



**IN THE COURT OF THE PRINCIPAL
DISTRICT AND SESSIONS JUDGE
AT MYSURU**

Dated this the 22nd day of July, 2026

PRESENT

Smt. Usharani, B.A.(Law), LL.B.,
Principal District & Sessions Judge,
Mysuru.

MISC.20 OF 2018

Petitioner/s:

Sri M P Shankar,
S/o Late N Puttaswamy,
Aged about 67 years,
Residing at No. 990/2,
2nd Main, 3rd Cross,
Vidhyaranyapuram,
Mysore – 570 008.

[By Sri NLNS, Advocate]

V/s.

Respondent/s:

Sri Ramalingeshwara Temple,
2nd Main Road,
Vidhyaranyapuram, Mysuru
Rep by its Trustees

1. S B Shivanna,
S/o Sepaye Byrappa,
Aged about 76 years,
Residing at No. 202,
2nd Main Road,
16th Cross, Vidhyaranyapuram,
Mysore – 570 008.

2. M N Chandrashekar,
S/o Late Ningaiah,
Aged about 60 years,
Residing at No.1063/11,
1st Main, 7th Cross,
Vidhyaranyapurm,
Mysore – 570 008.
3. N Venoji Rao,
S/o Not Known,
Aged about 51 years,
Residing at 3rd Floor, No.311,
Sai Brindavan Apartment,
No. 63 and 64/1,
2nd stage, Industrial Suburb,
Mysore – 570 008.
4. T A Anantha Padmanabha,
S/o Not Known,
Aged about 55 years,
Sri Vekatesh Krupa,
2nd Main Road, 9th Cross,
Vidhyaranyapurm,
Mysore – 570 008.
5. B Vijaya Kumar,
S/o Not Known,
Aged about 57 years,
Residing at NO. 773,
4th Main Road, 25th Cross,
Vidhyaranyapurm,
Mysore – 570 008.
6. S Sethu Rama,
S/o S B Shivanna,
Aged about 59 years,
Residing at No. 1063/49,
1st Main Road, 5th Cross,
Vidhyaranyapurm,
Mysore – 8.

7. K Suresh Babu,
S/o S Narayana Rao,
Aged about 55 years,
Residing at No. 1029,
2 Main, 5th Cross,
Sarvajanika Hostel Road,
Vidhyaranyapurm,
Mysore – 8.
8. B G Ramrathan Singh,
S/o Late Giridar Singh,
Aged about 76 years,
Residing at No. 1036/36,
4th Main, 9th Cross,
Vidhyaranyapurm,
Mysore – 8.
9. M D Kumar @ M D Kumarswamy,
S/o Not Known,
Aged about 51 years,
Residing at 1063/92, 1st Main,
7th Cross, Vidhyaranyapurm,
Mysore – 8.
10. M L Vijaya Kumar,
S/o Lakshman,
Aged about 54 years,
No. 1036 B1, 1st Main,
4th Cross, Vidhyaranyapurm,
Mysuru – 8.
11. V Sathyanarayana,
S/o Not Known,
Aged about 60 years,
Residing at No. 234, 3 Main,
Sree Siddalingeshwara Layout,
J P Nagar, Mysore – 8.
12. Kengegowda,
S/o Not known,
Aged about 63 years,
No. 162, E W S / HUDCO,

Sweage Farm Layout,
Kanakagiri, Mysore – 8.

13 S Nataraju,
S/o Not Known,
Aged about 59 years,
No. 2748, 4th Main, Medharakeri,
Chamundipuram, K R Mohalla,
Mysore – 570 008.

14. M S Sharath,
S/o M P Shankar,
Aged about 52 years,
No.990/3, 2nd Main,
3rd Cross, Vidhyaranyapuram,
Mysore – 8.

**[By Sri MVK, Advocate for R-1
to 13, Sri VB, Advocate for R-
14].**

**ORDER ON PETITION UNDER
SECTION 92 OF CPC**

This petition has been filed under Section 92 of C.P.C seeking permission to institute a suit against defendants.

2. The brief facts of the case is as follows:

Sri Ramalingeshwara Swamy Temple Trust was formed in the year 1955 for the well being of residents of the area by conducting religious activities in the Temple to spread Hindu culture and to perform religious activities

like Ramanavami, Ganesh Festival, Bhajana, etc., by Nanjundaiah and others at the land given to Yajman **Kapnaya** the father of Nanjundaiah by the City Improvement Trust Board on 30.11.1936. Thereafter Temple was established. It was clearly mentioned in the Trust Deed that 15 Executive Committee Members including President, Vice President, Secretary and Treasurer should be responsible for proper functioning of the Temple and Executive Committee is to be elected under the process of law. Temple was renovated in the year 2015. During the said period, huge amount was collected and Executive Committee of the Temple has to be accounted for the same. After the renovation, religious function was organised from 11.3.2015 to 13.3.2015 and thereafter in the monthly meeting, petitioner has asked for account of the public money collected during the said renovation and religious function. But Executive Committee members have not given the accounts. Petitioner is a law abiding citizen, served the Temple for 40 years. On 11.12.2017 petitioner

