

IN THE COURT OF THE DISTRICT AND SESSIONS JUDGE, KARUR

PRESENT:- THIRU K.H. ELAVAZHAGAN, B.Sc., M.L.,

DISTRICT AND SESSIONS JUDGE.

Wednesday, the 18th day of March, 2026

ORIGINAL SUIT NO. 34/2025

[CNR.No. TNKR01-000148-2025]

Idol of Arulmigu Balasubramaniaswamy

Thirukoil, Pugalimalai,

Velayuthampalayam,

Karur, Rep by its Executive Officer.

..Plaintiff

/vs./

1. R. Kolandayee

2. S. Senthilkumar

3. S. Vasanthaprabhu

4. S. Kalaiselvi

5. M. Sabeetha

6. S. Gogulnath

7. K. Viswanathan

8. G. Chitra

9. K. Amutha

10. K. Ravikumar

11. M. Saroja

12. S. Shanmugam

13. M. Suresh

14. M. Eswari

15. K. Ragupathi

16. S. Jasmine

17. M. Muhammed Yahoob

18. K. Iyappan

19. K. Ravichandran

20. M. Kandiyanan

21. C. Elango

...Defendants

This suit is coming on 10.03.2026 for final hearing before me in the presence of Thiru. S. Ramesh, advocate for the plaintiff and the defendants 1 to 21 are remained set exparte and upon hearing the arguments on the side of the plaintiff and upon perusing the records and having stood over till this day for consideration, this Court delivered the following.

JUDGMENT:-

This suit has been filed by the plaintiff to pass a decree and judgment in favour of the plaintiff as against the defendants; (a) granting a decree for declaration, declaring that the plaintiff idol is the absolute owner of the suit property and consequently for the relief of recovery of possession, directing the defendants to deliver the possession of the suit property to the plaintiff after removing the superstructure if any; failing which to do the same through the process of court (b) directing the defendants to pay the mesne profits regarding the suit property to the plaintiff at the rate to be fixed by this Court from the date of the plaint till the date of delivery of possession separately under order 20 rule 12 of CPC; (c) awarding the costs of this suit and other releifs.

Brief facts of the plaint would run is as follows:-

2) The property described hereunder is the suit property situated at Punjai Pugalur North Village, Pugalur Taluk within the jurisdiction of this Court. Further, the Executive Officer of the plaintiff temple is competent person and he obtained permission from the Commissioner, H.R. and C.E. Department by way of abundant caution and to avoid any technical objection.

3) Further, the present survey number of the suit property is S.F.No. 462 (sub division No. 6A, 6B, 7A and 7B) and the old paimash number for the suit property is 184. Initially the title deed for the suit property was issued to the plaintiff temple several years ago and the Title Deed No.787. Further, the title deed is not

available in the plaintiff temple.

4) Further, the Inam Fair Register reveals that the properties cover in the suit survey field is iruvara devadhayam (column 2) land dedicated permanently by the ancient Kings Chera for Kanakku Maniyam service/office of the plaintiff temple which was confirmed by the Inam Commission and the said dedication had been intended for the benefit of Kanakku Maniyam service/ office in the plaintiff's temple with tax free (column 9). The Inam Fair Register also reveals that the suit properties were permanent grant (in 10th column), for Kanakku Maniyam service in the plaintiff temple & the service is rendered (in 8th column) and also to be confirmed free in one title deed so long as the Kanakku and Maniyam service for the pagoda is rendered and which was also confirmed (in 21 and 22 columns).

5) Thus the property was granted to the plaintiff temple with both warams and title vested with the plaintiff temple. The suit properties had been dedicated for Kanakku Maniyam service/ office of the plaintiff temple and the said dedication had been intended for the person who render the service of Kanakku Maniyam to the plaintiff's temple in lieu of wages. As long as they render the service to the plaintiff temple, they are allowed only to enjoy the said property in lieu of wages without any right of alienation.

