

**CNR.No.TNKP08-000253-2010**

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT**  
**KANCHIPURAM**

**PRESENT: Tmt.Fanny Rajan. B.A., B.L.,(Hons)**  
**Principal District Munsif, Kanchipuram**

**On Monday, the 24<sup>th</sup> day of November 2025**

**O.S.No.526 of 2010**

A/M. Basaveswara Swamy Temple  
rep by Executive Trustee  
B. Shanmugham

....Plaintiff

/Versus/

Mr. N. Ramalingam

....Defendant

This suit has come up on 13.11.2025 for final hearing before me in the presence of M/s.K.Varathan advocate for Plaintiff, and present of M/s. M. Madanagopal counsel for defendant, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

**JUDGMENT**

1. This suit is filed seeking to direct the defendant to hand over possession of the plaint schedule site by recover os possession to the plaintiff after removal of the superstructure if any standing there on within the time fixed by this court

failing which the same may be done through the process of this court and suitable relief or order and for costs of this suit.

**Concise Statement of the Plaintiff as per the Plaint:**

2. The plaintiff has averred that the suit property absolutely belonged to the temple and is represented by the managing trustee Shanmugham chosen by the General body of the Veera Saiva Lingayatdar Samudayam, as it is Hereditary trusteeship. Previously one Thiruvengada Pillai was the lessee of the suit schedule property and on wilful default, O.S. No. 245/1972 for eviction was filed. On decree, the delivery of the property was taken on 13.07.1976 through E.P. No. 240 of 1975.

3. However, taking advantage of the suit property being vacant, the defendant living adjacent to the suit property without any right trespassed. He is a trespasser and not in legal possession. Hence, on 28.09.2010 notice to the defendant for vacating was issued and he replied on 07.10.2010. Against which a rejoinder was sent on 14.10.2010. Hence, this suit recovery of possession.

**Concise Statement of the defendants as per the Written statement:**

4. The defendants denied the allegations and stated that the Plaintiff by name B. Shanmugam is not the Executive Trustee of the alleged A/M. Basaveswara swamy temple as alleged in the plaint. The plaint schedule property does not belong to the temple and the Plaintiff is not a executive trustee. Hence, the

Plaintiff has got no right to claim any ownership over the suit property by giving a notice and by filing a suit against this Defendant. It is pertinent to note that the Town Survey No. 2994 in Panjupettai Big Street, Kancheepuram is a Government Poramboke land as per the relevant records of the Kancheepuram Municipality and the State Revenue Offices. Hence there is no question of vacating the suit property by the Defendant and handing over the same to the Plaintiff. Hence, the suit has to be dismissed with exemplary costs.

**5. Issues:** On perusal of the plaint and written statement filed by the defendants, this Court framed the following issues on 22.08.2011

*(i) Whether the suit property belongs to the plaintiff temple?*

*(ii) Whether B. Shanmugam is executive Trustee of plaintiff temple?*

*(iii) Whether the defendant is in the suit property?*

*(iv) Whether the plaintiff is entitled to relief as prayed for ?*

*(v) What other reliefs?*

**6. Evidence:** To prove the case of the Plaintiff, the plaintiff is examined as PW1 and Ex.A1 to Ex.A6 documents were marked on their side. On the side of defendant, the defendant was examined as DW1 and a third party witness DW2 through them Ex.B1 to Ex.B23 Documents were marked.

**Discussion and Findings:**

7. This court having heard and perused the submissions of the Learned counsel for the Plaintiff and defendant, had perused all the materials on record.

**8. Ocular and Documentary evidence:** This court finds that the suit trial commenced on 07.07.2018 and hence the Indian Evidence Act shall be procedural law for deciding the case at hand.

9. This court finds that the plaintiff had examined the managing Trustee as PW1 and marked Ex.A1 to Ex.A6. The defendant is examined as DW1 and a third party witness is examined as DW2, Ex.B1 to Ex.B23 have been marked. This court finds that Ex.A1 to Ex.A6, Ex.B1 to Ex.B19 are either originals, certified copies or compared with originals, this court considers that they are all admissible and relevant for this case. Hence the documents are admitted in evidence under Section 64 or 65 of the Indian Evidence Act.

