

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

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

**On Thursday, the 16<sup>th</sup> day of April 2026**

**O.S.No. 157 of 2017**

**CNR. No.TNKP08-000247-2017**

K. Rajappa @ Subramanya Nayahar

...Plaintiff

//Versus//

1. N. Sankar Nayahar
2. E. Chandrasekara Nayahar
3. D. Subramania Nayahar (died)
4. D. Sabapathy Nayahar
5. K. Dhayamani @ Ganeasa Nayahar
6. R. Visaka Nayahar (died)
7. R. Chandran Nayahar
8. R. Dhandapani Nayahar (died)
9. Sri Ekambaranathar Swamy Devasthanam  
Represented by its Executive officer,  
Ekambaranathar Swamy Devasthanam, Big Kanchipuram
10. Sankari
11. Rajaganapathy
12. Sathiyathan
13. Rajalakshmi (Amended as per in I.A.No. 5 of 24 dated 06.03.2024)

14. D. Aravind (Amended as per in I.A.No. 3 of 2022 dated 31.07.2023)

15. S. Adhithiya (Amended as per in I.A.No. 4 of 2022 dated 31.07.2023)

...Defendants

This suit has come up on 24.03.2026 for final hearing before me in the presence of M/s. L.Sowmiya Narayanan, M. Priya, counsels for the plaintiff, M/s. K. Rajagopal, A.Thiyagarajan, A. Kavitha, counsels for the Defendants 1 to 4, M/s.V.Tamilarasu counsels for the 9<sup>th</sup> defendants and the Defendants 3, 6, 8 died, the Defendants 5, 7 were set exparte on 22.10.2018 and the Defendants 10, 11 to 13, 14, 15 defendants were set exparte on 04.10.2021, 12.04.2023, 28.07.2022, 28.06.2023 respectively, upon hearing the arguments of both contesting parties, perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

### **JUDGMENT**

1. This is a suit for declaration that the plaintiff and the defendants 5 to 8 are entitled to  $8/10^{\text{th}} + 2/3^{\text{rd}}$  share in the turn system (murai) in Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam and for a permanent injunction against the defendants 1 to 4 restraining them and their men and agents from plaintiff and 5 to 8 defendants in any way carrying out murai in excess of their share and for cost.

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

2. The plaintiff has averred that he has got a right of worship in Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam. His right was confirmed in O.S.No.37/1919 by Chengalpattu Sub Court between their ancestors through a compromise decree.

3. In pursuance of the same, one of the decree holder Somasundara Nayahar has gifted away his right to his father Katchi Nayahar through Settlement Deed dated 31.01.1944. Also, the Saluva Subramania Nayahar gifted his right to the Plaintiff and the defendants 5 to 8. Whileso, Somasundara Nayahar executed gift deed for his right to his father Katchi Nayahar.

4. It was accepted and the said Katchi Nayahar performed the turn system of poojas in all the above said shrines including Deivanayaga Mandapam, Ekambaranathar Swamy Devasthanam. Thereafter, the grandfather of the 1<sup>st</sup> defendant and the father of 3<sup>rd</sup> and 4<sup>th</sup> defendants have executed a family arrangement on 09.09.1958, agreeing for 1/10<sup>th</sup> in the entire turn system. The remaining extent belonged to his family.

5. The turn system starts at Chithirai, Vaikasi and Aani of every Tamil calendar months. It should be respected by all the descendants of Dattu

Nayahar. In fact Nagasamy Nayahar, father of the 1<sup>st</sup> defendant has followed the turn system. He and 6 to 8 defendants are entitled to 8/10 share + 2/3 shares. Now the defendants 1 to 4 are enjoying more than what they are entitled to. He issued a notice dated 19.06.2017 to the Defendants 1 to 4 and received a reply with false allegations insisting 1/ 4<sup>th</sup> right in the murai. The 9<sup>th</sup> defendant is impleaded for effective adjudication and no relief is asked. Hence this suit.