has received post card, intimating date of meeting scheduled on 14.12.2017. Hence he had attended the said meeting and once again raised said question. But committee members have given evasive answers. On 1.1.2018, petitioner has visited the Temple premises and surprised to know that his name was not found in the granite stone displayed at the Temple. Further there was one more list stating "Mahadanigalu" which has no sanctity because it was never discussed in the monthly meeting. Committee members have never shown any interest to rectify the lapses. Deeply hurt by the act of Executive Committee members he wrote a letter on 5.1.2018, requesting them to maintain sanctity of the Temple and follow the rules and regulations contemplated under the Trust. Respondents have created false propaganda against him and hence he had issued legal notice on 8.2.2018 requesting and demanding to set right the lapses committed by the Executive Committee members of the Temple Trust but they have never

bothered. Hence this petition seeking permission to institute a suit against defendants.

3. Respondents 1 to 13 have filed objections stating that they have no knowledge about execution of registered Trust Deed on 1955 upon the land granted to of Yajmana Kapanaya, the father of Nanjundaiah, by City Improvement Trust Board on 30.11.1936. The present Dharmadarshi is only the eldest surviving member and when petitioner was asked to produce the documents, he has denied possessing the same and has not produced them. Since from the establishment of Temple all the rituals and rules were followed peacefully by the members and there are no any litigation in respect of said Temple. When petitioner worked as a secretary of the Trust, he took away all the original documents and therefore Trust Deed was not renewed. Petitioner was unnecessarily quarreling and raising voice in the monthly meetings and was stealthily taking away the registers and making its xerox copies etc. When petitioner was

working at Railway Department, he used to quarrel with committee members. Since petitioner is in the Temple committee since 40 years every one is tolerating him. He has stated false facts regarding collection of amount and non-giving accounts to him. During renovation of the Temple since petitioner was the secretary he is responsible for giving accounts. Devotees of the Temple have donated groceries to the Temple during the kumbhabhisheka and no receipts were issued to them, they have requested not to disclose their names and names of those who have donated huge amount were en-grafted in the granite stone. Petitioner has not taken responsibility and it is the vice president Kempegowda has taken all the responsibilities, who was in possession of accounts relating to kumbhabhishekam and he is no more. Thereafter nearly 4 kumbhabhishekam were held, for which he has not assisted financially or in any manner. On 4.12.2017 petitioner has attended the meeting and took away the register for making xerox of the same and thereafter he has over written it and

deleted, struck out some entries. He also used to demand amount from the Hundi. It is further averred that decision any taken at the Temple is based on majority vote. Petitioner is the father of 14th respondent. On 25.12.2017 notice has been issued to petitioner at the majority vote of 12 persons and he was removed from the committee. At that time since 13th respondent was not at village, he has not signed the said notice. Unable to bear the trouble given by the petitioner, the said decision was taken. It is further averred in detail regarding each members i.e., respondents 1 to 13 regarding their financial condition and status in the society. Hence prayed to reject the petition.

4. Respondent No. 14 has filed a memo submitting no objection for the petitioner to institute a case against the Trustees as this Trustee has the opinion that there is mismanagement as well as misappropriation of the Trust funds. The respondents 1 to 4, 6 to 13 are acting contrary to the terms in the Trust Deed and the said Trustees are not maintaining the records and they have

not audited the accounts till date. The respondents 1 to 3 are considering the trust property as their own and forgotten that it is a public trust.

5. Heard the argument of learned Advocates for petitioner and respondents. Perused the materials on record.

6. The points arise for my consideration are;

1. Whether petitioner has made out grounds to grant leave to institute suit under Section 92 of C.P.C?

2. *What Order?*

7. My findings on the above points are as under:

Point No.1: In the **affirmative.**

Point No.2: As per final order for the following:

REASONS

8. **Point No.1:** Admitted facts are that, Sri Ramalingeshwara Swamy Temple Trust was formed in the year 1955 and City Improvement Trust Board has granted the land to one Yajman Kapannaiah the father of founder [Nanjundaiah] of the Trust on 30.11.1936. Copy

of the Trust is at Ex.P.1 and object of the Trust is the well being of the residents of area by conducting religious activities in the Temple. The main activity which is stipulated in the Trust Deed is to spread Hindu culture and to perform religious activities like Rama Navami, Ganesha Festival and conduct Bhajanas and other religious function in the Temple premises. Trust should consists 15 executive committee members out of it, one is President, another is Vice President and one Secretary and one Treasurer. Further admitted facts are that, Temple was renovated in the year 2015 and the function Kumbhabhishekam and other religious functions were also performed. It is also admitted fact that petitioner was the executive member of the Trust for a period of 40 years.

