

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt.V.Sivagama Sundary, B.A.,B.L.,

Principal District Munsif , Nagercoil

Monday, on the 27th day of July, 2026.

I.A. No. 14 of 2025

in

O.S. No. 137 of 2019

S.Subramanian

... Petitioner/ Pro.
3rd Plaintiff

-VS-

1. Arunkumar

2. Narayanan

(for themselves and in the
representative capacity of Varikarers
of Arulmighu Devi Sri Mutharamman

Temple, Pulavarvilai, Nagercoil Village)

Arulmighu Devi Sri Mutharamman Temple,

Pulavarvilai, Nagercoil,

Kanyakumari District, rep. By its

Managing Committee through

3. President Selvarajan

4. Secretary Perumal (died on 19.01.2021)

5. Treasurer Gopalakrishnan

Addl.6. Secretary M.R.Nagarajan

...Respondents/Plaintiffs 1 &2

Defendants

This Petition came up before this Court for hearing on 22.06.2026 in the
presence of Thiru.M.Parameswaran, Advocate for the Petitioner and Mr.

Chenthil Moorthy, Advocate for the 1st and 2nd Respondents and Mr. Anandh, Advocate for the 3rd to 6th Respondents and upon hearing the Petitioners' Counsel and respondents counsel and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

ORDER

1. The petitioner have filed the above petition under Order XXVI Rule 9 and Section 151 CPC seeking appoint ab Advicate/Commissioner to collect Vari, subscription from the members and donations from the members and Philanthropist and conduct the Chithirai Kodai Vizha of Pulavarvilai Arulmighu Devi Shree Mutharamman Thirukovil on 04.05.2026 to 06.05.2026 or on the days fixed and all the related temple further festivals till the selection of the temple office bearers and the Commissioner may be directed to submit accounts connected with the collection and expenses etc.

2) FACTS OF AFFIDAVIT IN PETITION:

2.1) The petitioner is the 3rd additional plaintiff in this suit and petitioner herein and member/varikar of the 1st defendant Arulmighu Devi Sri Mutharamman Temple, Pulavar Villai Nagercoil in Kanyakumari District and fully conversant with the facts of the case. The petitioner is a born Hindu and hailing from Hindu descendants family. The petitioner's grand-grand father Iyyamperumal is one of the important person for formulation of the 1st defendant temple and his all descendants are varikkars of the temple.

2.2) At present there are 250 varikaras (members) who are the beneficiaries under the 1st defendant temple and every bodies are having equal right and responsibility over the temple and its things. As per the earlier conventional procedure and customs the election for the post of office bearers of the temple would be conducted through General Body once in 3 years. Their tenure is for 3 years and they should discharge their duties and dedicated their service for the fullest satisfaction of the members (varikkars) of the 1st defendant temple. The defendants 1 to 3 had forcibly taken over the temple's office bearers position in the year 2001 and been doing Katta Panchayat in the temple administration through wrong methodology from the year 2001 onwards. The defendants did not follow the earlier customs and conventional procedure and not conduct election for the office bearers position , after taking their change in the temple premises in the year 2001. They would convene the general body once in a year and also Annual General Body within Shree Mutharamman temple. The defendants 1 to 3 did not conduct election through the General Body from the year 2001 to till date.

2.3) Being it be so, the 2nd defendant Secretary died on 19.01.2021 and the additional 4th defendant has been selected as new Secretary by the 1st and 3rd defendants. The defendants have no manner of right to declare them as office bearers and no manner of right to act as office bearers for the temple without the approval of General Body. They had illegally issued anonymous pamphlets and letters to the members of the 1st defendant temple and they declared

themselves as the office bearers without any election.

2.4) The functioning and administration of the 1st defendant temple is being jeopardized now and members are put into great hardship due to the act of the defendants. The system of the 1st defendant temple functions are totally collapsed due to the illegal and adverse act of the defendants 1, 3 and 4. The defendants 1, 3, and 4 are having money and muscle power and taking law on their own hand and threatening the majority of the varikkars through illegal methodology.