10. In respect of the Ex.B20 to Ex.B23 which were marked subject to objection, the main contention is that documents were received after the filing of the suit. The Ex.B21 to Ex.B23 being documents relating to receipts of payment after the suit are not relevant to decide the issue at hand. Hence, the objection of the learned counsel for the Plaintiff is upheld and the Ex.B21 to Ex.B23 are decided to be irrelevant to decide the issue at hand as having been obtained after the filing of the suit.

11. Whereas, Ex.B20 is a document regarding the Town Survey Land Register Extract received through an RTI reply. The factum of the same being obtained after the suit does not vitiate the validity of the said extract, as it is a revenue record to show the nature of the property and the usage of the same. Hence, the objection of the Learned counsel for the Plaintiff is not sustainable and the Ex.B20 is considered as a valid evidence under Section 65 of the Indian Evidence Act.

12. With regard to the ocular evidence of PW1, DW1, DW2 there is no objections raised regarding the reliability of their evidences. Hence, this court considers the evidence of PW1, DW1, DW2 as reliable evidence. Thus, the evidentiary value of PW1, DW1, DW2 ocular evidence and Ex.A1 to Ex.A6, Ex.B1 to Ex.B20 documentary evidences are discussed herein below.

**Issue No.2: Locus Standi of B.Shanmugam**

13. As the issue relates to the locus standi of the person entitled to file the instant suit, this court finds that before dealing with the other issues, this issue regarding the locus standi has to be decided.

14. The case of the Plaintiff is that the said B.Shanmugam is the current executive Trustee of the temple. The temple is the hereditary temple of the Veera Saiva Lingayathar Samudhayam. Hence, he has filed the suit on behalf of the temple for recovery of temple land. On the other hand the case of Defendant is

that though the signatory claimed that he is Managing Trustee of the temple, no document is produced to that effect. Hence, the suit in the absence of due authority by the signatory is not maintainable.

15. This court takes judicial note of the judgment in ***S. M. Devi Vs. The Idol of Sri Jambukeswarar Akilandeswari Devasthanam, Thiruvanaikovil, 2023.1.L.W P.825***, wherein it was held that when a worshiper of temple is entitled to maintain a suit to protect interest of temple, the Executive Officer who is in charge of day-today affairs of temple is also a person interested in the welfare of temple and hence he can maintain a suit on behalf of temple. The relevant observation in the above mentioned case law reads as follows:

*“12.14. In the present case, the suit was filed by an idol. Since an idol cannot act on its own, it is represented by a human being viz., the Executive Officer. So long as the Executive Officer acts in conformity with the interest of the temple as a person interested in the temple, he can be allowed to represent the Idol in order to protect the interest of the temple. In the case on hand, the appellants herein admittedly committed default in payment of rent. Therefore, notice to quit was issued against them and the present suit was filed for recovery of possession after termination of the lease. In these circumstances, the Executive Officer by*

*filing the suit for possession is acting in the interest of the idol. Therefore, nothing wrong in allowing him to continue the suit as a person interested in the religious institution. Therefore, the first additional substantial question of law is answered in favour of the respondent and against the appellants."*

**16.** Similarly in this instant case, the suit filed on behalf of the temple for eviction of the trespasser and recovery of possession. Though the issue regarding the right of the Temple in the suit property is to be decided hereinabove, it cannot be overlooked that the signatory/managing Trustee of the Temple has filed this suit only to protect the rights of the temple and temple land.

**17.** Though the Defendant denies the authority of the said Trustee, there is no material evidence to show that he filed this case against the interest of the temple. It is true that the PW1 had deposed that he filed the documents showing his authority to represent the temple. But there is no single evidence regarding the same in Ex.A1 to Ex.A6 herein. In the meantime, there is no material evidence to indicate that the said Mr.B.Shanmugam was not acting in the interest of temple. In fact the DW2 in his cross examination admits that the temple is maintained by the said Mr.Shanmugam. Thus, the non filing of the appointment or the authorisation has not affected the case of the plaintiff.