6. During the pendency of the suit, the defendants namely 3, 6, 8 died and their legal heirs were impleaded, as it is a suit for turn system of worship. In fact, the respective legal heirs are doing the service of their father and recognized by the defendant temple, nixed the abolition of mirasi right by the contesting and 1<sup>st</sup> and 2<sup>nd</sup> defendant i.e., the sons are doing service of the father and recognized by the Hindu Religious and Charitable endowments Department also. Hence this suit for declaration and permanent injunction.

**Concise Statement of the defendant as per the Written statement filed by the 4<sup>th</sup> defendant and adopted by the defendants 1 to 3:**

7. The Defendants 1 to 4 had denied the allegations and stated that the plaintiff's father Katchi Nayahar was the 6<sup>th</sup> plaintiff in O.S.No.37/1919 on the file of Sub-Court, Chengalpattu. He was given 1/10<sup>th</sup> share in the Sthanika right. Thus, the plaintiff's brother, the 5<sup>th</sup> defendant Dayamani and defendants

6<sup>th</sup> to 8<sup>th</sup> (another brother's sons) put together are each entitled to only 1/ 30<sup>th</sup> share. They specifically denied the registered Settlement Deed dated 31.01.1944 of Somasundara Nayahar to Katchi Nayabar or he performed the turn system or Nagasamy Nayahar followed the turn system or remaining extent belonged to their family. There is no pleadings about how the Plaintiff became entitled to the remaining shares. The Somasundara Nayahar was entitled only to 1/10<sup>th</sup> share in the Sthanika right.

8. Also, the family arrangement dated 09.09.1958 by Dhadhu Nayahar is denied and forged as not attested by any witnesses. The said Dhadhu Nayahar had a brother Somu Nayahar who was alive at that time and could not execute any such family arrangement relinquishing the right. Whatever right, the plaintiff and defendants 5 to 8 are having in the "Murai", the defendants 1 to 4 are also having the same and equal right as that of them. The plaintiff and 5<sup>th</sup> to 8<sup>th</sup> defendants are not entitled to 8/10<sup>th</sup> share +2/ 3<sup>th</sup> share as claimed and does not disclose how this share was arrived at.

9. The Nayahar family to which the plaintiff and defendants 1 to 8 belong put together is entitled to only 3 months murai in Ekambaranathar Temple commencing from Chithirai and ending with Ani of every Tamil Calendar month. Such negative injunction cannot be granted.

**10.** In Kailasanathar Temple, the Nayahar family is entitled to whole year. This defendant's turn started in first of Adi on 17.7.2017 and doing pooja, since handed over the charge by the Plaintiff. The defendants are having Sthanika rights in Ekambaranathar Temple as entitled to ¼ share, as enjoyed by their forefathers for several decades. The plaintiff cannot preclude them from doing the services. The defendants 5 to 8 have not chosen to file this suit with the Plaintiff.

**11.** The hereditary rights of Archagas and Poojaris have been abolished by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act of 1970 (Tamil Nadu Act 2/1971. As per Section 55(2) no person is entitled to the office of Archaga merely on hereditary right. The plaintiff's claim to the Murai as the legal heir of his father Katchi Nayahar @Pattusamy Nayahar is not tenable. Hence the suit has to be dismissed.

**Concise Statement of the 9<sup>th</sup> defendant as per the Written statement filed by the 9<sup>th</sup> defendant:**

**12.** The 9<sup>th</sup> Defendant had denied the averments and stated that the Hereditary Archagar system has been abolished. Hence, the suit filed for archagar murai is not maintainable. There is no relief sought against the temple and hence not a necessary party to the suit. There is a turn system in the Arulmigu

Ekambaranathan temple for poojai in the Moolathasam 3 months once and Utsavar mandpam 6 months once. There is no order from the Hindu Religious Endowment Board regarding the same. The Plaintiff and defendants family alone is doing murai in Kailasanathan temple. There is no documents regarding it in the Ekambaranathar and Kailsanathar temple. As there is no relief against them, the suit has to be dismissed against it,

**Issues:-**

13. On perusal of the plaint and written statement filed by the defendants 1 to 4 and 9, this Court framed the following issues on 09.06.2020:

1) தாவாவில் வாதி மற்றும் 5 முதல் 8 வரையிலான பிரதிவாதிகளுக்கு அருள்மிகு ஏகாம்பரநாதர் தேவஸ்தானம் ஆநேக தங்கதீஸ்வரர் மற்றும் கைலாசநாதர் கோயிலில் பூஜை முறைகளில் 10த்தில் 8, பாக உரிமை மற்றும் 3-ல் 2 பாக உரிமையும் உள்ளதாக விளம்புகை பரிகாரம் கோருவது ஏற்புடையதா?