2.5) The petitioner had taken coercive steps along with most of the members for convening the General Body to conduct election for selection of the office bearers and the defendants 1, 3 and 4 had not heeded the request. The defendants 1, 3 and 4 have been collecting huge sum of amount as in the account of vari and subscription and collecting donations from the philanthropist and misappropriated the amounts for the past 24 years and did not submit any proper account before the (members) varikkars and also the General Body.

2.6) Atlast pm 12.11.2019, the petitioners personally met and requested the defendants 1 to 3 along with most of the varikkars, to convene the General Body for conducting election to select office bearers of the temple ended in vain. No other go, the petitioner sent registered legal notices to the defendants 1 to 3 through his counsel on 17.01.2020, which were received by them. The defendants 1 to 3 have sent a reply notice dated 07.02.2020 through their

counsel with baseless reasons for non-conduction of election for the temple administration.

After receipt of his legal notice, the defendants 1 to 3 had created vengeance with me and wantonly stopped to receive the monthly subscription, Karthikai Chirappu Vari and other functions vari through their Katta Panchayat system, without giving any notice to his and not receive any explanation from the petitioner and wrecked their vengeance. The defendants 1 to 3's above said act is high handed. One, which has to be restrained by an orders of this court.

Now the plaintiffs 1 and 2 and the defendants 1, 3, 4 had connived and colluded with themselves and did not take proper steps to conduct election for selection of the office bearers and not take proper steps to manage and conduct the Chithirai Kodai vizha and other subsequent functions of the temple. So the selection of office bearers and conduction of the kodai Vizha and other functions of the temple are material things for remedial measures to most of the members.

The defendants 1, 3 and 4 have not permitted the petitioner and most of the members to enter into the temple premises and avoiding to collect Vari and subscription from us and his legal rights are being questioned by them. The defendants 1, 3 and 4 have prepared to conduct Chithirai Kodai Vizha on coming 04.05.2026 to 06.05.2026 and rights of the petitioner and most of the members will be jeopardized, if they are permitted to conduct the Kodai Vizha in the coming session.

The defendants 1, 3 and 4 have wantonly been avoiding to convene the General Body for conducting election to select office bearers of the temple with ill-motive. The defendants 1, 3 and 4 have prepared to conduct Chithirai Kodai Vizha on coming 04.05.2026 to 06.05.2026 without following the customary procedure for illegal gain. The petitioner/Additional 3rd plaintiff and most of the members are apprehending that, if the religious festival is not conducted with religious fervour and solemnly the villages who regularly worship at the temple will suffer fearing reprisal of the deity.

In the said circumstances it is highly necessary to appoint an Advocate/Commissioner to conduct the Chithirai Kodai Vizha in the temple. If the Kodai Vizha is not conducted through the Advocate/Commissioner it will cause irreparable loss and damage to me and also most of the varikars.

3. COUNTER ALLEGATIONS RESPONDENT/ DEFENDANTS:

This petition is not maintainable in law and on facts. It is submitted in the above petition the petitioner seeks appointment of Advocate Commissioner for conducting to elect the office bearer for the Administration of the Temple.

It is submitted the petitioner himself has admitted in para 3 of his affidavit that the above temple belongs to 245 varikaras and further in para 4 the petitioner admitted that for the past 200 years election for the post of office bearers of the temple would be conducted through General body once in 3 years.

It is submitted in the plaint it is specifically admitted in para 1 the above

temple is a denominational temple and in para 3 of the plaint the plaintiffs have stated that the present defendant were appointed as the Managing Trust Committee in the year 2002 onwards of the said temple from the General Body of the villages to manage and run the affairs of the temple. It is further stated the Managing Trustee Committee was entrusted with the Management and Administration of the temple and in the relief column the plaintiffs have pleaded as A relief for direction to the defendants to render true and proper accounts of all the assets, income and expenditure received by the defendants in their Management of the said temple for the last 3 years prior to the suit.