18. Hence, having a larger picture in view and with an interest to protect the interest of the temple, this court considers that in all preponderance of probability, the suit appears to be filed by the said Mr.B.Shanmugam to protect allegedly the temple land. Hence, in light of the dictum in *S.M.Devi case Supra*, this court finds that the said B.Shanmugam, the managing trustee of the Plaintiff temple is a person interested in welfare of temple can very well maintain the suit and recover the possession on behalf of temple. Accordingly, this issue no.2 is answered in favour of the temple.

**Issues No. 1, 3 and 4: Title and Possession**

19. For the sake of brevity, better discussion and clarity, this court considers that the issues relating to ownership, possession and relief of mandatory injunction shall be taken upon together.

20. This court takes judicial note of the law laid down by the Hon'ble Apex Court in *Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by Lrs. & Ors, 2009 2 LW 546*, which had clearly differentiated the circumstances in which a suit for bare injunction would lie and where there is a cloud over title, declaratory relief has to be sought for. Thus, the issue regarding the title or right of the Plaintiff temple is initially taken up for consideration.

**21.** In the present case, the Plaintiff's case is that the temple is the absolute owner of the property. Originally one Mr.Thiruvengadam was a tenant in the suit premises under the Temple as seen from Ex.A1. On filing a suit for eviction and through an execution petition, he was evicted and possession was taken handed over to the temple as seen from Ex.A2 delivery warrant. Thereafter, as the premises was vacant the Defendant illegally trespassed and constructed in the vacant site. For which Ex.A3 legal notice was issued and Ex.A4 reply notice was received. The same was suitably replied through Ex.A5 rejoinder notice.

**22.** It is pertinent to note that already through another suit decree, the property given on rent to the defendant was sold to him and a sale deed was also executed in his name, as seen from Ex.A6 Execution Petition . Even in the said EP, the defendant admits and acknowledges the property with Mr.Thiruvengadam.

**23.** The fact that the TSLR Register reveals the suit property as a Government Poramboke does not affect the title of the temple. The factum of Poramboke is used for all properties which are not taxable. Only as the temple property is not taxable, it is reflected as Government Poramboke in the Ex.B20 Town Survey

Field Register Extract. Therefore, the Plaintiff temple being the absolute owner of the suit property is entitled for recovering the possession of the same from the defendant who is a trespasser.

24. Per contra, the Defendants have specifically denied the title of the temple in the suit property. It is the case of the defendant that the suit property is a government poramboke as seen from Ex.B20 and therefore, the Plaintiff temple has no authority to evict the Defendant. To show his possession, he relied on Ex.B1 to Ex.B19 and Ex.B21 to Ex.B23. Only the government is authorised to evict the Defendant and the Plaintiff has no right to evict him from the suit property.

25. This court takes judicial note of the judgment in *S. Sridhar & Others v. The State of Tamil Nadu, Represented by Secretary, Animal Husbandry & Fisheries Department, Chennai & Others* wherein while dealing with a batch of cases relating to Government Poramboke Properties and prescriptive right of the temple, the Hon'ble Madras High Court dated 04.11.2020 in Writ Petition Nos. 17248, 19258, 32091 & 33667 of 2013, 5159, 21654 & 21712 of 2018, & WMP Nos. 6334, 10073 & 25481 of 2018.

*“Thus, having regard to the admitted fact that the entry made in Column No.12 of the 'A' Register indicates the nature of the disputed lands as*

*'temple' and the same are in continuous possession and enjoyment of the respective temples and also taking note of the specific stand of the petitioners that they sought only possessory and enjoyment rights over the disputed lands in favour of the temples and they never disputed the title of the same vesting with the Government, this Court holds that the temples are entitled to the rights of possession and enjoyment in respect of the disputed lands. Needless to say that no trustee/ private individual shall claim right over the disputed lands possessed and enjoyed by the temples in any manner whatsoever.”*

26. In this case, it is noted that there is no document filed to show the conveyance of title upon the Plaintiff temple though ownership is claimed. Similarly, even as per the defendant the suit property is a Government Poramboke land. The Ex.A3 to Ex.A5 are the presuit communications between the plaintiff and defendant regarding the suit property. Thus, there is a clear dispute raised by the Defendant regarding the title of the Plaintiff.