9. It is the contention of petitioner that he was removed from the Trust without following proper procedure/notice. The petitioner has substantiated the same by producing the resolution dated 14.12.2017. However, respondents have taken up a contention that

petitioner being the Secretary of the Trust was in possession of documents and used to make corrections in the documents and that he has taken away the resolution book. But Ex.R.28 minute book is before the Court, which was produced by the respondents and hence it is clear that, minute book is in possession of respondents.

10. The contention of the respondents 1 to 13 is that, petitioner is the Secretary of the Temple Trust for some period and during the period of renovation of Temple was carried out, and he was in possession of all the documents. Further, he is responsible for accounts of the Temple. It is also contended that petitioner has not taken any responsibility, it was one Kempe Gowda who has taken all the responsibilities of said Kumbhabhishekam program. Respondents 1 to 13 have tolerated the petitioner for 40 years. In the meetings, he used to shout and hence unable to bear the trouble given by him, they have taken decision and removed him from the committee. Further contention is that the respondents 1 to 13 are reputed persons in the society and they are

financially strong and they have no intention to mis-use the amount of the Temple.

11. It is pertinent to note here that respondent No.14 is none other than the son of petitioner, who has supported the case of petitioner. According to respondent No.14, no auditing of the Trust has been done and this fact has been admitted by respondent No.1 in his evidence. During the pendency of this petition, petitioner was suspended by the respondents 1 to 13, which is against law. Further respondent No.14 drew the attention to evidence of RW-1, who has deposed that he has no objection for auditing the account of the Temple.

12. It is pertinent to note here that Ex.P. 1 is the copy of Trust Deed as per which, Trust was registered on 25.7.1955, which corroborates the contention of the petitioner that Trust Deed was executed for the religious and charitable purposes and that condition mentioned therein was that there shall be 15 members in the executive committee. Further petitioner has also produced the invitation card pertaining to Kumbhabhi-

sheka Mahotsava conducted at the said Temple on 9.3.2018. It is relevant to note that till 16.6.2014, name of petitioner was shown as member and his attendance was taken to the register but on 16.6.2014, his name was shown as secretary. However, no signature is found opposite to his designation written as secretary. Further on subsequent dates that was on 15.7.2014, name of petitioner shown as a member present, on 19.8.2014 his name shown as secretary. However he had signed the register during all those days. Entries pertaining to Ex.R.1 found over-written. Similarly on 15.9.2014 name of petitioner shown as secretary, but on 16.9.2014, his name was shown as persons present in the meeting and his designation was not written. Interestingly in the meeting held on 19.8.2014 to 15.9.2014, particularly on 15.9.2014 designations like president, vice president, joint secretary, secretary, members etc., of the members of the Trust were found inserted after writing their names, opposite to their names and in between their names and signatures. Opposite to the name of

Chandrashekar M N designation written as President, which was written over the word already written. Similarly, word joint secretary also found over written on the signature of the said person and it is also observed that after the signatures of those members, there are sufficient space. Hence all these facts support the case of petitioner. Further in the meetings dated 20.11.2014, 15.11.2014 to 20.11.2014 as well as 15.12.2014 name of petitioner shown as member present and not as secretary.

13. One more important aspect observed in Ex.R.28 the resolution register is that on 14.12.2017, resolution has been passed wherein one sentence appears to have been subsequently inserted. In the said meeting the details of gifts received were written and after that proceedings was written and in between the above details and the proceedings, one sentence has been found inserted. This also prima facie supports the case of petitioner. Further, the date on which proceedings were drawn was not mentioned. Even petitioner was also absent in the said

meeting and only two persons were present and they have also not mentioned the date after putting their signatures. In the very next meeting that was on 22.12.2017, it was written as meeting was called in respect of petitioner took away the books pertaining to the meeting, made xerox of the same. Under these circumstances, in order to come to fair decision, further examination of all these records is required.

14. In the meeting dated 22.12.2017, it was further stated that because, petitioner took away the books of meeting and made xerox copies and some of the documents were mis-placed and that since petitioner was always arguing in the meetings, by majority vote, he was removed. It is admitted by RW-2 that as per resolution dated 14.12.2017, till 22.12.2017, they have not sent notice of meeting to any Trustees. It is admitted that in the Ex.R.28 Trustee by name Ram Ratan Singh signed on 27.1.2018 to the resolution dated 22.12.2017. Further there was no agenda of the said date of meeting, more particularly regarding appointment of members of new

managing committee of the Trust. It is important to note here that, RW-1 has deposed that no monthly meeting was convened during the period 14.12.2017 to 1.1.2018 except the monthly meetings. Monthly meetings were normally used to be held during 15th of every month. According to RW-1, he alone used to look after entire affairs of the Trust. Further both RW-1 and 2 have admitted that no audit of Trust has been conducted. RW1 and 2 have stated that they have no objection to enquiry into mis-management if any in the Trust.