As B relief the plaintiff have claimed permanent injunction restraining the defendant from collecting donation from the public only the above two reliefs alone were sought for. In the said circumstances the petitioner has come up with the above petition for the appointment of Advocate Commissioner to conduct election and the averment stated in affidavit more especially in para 7, 8 and 9 are all denied and further the petitioner was impleaded as additional plaintiffs only recently and as such the petitioner is not the plaintiff in the above suit while it is instituted.

The appointment of the Advocate commissioner to conduct election as sought for by the petitioner is oppose on the following grounds:-

1. As per order 26 Rule 9 CPC a commissioner can be appointed only for local investigation or to conduct Ministerial Acts. Hence the present application warranting the Advocate Commissioner to conduct elections

supervise Administration is akin to By-passing or replacing more than 2 centuries old procedures which is not at all questioned in the suit.

2. Admittedly the main suit itself is only for rendition of accounts and in the plaint no declaratory or injunctive relief regarding the Management or Election is sought.

3. So far this court has not yet decided prima-facie the disputed facts relating to administration and accounts which are yet to be adjudicated.

4. The in the affidavit the petitioner has not pleaded any valid reason to deviate from the century old practice and in such circumstances conducting election specifically through court appointed Advocate Commissioner would after the status quo prejudice the rights of the parties.

5. The election of the office bearers as sought for in this petition is wholly alien to the main relief sought in the plaint. Hence granting any such interim relief amounts to travelling beyond the pleadings.

6.j Already due election were conducted in the said circumstances ordering fresh election without deciding the position of the present office bearers without any proof of mismanagement will legitimize disputed question that are to be decided in the suit and also it will render the very suit as infructuous and may also seriously affect the rights of the present elected representative.

7. No pleading or prayer are conducting for election in the suit hence when the plaint does not contain as specific prayer for declaration regarding management or for a direction to conduct election in the scenario and prayer for interim

appointment of commissioner for conducting election is impermissible in law.

8. An election of an office bearer constitute decision regarding the electorate and the eligibility of the members hence it involves civil right which cannot be bypassed by appointment of commissioner.

9. Any such appointment of Advocate Commissioner may result in the nature of litigation and the court must prevent misuse of interim orders. The appointment of Advocate Commissioner at this stage for election pending suit for accounts to granting final relief at an interlocutory stage.

4) The point for consideration is whether the above petitions have to be allowed or not?

5. This petition is filed for the relief of appointment of Advocate commissioner to collect vari, subscription from the members and donation from the members and philanthropist and conduct the Chithirai kodai vizha of Pulavarvilai Arulmighu Devi Shree Mutharamman Thirukoil on 04.05.2026 to 06.05.2026 or on the days fixed and all the related temple further festivals till the selection of temple office bearers and the commissioner may be directed to submit accounts connected with the collection and expenses etc., and thus render justice. According to Order 26 Rule 9 CPC., commission to make local investigation may appoint for the purpose of elucidating any matter in dispute or the amount of any mesne profits or damages or annual net profits. But here the petitioner seeks appointment of commissioner to collect subscription from the temple and donation from the public and conduct Chithirai kodai vizha and

all the related temple further festivals which amounts to management of temple through Advocate commissioner which is out of the scope of Order 26 Rule 9 CPC., main suit is relief of preliminary decree for accounts in such case, in the relief sought for in the petition is out of the scope of suit and so this court comes to the conclusion that this petition is not maintainable.

In result this petition is dismissed without costs.

Dictated to the Steno Typist, and typed by her directly in computer, corrected and pronounced by me, in Open Court this, the 27th day of July, 2026.

Principal District Munsif,
Nagercoil.

Petitioners side witnesses and documents : Nil

Respondents side witnesses and documents : Nil

Principal District Munsif,
Nagercoil.

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O.S. No.137 of 2019
Draft/Fair Order
Date: 27.07.2026
PDM, Nagercoil.