6) Subsequently, the Government had abolished the minor inam lands and converted as rayathwari lands. The Government of Tamilnadu under the Minor Inam Abolition Act 30 of 1963 had issued patta in favour of one Sangameswara lyer with regard to suit without conducting due enquiry with the plaintiff temple. At the time of enquiry under the said Act, no notice was served to the plaintiff temple and Settlement Tahsildar suo-moto issued patta in favour of the said Sangameswara lyer with regard to the suit S.F.No. Initially the plaintiff temple was managed by the local

trustees. They have not shown any care of the temple properties including the suit property. Then in the year 1976 the plaintiff temple was came under the management of the Executive Officers. Even at that time there was no proper records in the plaintiff temple regarding the temple properties. Taking advantage of the situation then prevailing, one Sangameswara Iyer misrepresented the facts before the Settlement Tahsildar and obtained patta in his favour. The said Sangameswara Iyer in connivance of the local village munsif and karnam have managed to obtain patta in his favour by misrepresenting the facts. The said patta will not bind the plaintiff temple.

7) Further, the enquiry alleged to have been conducted by the Settlement Tahsildar would not be within the four corners of the directive rules of the Act 30/1963, since no notice has been served upon the plaintiff. But the said Sangameshwara Iyer have not rendered any such service to the plaintiff temple. As such he is not entitled to enjoy the suit property. Further, the Settlement Tahsildar has passed order to issue patta to the said Sangameswara Iyer on condition of continuance of the said service. It is humbly submitted that the suit inam land is for the performance of Kanakku Maniyam service and it will go with the office and whoever occupies the office of the Kanakku Maniyam alone will be entitled to enjoy the said properties. If it is an inam attached to the office, then there is only a right to enjoyment and there cannot be any right of alienation. So the said Sangameshwara Iyer is not entitled to create any encumbrance over the suit property.

8) It seems that the said Sangameswara Iyer taking advantage of the patta issued in his favour was enjoying the suit property without rendering any service to the plaintiff temple and his possession over the suit property is unlawful. As such he is deemed to be the trespasser regarding the suit property, since he is not entitled to the suit property and he was enjoying the same without any agreement with the

plaintiff and his possession and enjoyment over the suit property cannot be safe guarded by any law of the land.

9) The proceedings of the Settlement Tahsildar under the said Act 30/1963 regarding the suit survey number was not known to the plaintiff, since no notice was served to the plaintiff. As per the direction given by the Higher Official, the then Executive Officer of the plaintiff temple send a letter to the Sub-Registrar, Velayuthampalayam on 28.03.2005 requesting him not to register any document executed by the 3rd parties with regard to the temple properties one N. Kalaiyarasan S/o. Durairaj had approached the Sub-Registrar, Velayuthampalayan to register a sale deed dated 16.06.2017 executed by him in favour of one N. Thirumoorthi. S/o. V. Natarajan with regard to the property situate in S.F.No. 462/1,2,3 for which he refused. Hence the said Kalaiyarasan had filed a Writ Petitions before the Honourable High Court of Madras in W.P.No. 16497/2015 & 16892/2017 directing the Sub-registrar to register the sale deed and for other reliefs and then only the plaintiff obtained the copy of order passed by the Settlement Tahsildar, Tiruchirapalli and came to know about the said proceedings.

10) It seems that the said Sangameswara lyer taking advantage of the patta issued in his favour sold a portion of the suit survey field i.e., the suit property. Subsequently one Kuttiyappa Gounder and two others had sold the same to one Ponnammal, W/o. Palanisamy on 16.09.1975. Subsequently, the said Ponnammal sold a portion of the suit property to one Arunadevi vide a registered sale deed dated 01.09.1979. Then the said Ponnammal plotted out the the remaining extent of the suit property as house sites and sold the same to various persons vide 17 registered sale deeds dated 30.04.1983, 27.12.1985, 20.01.1986, 14.02.1986, 23.06.1986, 25.08.1986, 29.08.1986, 12.11.1992, 12.09.1997, 29.01.1998, 29.11.1999, 17.09.2001, 06.07.2011, 21.12.2011, 17.07.2012 and 30.10.2014. The above said

Arunadevi sold the property purchased from Ponnammal to one K.M.Subramani, S/o. Muthusamy, who is the ancestor of the defendants 1 to 3 herein on 30.04.1983.