2) வாதி மற்றும் 5 முதல் 8 வரையிலான பிரதிவாதிகள் 1 முதல் 4 வரையிலான பிரதிவாதிகளுக்கு எதிராக கோரும் நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கத்தக்கதா?

3) வாதி மற்றும் 5 முதல் 8 வரையிலான பிரதிவாதிகள் ஏகாம்பரசாமி தேவஸ்தானம் ஆநேக தங்கதீஸ்வரர் மற்றும் கைலாசநாதர் கோயிலில் பூஜைகள் மற்றும் வழப்பாடுமுறைகள் செய்து வந்ததாக கூறுவது ஏற்புடையதா?

4) வாதி மற்றும் பிரதிவாதிகளுக்கு வேறு பரிகாரம் கிடைக்கத்தக்கதா ?

14. For the purpose of convenience, better appreciation, discussion and findings on all the pleadings in dispute, this Court considers it necessary to recast the issues as follows:

*1. Whether the suit is barred by law under Section 108 read with Section 55 and 63(e) of the Hindu Religious and Charitable Endowments Act?*

*2. If no, whether the Plaintiff proves that the Plaintiff and defendants 5 to 8 were performing the poojas and worship practices at Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam?*

*3. Whether the Plaintiff proves that the Plaintiff and defendants 5 to 8 are entitled to the  $8/10 + 2/3$  share in the turn system (murai) in Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailsanatha Swamy Devasthanam?*

*4. Whether the Plaintiff proves that the Plaintiff and defendants 5 to 8 are entitled to the relief of permanent injunction as prayed for?*

*5. To what other relief the Plaintiff and defendants are entitled to?*

15. This court opines that the pleadings of both parties were available at the time of trial and both parties have sufficiently been provided opportunity to let in evidence. The additional issue No.1 relates to the question of maintainability of this suit before this Civil Court and is duly pleaded by the defendants 1 to 4 and 9. Thus, the parties were already aware of the pleadings regarding the question the maintainability. Hence in respect of the newly framed issue and translated issues, this Court is of the considered view that there is no necessity to reopen the suit for providing further opportunity to both parties to let in any evidence.

**Evidences:-**

16. On the side of plaintiff, the plaintiff examined himself was examined as PW1, Ex.A1 to Ex.A11 were marked through him. On the side of the defendants 1 to 4, the 4<sup>th</sup> defendant is examined as DW1 and no document was marked on their side. Whiles, no oral or documentary evidence is adduced on the side of the 9<sup>th</sup> defendant. The Ex.C1 is the report of the advocate commissioner recording the PW1 evidence.

**Discussion and Findings:**

17. This Court considers the submissions of the Learned Counsel for the Plaintiff and Defendants 1 to 4, 9 including the written arguments filed by the

learned counsel for the Plaintiff. Further, this Court also perused the materials on record.

**18. Ocular and documentary evidence:** Upon perusal of records, this court finds that the trial in this suit commenced after 01.07.2024 and hence the suit is governed by the Bharathiya Sakshya Adhiniyam (hereinafter referred to as BSA for brevity) as per Section 170 of BSA.

**19.** This court finds that the PW1, DW1 being the Plaintiff, the 4<sup>th</sup> defendant have been examined respectively. The PW1 evidence was recorded as per Order XXVI Rule 1 CPC as per order dated 02.01.2025 in I.A.No.6 of 2024 and the Ex.C1 report with evidence was filed as per Order XXVI Rule 7 CPC. Further, this court finds that the contesting parties have not raised any objections to the abovementioned order and have duly cross examined the PW1 in the presence of the commissioner. The Ex.C1 report with PW1 evidence was filed and hence admissible as evidence under Order XXVI Rule 7 CPC. This court finds that there is no material on record to question the admissibility of their evidence. Hence, the ocular evidence of PW1, DW1 are admissible in evidence.