15. Materials produced before the Court show that on 5.1.2018 i.e., prior to filing of this petition, petitioner has given notice to President and Secretary of Sri Ramalingeshwara Swamy Trust stating without majority vote, members of the Trust are taking decisions, which is against the rules. Further transparency in taking decision was also not maintained and requested to maintain sanctity of the Temple. One more letter has been issued on 8.2.2018 to all the executive members of the Trust by the petitioner stating the facts narrated in

the petition and asking to make necessary corrections in the list of members in the engraved stone without mentioning the name of the petitioner and in case of failure to correct the same, called upon to initiate legal action, but respondents 1 to 13 have not rectified their act. However respondent No.1/RW-1 has produced the copy of notice given by respondent No.14, wherein it is stated that without prior notice, monthly meetings were held and no prior notice has been issued. Removing member of the Trust without notice or without giving an opportunity of being heard, is in violation of principles of natural justice. Audit of the Temple was also not done. In this regard, notice was issued on 21.5.2018 and only thereafter resolution has been passed by remaining members i.e., respondents 1 to 13 and they have removed respondent No.14 as he was supporting the case of petitioner.

16. Though RW-2 and 3 are said to be the members of the Trust, they have not filed any authorisation issued by other members or any resolution passed to show that

they are authorised to give evidence in this case. Member or Trustee, testifying without a joint resolution or Trust authorisation may be viewed as testifying in a personal capacity rather than on behalf of the Trust as a whole.

17. It is pertinent to note here Section 92 of the C.P.C, as per which suit can be instituted under the said provision within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust situates to obtain a decree in respect of removing any trustee, appointing a new trustee, directing accounts and inquiries, settling a scheme, etc.

18. It is also pertinent to extract the relevant portion in Section 92 of C.P.C which runs thus:

"92. Public charities .-

(1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having

obtained the [leave of the Court,] may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree-

- (a) removing any trustee;*
- (b) appointing a new trustee;*
- (c) x x x*
- (d) directing accounts and inquiries;*
- (e) x x x*
- (f) x x x*
- (g) settling a scheme; or"*

19. In view of the above discussion, it is clear that when petitioner was served as a member of the Trust for more than 40 years and removed without notice and admittedly no account has been maintained about the funds of the Temple, Trust being public Trust created under the registered Trust Deed Act and the management of public charitable religious Trust, it requires scheme to be prepared with regard to management of the Trust. Hence, petitioner is entitled to

file a suit under Section 92 of C.P.C seeking for the said relief. Therefore, Point No.1 is answered in the **affirmative.**

20. **POINT No.2**: For the reasons stated above, I proceed to pass the following:

ORDER

The petition filed by the petitioner under Section 92 of C.P.C, is hereby **allowed.**

Leave is granted to the petitioner to institute the suit against respondents.

No order as to costs.

Register the suit.

[Dictated to the laptop, typed the same by Stenographer Gr-I on Computer and after corrections, signed and then pronounced by me in open Court on this the **22nd day of July, 2026**].

[USHARANI],
Prl. District & Sessions Judge,
Mysuru.

ANNEXURE

Witnesses examined on behalf of the Petitioner:

PW- 1 M P Shankar

Witnesses examined for the Respondents:

RW- 1 Venoji Rao

RW- 2 Kengegowda

List of documents exhibited on behalf of Petitioner:

- Ex.P. 1 Copy of Trust Deed
- Ex.P. 1[a] Typed copy of Ex.P. 1
- Ex.P. 2 Pomplet
- Ex.P. 3 Notice of invitation
- Ex.P. 4-5 Photographs
- Ex.P. 6 Letter
- Ex.P. 7 Copy of legal notice
- Ex.P. 8 Postal receipts [14 no.s]
- Ex.P. 9-10 Postal acknowledgments
- Ex.P. 11 Unserved RPAD covers [15]
- Ex.P. 12 Reply notice.

List of documents exhibited on behalf of Respondents:

- Ex.R. 1 Minutes Book
- Ex.R. 1[a] Signature of RW- 1
- Ex.R. 2-4 3 photographs
- Ex.R. 5 Invitation of Kumbhabhisheka
- Ex.R. 6-22 17 photographs
- Ex.R. 23 Receipt
- Ex.R. 24 CD
- Ex.R. 25 Notice
- Ex.R. 26 Reply
- Ex.R. 27 Reply
- Ex.R. 28 Minute Book
- Ex.R. 28[a] Relevant portion in Ex.R. 28

**Prl. District & Sessions Judge,
Mysuru.**