11) The original person who obtained patta in his name illegally, namely Sangameswara lyer died long ago, leaving behind his two sons namely Balasubramanian and Ramachandran. The Balasubramanian also died long ago. Now the said Ramachandran and other legal heirs of Sangameswara lyer whereabouts are not traceable. Further, they are not residing in the suit village. Hence they are not entitled to claim even any alleged rights. The defendants no. 4 to 21 and the ancestor of the defendants no.1 to 3 have purchased house sites in the suit survey number vide the above said 17 registered sale deeds. Hence they are added as defendants herein.

12) The defendants are now attempting to cause a cloud regarding the title of the plaintiff over the suit property. Hence, the plaintiff has been constrained to file this suit for the relief of declaration, recovery of possession and for other reliefs.

13) The point for consideration is

- i) Whether the plaintiffs are entitled for the reliefs as prayed for?
- ii) Whether this suit has to be allowed or not?

ANSWERING TO THE POINTS NO.1 and 2

14) **Heard petitioner side. I have gone through the material available on records.**

15) The plaintiff idol Sri Arulmighu Balasubramania Swamy Thirukoil, Pugalimalai, Velayuthampalayam, Karur represented by its Executive Officer.

16) Ex.A1 goes to show that the Executive Officer has to obtain the

permission from the competent authority as mentioned in Rule 9. It is further significant to note that even the scheme copy relied upon by the Plaintiff, marked as Exhibit A1, clearly demonstrates that the Executive Officer is required to obtain permission from the competent authority prior to initiating any legal proceedings. This is evident from Rule 9 of the said scheme, which is incorporated in and forms part of Exhibit A.1. The Executive Officer executive officer has given power by joint Commissioner as well as commission. As per section 45(2) of the said provision the E.O has been assigned power through exhibit A1 and A2 to file suit.

17) In AIR 1942 Cal 99 PART N From the above it is clear that there is some analogy between a minor and a Hindu idol but the latter is neither a minor nor a perpetual minor. (Emphasis supplied) Before the Orissa High Court in Radhakrishna Das v Radharamana Swami a suit had been instituted by the next friend of the deity for a decree directing the restoration of the plaint. In Venkateshwara v. Venkatesa, ILR (1941) Mad. 599: (AIR (1941) 28 Mad 499 F.B).17. The guardian of a Hindu minor, the manager of a Hindu religious endowment and the manager of a joint Hindu family, all occupy a position of trust and confidence towards the minor or the idol or the junior members of the family as the case may be. Their power to deal with the property of the minor or the idol or the joint family, is a limited power which can rightly be exercised only in case of necessity or for the benefit of the infant, idol or the family as the case may be.

18) In M Siddiq (D) Thr Lrs v. Mahant Suresh Das And Others Civil P.C., applies to both of them. The points of difference between the two are: (1) A Hindu idol is a juristic or artificial person but a minor is a natural person. (2) A Hindu idol exists for its own interest...minor to contract but the legal capacity of a Hindu idol to contract has not been affected by this Act or by any other statute. (4) The Limitation

Act (an adjective law) has exempted a minor from the...answer two important questions: First, what are the exact contours of the legal personality ascribed to a Hindu idol? In other words, to what extent is the artificial legal personality ascribed by..