**20.** This court finds that the Ex.A1, Ex.A3, Ex.A5 to Ex.A11 are produced as originals or certified copies or true office copies. This court finds that the

Ex.A1, Ex.A3, Ex.A5 to Ex.A11 are all admissible as primary or secondary evidence under Section 59 and 60 of the BSA. Whileso, the Ex.A2 and Ex.A4 are produced as photocopies and marked subject to objection. In light of the mandate under Section 60 of the BSA, a specific procedure has been laid for admitting photocopies. However, the said mandate has not been complied with in respect of the Ex.A2 and Ex.A4. Further, they are documents for which certified copies could have been obtained. Hence, this court finds that the Ex.A2 and Ex.A4 are not admissible as secondary evidence under Section 60 of the BSA. Therefore, this court discusses the evidentiary value of PW1, DW1, Ex.A1, Ex.A3, Ex.A5 to Ex.A11 herein below.

**Issue No.1: Maintainability**

**21.** This court finds that the suit is filed by the Plaintiff seeking for declaration of the turn system or murai rights by 8/10 + 2/3rd share in Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam. To ascertain the jurisdiction in this case, this court has to consider Section 55, 63(e) and 108 of the Hindu Religious and Charitable Endowments Act (hereinafter referred as the HR & CE Act for sake of brevity).

**22.** This court finds that there is a contention regarding the maintainability of this suit by the Defendants 1 to 4 and 9 in their written statement. Though the

additional issue was framed at time of judgment, the necessary pleadings, evidence and arguments regarding the same was already advanced by both contesting parties.

**23.** As per the defendants 1 to 4, the suit is barred under Section 55(2) of the HR and CE Act, as the hereditary archagar is abolished. Whereas, the 9<sup>th</sup> defendant mentions that the hereditary archagar has been abolished and the suit is not maintainable. This court has to first identify the nature of the practice and customary usage, duties annexed with the Sthanika Mirasu right in which the Plaintiff claims 8/10 + 2/3 murai alongwith the defendants 5 to 8.

**24.** This court takes note of the Order VI Rule 2 of the CPC, it is very clear that pleading means Plaint or Written Statement and every pleading should contain a statement in a concise form of the material facts on which the party pleading relies for his claim or defense and further the evidence by which the material facts have to be proved need not be mentioned in the pleading. In a nut-shell, every pleading should contain all material facts.

**25.** In this case, this court after thorough reading finds that the Plaintiff had time and again mentioned about the Sthanika mirasu right but did not plead the honour, duties and practice relating to the same as practiced in the temple. Only vague mentions about conducting pooja in the temple in specified months is

pleaded without mentioning the specific services performed at the temple while conducting such pooja.

**26.** In fact there is even no specific pleading in the suit relating to whether the Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam in which the Plaintiff is claiming murai share is a religious institution under Section 6(18) or 6(20) of the HR And CE Act. The nature of the temple is a material fact to identify the scope of application of the HR and CE Act to this issue at hand.

**27.** In light of the pleadings in the Plaint in paragraph No.5A of the plaint that the right is recognised by the Hindu Religious and Charitable Endowments Department; Written Statement regarding hereditary archagar and maintainability, this court under preponderance of probability infers that the temples in which the right are claimed are public temples covered within the scope of the HR and CE Act.

**28.** To ascertain the jurisdiction of this court relating to the relief sought for, this court has to also consider Section 55, 63(e) and 108 of the Hindu Religious and Charitable Endowments Act (hereinafter referred as the HR & CE Act for sake of brevity). Section 55 of the HR & CE Act reads as follows:

*“55. Appointment of office-holders and servants in religious institutions.  
(1) Vacancies, whether permanent or temporary, among the officeholders or servants of a religious institution shall be filled up by the trustee in all cases. Explanation. - The expression ‘office-holders or servants’ shall include archakas and pujaries.  
(2) No person shall be entitled to appointment to any vacancy referred to in sub-section (1) merely on the ground that he is next in the line of succession to the last holder of the office.  
(3) Omitted  
(4) Any person aggrieved by an order of the trustee under subsection (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Joint Commissioner or the Deputy Commissioner, as the case maybe.”*

From the reading of Section 55 and subsequent precedents relating to this issue, it is true that the hereditary succession to archagar and poojaris have been abolished.

**29.** Section 63(e) of the HR & CE Act reads as follows:

*“Whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;”*

From the close reading of the provision of Section 63(e) of the said Act, it is pellucid that if any dispute arises with regard to honour, deciding authority is the Joint Commissioner or Deputy Commissioner, as the case may be and Civil Court is not competent to settle such issue.

30. Section 108 of the HR & CE Act is as follows:-

*“Bar of suits in respect of administration or management of religious institutions, etc.— No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.”*

31. In respect of this position of law regarding bar of jurisdiction, this court notes that the learned counsel for the Plaintiff relied on the judgment of the Hon’ble Madurai Bench of the Madras High Court in *A.Rajendran Vs. The Joint commissioner in W.P.(MD) No.11977 of 015 and 13352 of 2015 dated 10.08.2015*. Wherein, it was held that the bar under Section 108 of the HR & CE Act applies only relating to matters administration or management of religious institutions. This court considers that the issue at hand relates to recognition of mirasu rights and share therein while performing pooja which is different from the conduct of the festival in a temple. Hence the dictum relied by the learned counsel for the Plaintiff does not assist the Plaintiff’s case.

32. Whiles, this court takes into consideration the judgment relied by the learned counsel for the Plaintiff in *Thillainayagam and another Vs. Chidambaram Thillaiamman Devasthanam through its Executive Officer and another, CDJ 2014 MHC 308*, wherein it was held that in respect of

safeguarding the existing rights they need not approach the Board. The dictum relates to a permanent injunction relief sought against the temple, however the issue at hand is declaration of the shares and for permanent injunction against defendants 1 to 4. This court is of the considered view that the facts are different and hence the dictum would not assist the case of the Plaintiff.

**33.** In this present case, the main issue relates to share of the murai or turn system Sthanika mirasi rights for the Plaintiff and defendants 1 to 8 descendants of same ancestors in the Sri Ekambaranathar Swamy Devasthanam, Anega Thangatheeswarar and Kailasanatha Swamy Devasthanam. The Plaintiff has to establish the customary practice, right and nature of the service relating to the murai or turn system and recognition by the department under Section 106 of the BSA.

**34.** In fact the 9<sup>th</sup> defendant in his written statement admits the murai or turn system of the plaintiff's ancestors is in practice. But clearly pleaded that there is no order regarding the murai by the Board and there is no documentation to this effect. Also that the hereditary archagar is abolished. Though the Plaintiff pleads about recognition in his pleadings, no material evidence is adduced to substantiate the said recognition by the temple or Board. Only after there is a recognition the quantification for exercising the rights can be determined.

**35.** It is for the Plaintiff to clearly plead and exhibit the services and duties relating to their Sthanika Mirasu. However, the nature of customary practice, rights, duties or service annexed therewith are not pleaded specifically in the suit plaint. The said facts are material facts under Order VI Rule 2 CPC to determine the nature of the right claimed by the Plaintiff.

**36.** It is an axiomatic principle of law that without pleadings with regard to particular aspect, no evidence can be adduced and further any amount of evidence without necessary pleadings need not be looked into. In fact even in the judgment in *Bondar Singh and others Vs. Nihal Singh and others, AIR 2003 SC 1905* relied by the learned counsel for the Defendants 1 to 4 upheld the said legal position.

**37.** From a thorough reading of the plaint, the Plaintiff had failed to clearly plead the nature of the service and duty of the Sthanika mirasu in which he claims right. There is a only vague mention in the plaint about the poojas being conducted. But the term pooja is a larger term and for ascertaining the right of the plaintiff, the nature of the service or duties performed at the pooja has to be clearly pleaded and established.