27. Having already noted that the conveyance of title through deed is not established in this case, this court proceeds now to look into the issue regarding prescriptive title, as held in the *S.Sridhar case (Supra)*. This court finds that even as per the Ex.B20 Town Survey Field Register Extract in coloumn 12 the suit property is mentioned as “**வழிபாட்டுதலம்**”.

**28.** The DW1 and DW2 in their cross examination continue to claim that the suit property is a government poramboke. In fact even the Plaintiff does not deny the nature of the suit property. The Ex.B20 is clear proof to the nature of the suit property.

**29.** Also from the Ex.A1 it is a rental agreement for the suit property with one Mr.Thiruvengadam for the suit property. Whereas, the delivery warrant in Ex.A2 clearly indicates that the suit property was handed over to the Plaintiff temple in compliance of the decree. Further, the DW1 in his cross examination admits that the boundaries in the Ex.A6 execution petition and the property handed over to him by the temple. It is pertinent to note that the DW1 in his cross examination mentions his house is in at 12K1 and 12K6. The DW2 states that the defendant constructed a house and living in the suit property.

**30.** Whereas, the Ex.B1 kist receipt does not mention about the Door No. There is no reference in that document to indicate that the property mentioned in the kist and that in the suit are the same. The Ex.B2, Ex.B3, Ex.B6, Ex.B8, Ex.B9, Ex.B10, Ex.B11, Ex.B12, Ex.B15, Ex.B16, Ex.B17, Ex.B19 tax receipts and notice mention the name of the Defendant and Door No.12K/1. The Ex.B4, Ex.B5, Ex.B7, Ex.B13, Ex.B14, Ex.B18 do not mention the door

number and does not in any manner assist the defendant to identify his property. There is no single document adduced regarding the Door No.12/K6 and the right of the defendant therein.

**31.** However, from Ex.B20 it is clear that the suit property in Survey No.2994 is used as a worshipping place. The possessory right of the Plaintiff is already upheld and shown in Ex.A1 Rental Agreement dated 01.12.1968 and Ex.A2 delivery warrant dated 13.07.1976. Whereas, even in respect of the defendant, his property in Door No.12/K1 in Survey No.2994 was sold to him in execution of a decree as seen from Ex.A6. Even in that the property leased to Mr.Thiruvengadam referred in Ex.A1 and Ex.A2 is reflected. Thus, the Defendant is estopped from denying the possessory right of the Plaintiff in the suit property.

**32.** In light of the dictum laid in *S.Sridhar case (Supra)*, “*The subject temples under the administration and control of the HR&CE Dept., are entitled to all the prescriptive rights not only because of their long possession, but also in view of Rule 13 of the Revenue Standing Order No.26 and the provisions of HR&CE Act.*” Accordingly, this court considers that the Plaintiff having substantiated the long possession over the suit property is entitled to the prescriptive and possessory rights in the suit property. Thus, the issue No.1 is answered in favour of the Plaintiff.

**33.** Whereas, the possession of the defendant in the suit property is admitted by him and also substantiated by the PW1, DW1 and DW2 evidences. As admission is the best piece of evidence under Section 58 of the Indian Evidence Act. However, there is no evidence let in by the defendant regarding his case to establish his lawful possession in the suit property. The Ex.B1 to Ex.B20 filed by him have not assisted in any manner proving his lawful right to possess the suit property unless evicted by the Government as claimed.

