who represents the temple, ought to have obtained order of declaration declaring him as a Hereditary Trustee for maintaining the temple and to file the Suit. Therefore, framing of Suit itself is not maintainable. Thus, the *3rd substantial question of law* is answered.

23. As far as the *4th substantial question of law that Whether the findings of the Lower Appellate Court can be termed as perverse due to improper appreciation of the oral and documentary evidence? is concerned*, the trial Court after giving adequate reasons declined to grant decree, but the First Appellate Court has not appreciated the facts in a proper perspective manner and wrongly placed light on the documents and therefore, improperly appreciated the oral and documentary evidences, thereby the same can be



termed as perverse. Therefore, the decree and judgment passed by the First Appellate Court are liable to be set aside.

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24. In view of the above said discussions, this *second appeal is allowed and the decree and judgment passed by the First Appellate Court / III Additional District and Sessions Court, Salem in A.S. No.85 of 2014 dated 09.06.2015 are set aside and the decree and judgment passed by the trial Court / II Additional Sub Court, Salem in O.S. No.390 of 2011 dated 27.08.2014 are restored. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.*

30.01.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MJS

To

1. The III Additional District and Sessions Court, Salem.
2. The II Additional Sub Court, Salem.



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P.DHANABAL, J.

MJS

**PRE-DELIVERY JUDGMENT IN
SA No. 661 of 2015**

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