**38.** Though the Ex.A1 and Ex.A3 are decree relating to the Sthanika Mirasu right which the Plaintiff claims, this court finds that the Plaintiff has not

specifically pleaded about the said judgment and decree relating to a the same Sthanika Mirasu right in his plaint. Whereas, the Ex.A5 Settlement Deed, Ex.A8 Letter have not been specifically pleaded about the relevant facts in the Plaint. In the absence of specific pleadings the Ex.A1, Ex.A3, Ex.A5 and Ex.A8 decree would not assist the case of the Plaintiff.

**39.** The Plaintiff has only pleaded about the Ex.A7 decree in O.S.No.37 of 1919. The same is a compromise decree. There is no mention in the said compromise decree regarding the nature of customary rights and duties relating to the Sthanika Mirasu right claimed in this suit. This compromise decree is a century old and before the enforcement of the HR and CE Act. Similarly, the Ex.A6 letter regarding family arrangement and the Ex.A11 Settlement Deed do not clearly mention about the practice, duties and services relating to the said Mirasu right. The Ex.A9 and Ex.A10 are legal notice and reply notice and does not assist in proving the customary practice, right and service attached with the Sthanika Mirasu right. Thus, the said Ex.A6, Ex.A7, Ex.A9, Ex.A10 and Ex.A11 are not assisting the case of the Plaintiff in establishing the practice and rights.

**40.** From the written statement of the defendants 1 to 4 and 9, this court opines that an archaga right was attached to the Sthanika Mirasu right claimed

by the Plaintiff. In fact the Plaintiff also mentions vaguely about doing pooja but does not mention about the nature of service rendered. This court finds that the hereditary succession for Archagar right is abolished as per the Section 55 of the HR and CE Act. Hence, it is for the Plaintiff to clearly plead and establish that the Sthanika Mirasu right he is claiming is not related to any hereditary archagar service which has been clearly abolished under Section 55(2) of the HR and CE Act. Further, if at all there is a grievance, the same could be addressed under Section 55(4) of the HR and CE Act. However, the plaintiff is vague about whether there is archagar right or not annexed with a Sthanika Mirasu right claimed.

**41.** Even assuming, the rights claimed by the Plaintiff relate to Sthanika Mirasu right which involves some duties and services other than archaga rights while conducting the pooja without touching the idol, as contended by the learned counsel for the Plaintiff. The Plaintiff failed to explain and plead the same.

**42.** This court takes judicial note of the fact that normally Sthanika Mirasu right relate to parchikara rights, cleaning the vessels, gathering flowers, carrying the jewels for the deity etc. There is no evidence in this case, to clearly show the rights, service, duties that are attached to the Sthanika Mirasu Right.

This court also takes judicial note of the fact that several posts have been created relating to the performance of all kind of work inside and outside the temples with the advent of HR and CE Act and the Tamilnadu Hindu Religious Institutions Employees (Condition of Service) Rules, 2020. It is necessary for this court to first identify that the rights claimed by the Plaintiff is purely an honour under the HR and CE Act and recognised under the HR and CE Act.

**43.** There is no clarity in the plaint regarding the nature of the rights and duties associated with the murai system in which the Plaintiff is claiming right. There is no clarity in the Plaint whether the right claimed is an honour bestowed upon the Plaintiff's ancestors and defendants and recognised through proceedings as per Section 63(e) of the HR and CE Act. The 9<sup>th</sup> defendant had specifically pleaded that the customary practice claimed by the Plaintiff is not recognised and recorded by the department or board in the temple.

**44.** This court finds that in respect of the hereditary right claimed, the Plaintiff ought to have got it recognised by seeking recourse under Section 63(e) of the HR and CE Act, before seeking declaration on quantification. This court considers that there is a no clarity in the suit pleadings regarding the character of the right claimed, the duties annexed with it and the question of emoluments payable in respect of the same. Before claiming a share in the customary right,

it is for the Plaintiff to establish the existence and recognition of the customary practice under Section 63(e) of the HR and CE Act and then claim the shares therein.

**45.** Therefore, the Plaintiff is first duty bound to get his right recognised and confirmed under Section 63(e) of the HR and CE Act by filing an application before the Joint Commissioner or Deputy Commissioner about the customary practice and right and his entitlement to the Sthanika Mirasu right. Only thereafter, he would be entitled to determine the share of the family members. In the absence of the order and recognition by the Board under Section 63(e), this suit for share is not maintainable. Only after the right is recognised the question of quantification and who is entitled to what share in the murai or turn system can be decided.