**34.** The Plaintiff Temple having possessory right in the suit property, the infringement of their possession and enjoyment affects the public/worshippers at large. This court finds that the Plaintiff having established their possessory right and the defendant having failed to prove his lawful possession is a trespasser in the suit property. Accordingly, the issue No.3 is answered in the affirmative.

**35.** Having held the right of the Plaintiff in issue No.1 and 3 for the suit property, the interference and encroachment of the defendant in the temple property only amounts to him being a trespasser. Thus, to protect of the Plaintiff temple, the suit property has to be restored to the Plaintiff temple from the possession of the defendant. Hence, this court concludes that the Plaintiff

had duly discharged its burden of proof regarding the recovery of possession and mandatory injunction prayed for against the defendant. Accordingly issue No.4 is answered in favour of the Plaintiff.

**Issue No.5: Other reliefs**

**36.** As the Issue No.1, 2, 3 and 4 have been answered in favour of the Plaintiff, this Court considers that the Plaintiff is not entitled to any other relief.

**37.** Considering the nature of the relief sought for and it is clear that the cause of the suit was due to the encroachment into the plaintiff's property. Hence, this court considers that the defendant is liable to pay cost of the suit to the Plaintiff.

**38. RESULT**

In the result, this suit is decreed with costs and

(i) a Mandatory injunction is granted in favour of the Plaintiff directing the defendant to remove the superstructure in the suit property and handover vacant possession to the Plaintiff within a period of 2 months from the date of this Judgment, failing which the same shall be done through the due process of law.

(ii) The Defendant shall pay the cost of the suit to the Plaintiff.

Dictated partly to the Steno - typist, who directly typed the same in her Computer and partly typed by me and corrected and pronounced by me in open court, this the 24<sup>th</sup> day of November 2025.

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM

**Plaintiff's side Witness:**

PW1 - Shanmugam

**Plaintiff's side Exhibits:**

<b>EX.A1</b>	The Rental agreement dated 01.12.1968	(Certified copy)
<b>EX.A2</b>	The Order copy of O.S 245 of 1972 in EP.No. 240/1975	(Certified copy)
<b>EX.A3</b>	The Legal notice dated 28.09.2010	(Original)
<b>EX.A4</b>	The Reply notice dated 07.10.2010	(Original)
<b>EX.A5</b>	The Re joinder notice	(Original)
<b>EX.A6</b>	The Execution petition	

**Defendant's Side Witness :**

DW1 – Ramalingam

DW2 – Karunakaran

**Defendant's Side Exhibits:**

Ex.B1	The Kist receipt dated 11.08.1976	Original
Ex.B2	The Property tax receipt dated 15.02.1999	Original

Ex.B3	The demand notice	Original
Ex.B4	The Electricity bill receipt dated 12.09.2002	Original
Ex.B5	The Electricity bill receipt dated 13.01.2001	Original
Ex.B6	The drainage maintenance fee receipt dated 19.12.2003	Original
Ex.B7	The Electricity bill receipt dated 15.03.2003	Original
Ex.B8	The property tax receipt dated 09.12.2003	Original
Ex.B9	The demand notice for new water connection payment receipt dated 25.05.2004	Original
Ex.B10	The demand notice for valuation of the new water connection payment receipt dated 13.07.2004	Original
Ex.B11	The receipt of advance payment in the new water connection dated 13.07.2004	Original
Ex.B12	The property tax dated 16.07.2007	Original
Ex.B13	The Electricity card	Original
Ex.B14	The Electricity card	Original
Ex.B15	The property tax receipt dated 18.11.2016	Original
Ex.B16	The drainage receipt dated 18.11.2016	Original
Ex.B17	The water tax receipt dated 18.11.2016	Original
Ex.B18	The Electricity bill receipt dated 06.07.2007	Original
Ex.B19	The drainage tax receipt dated 16.07.2007	Original
Ex.B20	The received through RTI Act (with the objection	Original
Ex.B21	The drainage tax receipt ( with the objection)	Original
Ex.B22	The Water tax receipt (with the objection)	Original
Ex.B23	Electricity bill receipt (with the objection)	Original

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM