



WEB COPY

OSA No. 381 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**OSA No. 381 of 2025
and
CMP No.32793 of 2025**

1. Sri Chandraprabha Jain Swetambar Temple
Through its Managing Body
Sri Choolai Bazaar Jain Sangh
@ Shri Choolai Jain Sangh
@ Shri Choolai Moortipujak Jain Sangh
@ Sri Sangh Choolai Bazaar
situated at No.38, Venkatachala Mudali Street
Choolai, Chennai 600 112
and its working committee consisting of

a) Rajendra Kumar Kochar
b) Hemchand Vaid
c) Tarachand Kochar (died)
d) Punamchand Dakalia
e) Lalchand Lunavat
alias Milapchand Lunavat (died)
f) Sunilkumar Sancheti
g) Heeralal Golecha
h) Heerachand Nimani
i) Rajendrakumar Kanuga

Appellant(s)

Vs

1. S. Jadav Chand Kanuga
2. Ratan Chand Chhallani



3.G.Ashok Chand Dakalia
4.K.Tarachand Golecha
5.Suresh Chand Jhabak
6.J.Harak Chand Golecha
7.T.Shantilal Golecha
8.Sri Prakash Chand Golecha

Respondent(s)

PRAYER

To set aside the order dated 28.10.2025 passed in C.S. No. 1014 of 2008.

For Appellant(s): M/s.P.Sunil
For Respondent(s): M/s.P.Prithvi Chopda
for M/s.Dipthi Munoth.A (R6)

ORDER

(Order of the Court was made by C.V.Karthikeyan J.)

The appeal is filed against the order dated 28.10.2025 in O.S. No. 1014 of 2008, whereby the learned Single Judge directed that PW1, who is presently in the witness box, shall continue to be cross-examined by the appellant, who is the 1st defendant in the suit.

2. The suit had been filed under Section 92 of the Code of Civil Procedure seeking the framing of a scheme. The appellant /1st defendant had filed a written statement objecting to the averments and reasonings set out in the plaint.

3. It is contended by the learned counsel for the appellant that the appellant has continued to be in the administration of the Trust pursuant to the



orders of the Court. We refrain from elaborating further on the merits, as the matter is pending trial and the parties are presently tendering evidence.

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4. Be that as it may, the 2nd respondent /defendant thereafter filed an application to condone the delay in filing the written statement. The delay was condoned and the written statement was taken on record.

5. The grievance of the appellant is that, in the written statement of the 2nd defendant, it has been contended that the 2nd defendant has no objection for framing of a scheme for the plaintiff Trust. According to the learned counsel for the appellant, in view of such a stand, it ought to be presumed that the plaintiff and 2nd defendant are acting in collusion and, therefore, the 2nd defendant should first cross-examine the plaintiff, and only thereafter, the appellant/ 1st defendant should be permitted to continue with this cross examination.

6. This contention was rejected by the learned Single Judge, who also pointed out the delay in the progress of the trial and observed that the cross-examination already undertaken by the 1st defendant should be carried to its logical conclusion and thereafter, the 2nd defendant would be entitled to cross-examine the plaintiff. The learned Single Judge further observed that during trial, the recording of the evidence should proceed and that the evidence is



recorded in entirety, it would be for the Court to assess the same in the light of the pleadings and submissions advanced during arguments. Collusion cannot be presumed even before evidence is recorded in its entirety. The trial has to proceed and reach its logical conclusion.

7. PW1 is presently in the witness box. He has already been cross-examined in part by the appellant /1st defendant. We hold that cross examination ought to be continued and completed and thereafter, the 2nd defendant would have every right to cross examine PW1.

8. The appellant /1st defendant would also have to tender his evidence in due course. The evidence already tendered by PW1 as well as the cross-examination by the 2nd defendant, cannot in any manner prejudice the appellant. The appellant has every opportunity to tender his evidence on all points that are now urged before this Court during trial.

9. We are of the considered opinion that the appeal has been filed only to protract the trial proceedings. We are therefore not inclined to grant any further indulgence contributing to delaying the proceedings. As a matter of fact, even earlier an appeal had been filed and the Division Bench in O.S.A. No.111 of 2025 had observed as follows:-



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21. It is a matter of surprise that the Temple is being run for more than a century without a proper Committee to oversee the functioning of the same and it is high time that a Scheme is formulated for its administration. We are given to understand that the matter is presently before the IV Additional Master for trial. Let the trial continue unhindered by any of the observations in this order and be completed within a period of three (3) months from date of uploading of this order in the official website of this Court.”

The said observation and direction has not been followed.

10. In the interest of all the parties, we appoint Mr.Suhrith Parthasarathy, learned counsel, having office at No.39, Law Chambers, High Court Buildings, Chennai-600 104, as Advocate Commissioner to assist in the recording of evidence. We would request the learned Advocate Commissioner now appointed to bestow personal attention to the matter, having regard to the fact that the suit is of the year 2008 and that the cross-examination of PW1 has been completed only in part.

11. We hope that the appellant would cooperate with the learned Advocate Commissioner in proceeding further with the cross-examination of PW1 and



with the recording of any further evidence on the side of the plaintiff. The remit of the learned Advocate Commissioner shall extend to recording the evidence of the PW1 in its entirety and also that of all other witnesses, who are summoned by the plaintiffs and the defendants. An outer time limit of six months time is given from the date on which this order is uploaded for completion of recording of evidence.

12. An initial remuneration of Rs.1,00,000/- is fixed for the learned Advocate Commissioner, out of which a sum of Rs.50,000/- shall be paid by the plaintiff and the remaining Rs.50,000/- shall be paid by the appellant / 1st defendant.

13. During the course of the trial, if either party seeks an adjournment, the same shall be granted only upon payment of costs of Rs.1,000/- for every adjournment sought. The costs shall be paid to the Tamil Nadu State Legal Services Authority.

14. The appeal stands dismissed with the above observations. No costs.

(C.V.K., J.) (K.B., J.)
02-01-2026

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**C.V.KARTHIKEYAN J.
AND
K.KUMARESH BABU J.**

Maya

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