19) In *Periyanan Chetty And Anr. vs Rao Bahadur M.R. Govinda Rao And Ors.* on 2 September, 1931 Equivalent citations: (1932)62MLJ496, AIR 1932 MADRAS 328 We may at once dispose of the argument based on the perpetual minority of an idol that no limitation or adverse possession can run against it except in favour of a person who trespasses on the temple property. like the present which are not governed by the Transfer of Property Act, the law applicable would be the English Law. See *Maharaja of Jeypore v. Rukmini Pattamahdevi*. According to that law, the tenant may lawfully erect buildings which improve the value of the land. (*Jones v. Chappel* and *Meux v. Cobley*. In this Presidency a tenant who has a permanent right of occupancy in agricultural land within a zamindari may be prevented from erecting buildings which are unsuitable: for agricultural purpose *Ramanadhan v. Zemindar of Ramnad* (1893) I.L.R. 16 M. 407 : 3 M.L.J. 185 and *Orr v. Mrithyunjaya Gurukkal*. (1900) I.L.R. 24 M. 65. That is because: the tenant is not entitled to change the character of the holding so as to endanger the interest of the landlord who is entitled to a rent which may vary according to the nature and extent of the cultivation. It can have no application to a case like the present where the rent is fixed and not liable to increase or decrease and is payable whether the land is cultivated or left waste.

20) The Honourable Madras High Court, Madurai Division Bench in *A.Radhakrishnan Vs the Commissioner of Survey and Settlement and Others*, reported in 2020(1) CWC 80 has granted liberty to the temple to file appeal as against the statutory pattas issued to the parties. This temple being the minor and the limitation cannot be operated against the temple for instituting the suit. From these

case laws various Hon'ble High Courts has held that Idol is jurisdiction person and suit is maintainable by the executive officer.

21) At this Juncture, section 45 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Which reads as under:-

45. Appointment and duties of Executive Officers.—(1) Notwithstanding anything contained in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an executive officer for any religious institution other than a math or a specific endowment attached to a math.

Explanation.—In this section “math” shall not include a temple under the control of a math.

(2) The executive officer shall exercise such powers and discharge such duties as may be assigned to him by the Commissioner.

Provided that only such powers and duties as appertain to the administration of the properties of the religious institution referred in subsection (1) shall be assigned to the executed officer.

(3) The Commissioner may define the powers and duties which may be exercised and discharged respectively by the executive officer and the trustee, if any, of any religious institution other than a math or a specific endowment attached to a math.

(4) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive Officer.

22) The Executive Officer executive officer has given power by joint Commissioner as well as commission. The as per section 45(2) of the said provision the E.O has been assigned power through exhibit A1 and A2 to file suit. Further through exhibit A 2 prior sanction has been accorded joint Commissioner to file suit and this order has been passed on the basis of W.P.(M.D). No 16892/2017 order dated 27.11.2017.

23) From the above discussions it clear that the Executive Officer has power to file suit without the sanction of Commissioner, HR & CE is maintainable. Further case on hand the Commissioner has given specific power to E.O through exhibits A1 enables the E.O to file suit on prior sanction and A 2 is the sanction given by the Joint Commissioner HR&CE to the EO to file suit on behalf the Plaintiff temple.

24) Ex.A3 is the Inam register. It goes to show that Inam was granted to the plaintiff temple. Ex.A4 is the resettlement register. It goes to show that the suit property stands in the name of the plaintiff's temple. Ex.A5 Order dated 04.09.1967 of the Settlement Thasildar goes to show that Punjai Pugalur Villaga, Karur Taluk on the basis of service holders , enjoying the land in return of the services rending of service and the has granted ryotwari patta to the Plaintiff in S.No 406 to an extent of 11.74 cents and in was granted to the Plaintiff temple. Ex.A8 to Ex.A26 are the sale deeds. It goes to show that the sale deeds were executed by the several persons on several dates in respect of part of the suit properties.

25) Further the contention raised by the plaintiff is that the Government had abolished the minor inam lands and converted as rayathwari lands. The Government of Tamilnadu under the Minor Inam Abolition Act 30 of 1963 had issued patta in favour of one Sangameswara lyer with regard to suit without conducting due enquiry with the plaintiff temple. At the time of enquiry under the said Act, no notice was served to the plaintiff temple and Settlement Tahsildar suo-moto issued patta in favour of the said Sangameswara lyer with regard to the suit property. On perusal of records, on the side of the defendants have not produced any documents to deny the above said contentions and the defendants have not appeared before this Court and they were called absent and set exparte.