**46.** In the absence of the specific pleadings regarding the nature of the recognised Sthanika Mirasu right, the duties and responsibilities annexed with the same, this court finds that the Joint Commissioner or the Deputy Commissioner of the Hindu Religious and Charitable Endowments Board is competent to look into the dispute that exists betwixt the parties under Section 63 (e) of the HR and CE Act and therefore, the present Suit is not legally

maintainable before this court as barred under Section 108 of the HR and CE Act. Accordingly, the issue No.1 is answered against the Plaintiff.

**ISSUE No.2 to 4:**

47. Consequential to the affirmative findings in issue No.1, this court finds that there is a clear dispute regarding recognition of the customary practice and right annexed therewith which is outside the scope of this Civil Court. The Ex.A1, Ex.A3, Ex.A5 to Ex.A11 and citations relied by the Plaintiff in *Sri Mahant Prayag Doss Jee Varu and others, Vs. Archakam Bookkasam Govindacharlu and others, (1935) 68 MLJ 295, Surendra Kumar, Vs. Nathulal and another, Appeal Civil No.14913-14 of 1996 dated 02.05.2001 of the Hon'ble Supreme Court, Kapadam Sangalappa and Others Vs Kamatam Sangalappa and Others, 2025 INSC 1307* are not assisting the case of the Plaintiff, due to the lack of due recognition and nature of the Sthanika right claimed by the Plaintiff.

48. This court finds that only after customary right and duties are recognised, the question of quantification determining the shares of the Plaintiff, Defendants 1 to 8 in the turn system, declaration of 8/10 + 2/3 share in the murai system can be considered. Hence, this court finds that due to the lack of recognition of the customary practice, the relief sought for is not maintainable

before this court. Accordingly, the issue No.2 and 3 are answered against the Plaintiff as not maintainable before this court.

49. Considering the fact that the number of share in the turn system is not decided and declared, this court finds that there can be no question of permanent injunction against the defendants 1 to 4 not to perform more than their share. Accordingly, the issue No.4 is answered against the Plaintiff.

**ISSUE NO.5: Other Relief**

50. As the Issue No.1 to 4 has been answered against the Plaintiff and this Court considers that both parties are not entitled to any other relief.

51. Considering the nature of the relief sought for, the dispute between the parties, relationship between them, this court considers that both the parties shall bear their own costs. Thus, Issue No.5 is answered accordingly.

**RESULT**

In the result, this suit is dismissed. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 16<sup>th</sup> day of April 2026.

**PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM.**

**Plaintiff's side Witness:**

PW1 - K. Rajappa @ Subramanya Nayahar (Plaintiff)

**Plaintiff's side Exhibits:**

Ex.A1	A.S. No. 188/1947 Decree Hon'ble Sub court in Chengalpattu	Certified copy
Ex.A2	Compromise memo in I.A. No. 300/2021 in O.S 37/2019	Photocopy
Ex.A3	A.S. No. 56/1976 judgment Hon'ble Sub court in Kancheepuram dated 07.01.1977	Certified copy
Ex.A4	Second appeal No. 2040/1980 in Hon'ble High court	Photocopy
Ex.A5	Settlement deed dated 02.07.1942	Online Certified copy
Ex.A6	Letter dated 09.09.1958	Original
Ex.A7	O.S.No.37/2019 judgment Hon'ble Sub court in Chengalpattu dated 29.10.1923	Certified copy
Ex.A8	Letter from the Hindu Religious and Charitable Endowment Department	Original
Ex.A9	Legal notice	Office copy
Ex.A10	Reply Notice	Office copy
Ex.A11	Settlement deed dated 31.01.1944	Original

**Defendant's Side Witness :**

DW1 – Sabapathy (4<sup>th</sup> Defendant)

**Defendant's Side Exhibits:** NIL

**Court side Exhibits :**

Ex.C1	Advocate commissioner report	
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**PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM.**