

**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. 16 of 2026

in

O.S. No. 137 of 2019

S.Subramanian

... Petitioner/ Pro.
3rd Plaintiff

(for themselves and in the representative
capacity of Varikarers of Arulmighu
Devi Sri Mutharamman Temple,
Pulavarvilai, Nagercoil Village)

-VS-

1. Arunkumar

2. Narayanan

(for themselves and in the
representative capacity of Varikarers
of Arulmighu Devi Sri Mutharamman
Temple, Pulavarvilai, Nagercoil Village)

3) Arulmighu Devi Sri Mutharamman Temple,

Pulavarvilai, Nagercoil,

Kanyakumari District, rep. By its

Managing Committee through

1. President Selvarajan

2. Secretary Perumal (died on 19.01.2021)

3. Treasurer Gopalakrishnan

Addl.4. 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 and 4th 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 VI Rule 17 & 18 and Section 151 CPC seeking to amend and include the below petition mentioned portions in the O.S.No.137/2019 plaint.

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 on 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 and stated in or other reasons with intention to continue the earlier maladministration.

2.7) 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.

2.8) 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.

2.9) 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 plaintiffs 1 and 2 had colluded with the defendants and filed this suit as in the name shake without having proper reliefs with intention to continue the malpractice as like that of the year from 2021, which is against law. The plaintiffs did not plead the proper remedial measures in the plaint . So the petitioner filed petition to implead the petitioner as the proposed additional 3rd

plaintiff which was allowed by this court. Thus this petition was filed.

3. COUNTER ALLEGATIONS RESPONDENTS/ DEFENDANTS:

The above petition is not maintainable in law and on facts. The above petition is primarily filed to include para 13(A) by way of amendment to convene Annual General Body meeting once in 6 months and to conduct General Election by way of amendment of the plaint. The second amendment being to delete the pleading in court fee column with regard to A, B and C relief valuation. The 3rd being to include A, B and C relief a fresh in the court fee valuation. The fourth amendment to include 'D' and 'E' prayer in the relief column.

The amendment plaint has not pleaded anywhere in the affidavit that inspite of due diligence he could not have raised the matter before,

A) No explanation for the delay, why the amendment was not sought earlier even though the suit was amended several times previously.

B) The facts sought to be amended were within the knowledge of the plaintiff, when he was impleaded as third plaintiff.

C) The amendment will change the nature of suit.

D) It will cause prejudice to the defendants and may prolong the trial.

E) The proposed amendment will introduces new cause of action.

6. The proposed amendment is not sustainable because

i) The dispute projected by way of amendment relates to Internal Management of the temple.

ii) The relief is in the nature of Mandatory injunction which is granted in exceptional circumstances. No such circumstances was pleaded.

iii) The plaintiff remained silent for long and hence the petition suffers from delay and acquiescence.

iv) The Courts will not interfere with internal affairs of the temple, the plaintiff is attempting to bring an internal disputes before the civil court which is not maintainable.

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

5) The original suit was filed for the relief of passing the preliminary decree directing the defendants to render true and proper accouts of all assets of income and expenditure received by the defendant after management in the said temple for the last 3 years prior to the suit and for permanent injunction restraining the defendant not to collect any donation of collections either in receive cash or any other form from the public using the name of said Arulmighu Devi Sree Mutharamman Temple till the date of the suit.

6) Now the petitioner/ 3rd plaintiff sought amendment to include the C prayer “ to pass a decree directing the members/varikars and the office bearers of the 1st defendant temple trust to convene and the Annual general body meeting once in 6 months and conduct general election through secret ballot system for selection of the office bearer and other designators of the 1st

defendant temple trust once in 3 years in client because pleaded that the said denominational temple was founded 200 years ago by the members of the Nadar samugam for their spiritual benefits to perform their religious functions, communal and personal rights. The managing trust committee of the temple chosen by the members of the samugam itself from among his members (Varikarers). The trust so chosen will hold office for 3 years. In plaintiffs did not pleaded that said managing committee trust has enacted by laws for management. And section 39 of Specific Relief Act, mandatory injunction can be granted to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the court is capable of enforcing the court may in his discretion granted an injunction to prevent breach complained of and also to compel performance of requisite acts. The plaintiff in the petition did not plead that, there is scheme of obligation between members of managing committee trust through enacted by laws and petitioner also did not plead about cause of action for the proposed amended prayer. The **Hon'ble supreme Court M/s Revajeetu Builders & Developers v. Narayanaswamy & Sons (2009) 10 SCC 84**

“ FACTORS TO BE TAKEN INTO CONSIDERATION WHILE DEALING WITH APPLICATIONS FOR AMENDMENTS:

67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

68. These are some of the important factors which may be kept in mind while dealing with application filed under Order VI Rule 17. These are only illustrative and not exhaustive.

7) Hence according to the above Judgment amendment cannot be granted with proposed amendment constitutionally or fundamentally changes the nature and character of the case and proposed amended claim would be barred by limitation on date of application if the proposed amendment is filed as fresh suit.

8) Here the petitioner/3rd plaintiff sought to include C prayer for decree to convene and a general body meeting once in 6 months and conduct general election through secret ballot system for selection of office bearer and other designator of 1st defendant temple trust once in 3 years. The relief sought for is in nature of mandatory injunction. The limitation for suit for mandatory injunction is 3 years under article 113 of limitation Act. The petitioner did not plead cause of action for proposed amendment in the petition. If the cause of

action mentioned in main suit is taken in account, the suit arose on 20.04.2019 and so the proposed amendment if filed as fresh suit would be barred by limitation. More than that original suit is for the relief of Preliminary decree for account and for consequential relief of permanent injunction and now the proposed amendment seeks to include relief of decree directing members and office bearers to convene annual general body meeting once in 6 months and conduct general election through secret ballot system for selection of office bearer and other designators of 1st defendant temple trust once in 3 years. So the proposed amendment would change the nature of the suit. Hence this court comes to the conclusion that proposed amendment is not maintainable..

9) 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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Draft/Fair Order
Date: 27.07.2026
PDM, Nagercoil.