Therefore the contention raised by the plaintiff is acceptable one.

26) Further, the real controversy and dispute of the case would be more relevant to the section 10 of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Which reads as under:-

10 Lands in respect of which no ryotwari patta will be granted.- Notwithstanding anything contained in sections 8 and 9, no ryotwari patta shall be granted in respect of any land falling under any of the categories specified below and situated within the limits of any minor inam :

(a) forests;

(b) beds and bunds of tanks and supply, drainage, surplus or irrigation channels;

(c) threshing floor, cattle stands, village sites, cart-tracks, roads, temple sites and such other lands situated in any minor inam The Section 10 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. reads as follows :- as are set apart for the common use of the villages;

(d) rivers, streams and other porambokes.

From above reading of section 10 (c) goes to show that no ryotwari patta shall be granted in respect of any land falling under any of the categories specified below and situated within the limits of any minor inam. The case on hand the land is temple land which clearly falls under section 10(c) of the act. Therefore the settlement Talsidhar has not jurisdiction to grant ryotwari patta under section 8 and 9 of the act.

In Union Of India & Anr vs Assn.Of Unified Telecom S.P.Of ... on 11 October, 2011 Equivalent citations: AIR 2012 SUPREME COURT 1693, 2011 (10) SCC 543, 2012 AIR SCW 2291, 2011 (12) SCALE 24, AIR 2012 SC (CIVIL) 1258, (2011) 12 SCALE In Chandrabhai K. Bhoir and Others vs. Krishna Arjun Bhoir and Others (supra) this Court relying on Chief Justice of A.P. vs. L.V.A. Dixitulu[(1979) 2 SCC 34, Union of India vs. Pramod Gupta[(2005) 12 SCC 1] and National Institute of

Technology vs. Niraj Kumar Singh[(2007) 2 SCC 481] has held:

“ an order passed without jurisdiction would be a nullity.

It will be a coram non judice and non est in the eye of the law. Principle of res judicata would not apply to such cases"

In Sarup Singh & Anr vs Union Of India & Anr on 25 November, 2010 Equivalent citations: AIR 2011 SUPREME COURT 514, The Hon'ble supreme Court of India has well-settled and not open for any dispute as the defect of jurisdiction strikes at the very root and authority of the Court to pass decree which cannot be cured by consent or waiver of the parties.

27) In Union of India v. Sube Ram & Others reported in (1997) 9 SCC 69 This Court in several decisions has specifically laid down that validity of any such decree or order could be challenged at any stage. this court held thus "5. [...] here is the case of entertaining the application itself; in other words, the question of jurisdiction of the court. Since the appellate court has no power to amend the decree and grant the enhanced compensation by way of solatium and interest under section 23(2) and proviso to Section 28 of the Act, as amended by Act 68 of 1984, it is a question of jurisdiction of the court. Since courts have no jurisdiction, it is the settled legal position that it is a nullity and it can be raised at any stage."

In Amrit Bhikaji Kale & Others v. Kashinath Janardhan Trade & Anothers reported in (1983) 3 SCC 437 this Court has held that when a Tribunal of limited jurisdiction erroneously assumes jurisdiction by ignoring a statutory provision and its consequences in law on the status of parties or by a decision are wholly unwarranted with regard to the jurisdictional fact, its decision is a nullity and its validity can be raised in collateral proceeding.

In Balvant N. Viswamitra & Others v. Yadav Sadashiv Mule (Dead) Through Lrs. & Others reported in (2004) 8 SCC 706 this Court stated thus: The main question which arises for our consideration is whether the decree passed by the trial court can

be said to be "null" and "void". In our opinion, the law on the point is well settled. The distinction between a decree which is void and a decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings."

28) **Therefore the settlement Tahsildar has not jurisdiction to grant ryotwari patta under section 8 and 9 of the act. Since he has no jurisdiction to pass an order when the temple property is exempted under section 10 (c) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963.** Therefore the settlement Tahsildar granting ryotwari patta vide exhibit A5 in S.No.406 to an extent of 11.74 cents, which belongs to Devadayam Sri Balasubaramania Swami temple to the Muniyappa Mudaliar, Arumugha Mudaliar, Periasami Mudaliar sons of Subbana Mudaliar. Arumugham Son of Kandasami Mudaliar is void and nullity. From the above discussions it clear that the without prayer for setting aside the order of settlement Tahsildar is maintainable. In view of the above said facts and circumstances, the order of the settlement tahsildar is deserve to be null and void. Therefore this Court is inclined that the plaintiff idol is the absolute owner of the suit properties and the suit is liable to be allowed as plaintiffs prayed for.

In the result, suit is decreed. Thereby the Plaintiff idol is declared as absolute owner of the suit property and directing the defendants to deliver the possession of the suit property to the plaintiff within two months from the date of this order, the

plaintiff can file an application under order 20 of CPC separately with regard to Mense profit, No costs.

Dictated to the Steno typist, typed by him directly on computer, corrected and pronounced by me in the open court on the 18th day of March, 2026.

**DISTRICT AND SESSIONS JUDGE,
KARUR.**

PLAINTIFF'S SIDE WITNESSES:-

P.W.1 Rajeswari (Plaintiff)

PLAINTIFF'S SIDE EXHIBITS:-

Ex.A1.	29.10.1998	Certified copy of the Scheme copy of the plaintiff temple
Ex.A2.	13.03.2018	Copy of the permission letter send by the Commissioner, H.R and C.E.
Ex.A3.		Inam Fair Register
Ex.A4.	16.09.2015	Re-settlement Register
Ex.A5.	-	Settlement Tahsildar order
Ex.A6.	09.09.2015	Copy of the Writ petition in W.P. No.16497/2015 filed by one Kalaiyarasan.
Ex.A7.	22.08.2017	Copy of the Writ petition in W.P. No.16892/2017 filed by one Kalaiyarasan.
Ex.A8.	16.09.1975	Sale deed executed by Kuttiyappa Gounder and two others in favour of Ponnammal.
Ex.A9.	01.09.1979	Sale deed executed by Ponnammal in favour of Arunadevi.
Ex.A10.	30.04.1983	Sale deed executed by Arunadevi in favour of the ancestor of the defendants 1 to 3.
Ex.A11.	23.06.1986	Sale deed executed in favour the ancestor of the defendants 4 to 6
Ex.A12.	14.02.1986	Sale deed executed in favour of the 7 th defendant.
Ex.A13.	27.12.1985	Sale deed executed in favour of one Pappathi.
Ex.A14.	06.07.2011	Sale deed executed in favour of the 8 th defendant.

Ex.A15.	30.10.2014	Sale deed executed in favour of the 9 th defendant.
Ex.A16.	21.12.2011	Settlement deed executed in favour of the defendants no.10, 13 to 15.
Ex.A17.	29.11.1999	Sale deed executed in favour of the 10 th defendant.
Ex.A18.	12.09.1997	Sale deed executed in favour of the 11 th defendant.
Ex.A19.	23.06.1986	Sale deed executed in favour of the 12 th defendant.
Ex.A20.	17.07.2012	Sale deed executed in favour of the 16 th defendant.
Ex.A21.	12.11.1992	Sale deed executed in favour of the 17 th defendant.
Ex.A22.	29.08.1986	Sale deed executed in favour of the ancestor of the defendants no.1 to 3.
Ex.A23.	29.01.1998	Sale deed executed in favour of the 18 th defendant.
Ex.A24.	17.09.2001	Sale deed executed in favour of the 19 th defendant.
Ex.A25.	20.01.1986	Sale deed executed in favour of the 20 th defendant.
Ex.A26.	25.08.1986	Sale deed executed in favour of the 21 st defendant.

**DISTRICT AND SESSIONS JUDGE,
KARUR.**