

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Monday, the 23rd day of March 2026

I.A.No.1/2025

in

AS.No.25/2025

P. Ponnaiyan

..... Petitioner/Appellant

// Vs //

1. P.Balusamy

2. P.Jeyaraj

3. Lakshmanaperumal

..... Respondents/Respondents

This petition is coming up for final hearing before this court on 10.03.2026 in the presence of Advocate.Mr.A.Sivasubramaniam, Advocate for the Petitioner and Advocate.Mr.S.Madhavan, Advocate for the 1st respondent and 2nd and 3rd respondents were called absent and set exparte on 11.08.2025 and upon hearing enquiry on both sides and

on perusal of the records and having stood over for consideration till this day, this court delivers the following :-

ORDERS

This petition has been filed Under Order 39 Rule 1 and 2 and Section 151 of CPC pass an order ex-parte ad interim injunction restraining the respondents/respondents and their men, their associates, servants, agents and their representatives from interfering with the petitioner/appellant's Village Ambalakarar respects mentioned in Schedule which is provided to the petitioner/appellant as 2nd legal heir of his father Late.R.Ponnusamy Ambalam through a registered will dated 02.11.2018.

1. Brief averments of the Petition :-

(I) The petitioner herein is the appellant in main case. The above appeal filed for setting aside order and decretal order in IA.No.3/2024 dated 25.03.2025 passed by the Learned District Munsif Court, Melur, whereby the application Under Order 7 Rule 11 filed by the 1st respondent for Rejection of Plaint in suit for Permanent injunction was allowed. The Appellant/plaintiff father one Late.R.Ponnusamy Ambalam being descendant of respectable family had been receiving

respects from the village on specific obligation to perform certain services during major occasions of the village. During the lifetime of said late Ponnusamy Ambalam have received respects from the village in major occasions viz., Chithirai Varuda Pirappu, Periya Ayyanar Kovil, Sิริya Ayyanar Kovil, Venkadamalai Ayyanar kovil, Pongal Vila, Karthigai Deepam and some other occasions and in order to pass on the same after his life time and to avoid any dispute among his legal heirs in this regard had listed out the said respects as B schedule and registered the said will on 02.11.2018 before the Madurai South Registration District, Arasaradi Sub registrar office. After the demise of Appellant's father, the 1st respondent who is the 1st legal heir had performed services and received the respects and later prevented the same to other legal heirs. Only on the above cause of action with regard to dispute among the plaintiff and 1st defendant in passing on the respects attached to the occasions of village and thereby rendering services the suit was filed.

(ii) The appeal was filed against the rejection of suit prayed for permanent injunction restraining respondents and his men from interfering with the plaintiff's Village Ambalakarar respects which is

provided to the plaintiff as 2nd legal heir of his father Late.R.Ponnusamy Ambalam through a registered will dated 02.11.2018. The suit was rejected on the ground that the civil court does not have jurisdiction to entertain the subject matter of the suit and wrongly concluded that the dispute is regarding receiving honour in the suit temple and same is barred by section 63 (e) of TNHR & CE.

(iii) The conjoint reading of the plaint in entirety and the documents relied upon would reveal that respects are attached to services done by the plaintiff's father during important occasions at village for the welfare of village and suit is dispute between two parties i.e the plaintiff and defendants who are the legal heirs of Late.R.Ponnusamy Ambalam and the same does not involve dispute with regard to entitlement of any honour in any institution. The Hindu Religious and Charitable Endowment department is not concerned with the issue prevailing between two parties. Therefore the civil courts jurisdiction is not taken away and the Learned Trial Court ought to proceeded with the present civil suit. The grounds raised in the appeal may be treated as part and parcel of the affidavit.

(iv) The Petitioner/Appellant has got a prima-facie case in his favour and there is likelihood of success in the present Appeal. However during the pendency of the appeal the services as per the Will document has to be done by the plaintiff for five years as the 1st defendant has already completed his part of 5 years. Hence in this circumstance order of temporary injunction is necessary till the disposal of present appeal. The petitioner prays to pass an order ex-parte ad interim injunction restraining the respondents/respondents and their men, their associates, servants, agents and their representatives from interfering with the petitioner/appellant's Village Ambalakarar respects mentioned in Schedule which is provided to the petitioner/appellant as 2nd legal heir of his father Late.R.Ponnusamy Ambalam through a registered will dated 02.11.2018. Hence this petition has to be allowed.

2. Brief averments of the counter affidavit filed 1st respondent :-

The 1st respondent herein is the 1st respondent in the main appeal. It has been stated that the trial court has allowed the IA.No.3/2024 for rejection of plaint and rejected the suit. As against which the present appeal has been filed. The trial court in IA.No.3/2024 rejected the plaint for no jurisdiction. The appeal has been filed only to decide whether to

set aside the original suit or not and is not a case filed for permanent injunction as claimed by the petitioner. It is noteworthy that the decision of the appeal case has no connection with the interim petition filed by the appellant. Hence this petition has to be dismissed.

3. The point for consideration aroused is that :-

Whether the petition has to be allowed or not ?

4. Point :-

4.1 Both sides heard. Records perused. It has been stated that the trial court has allowed the IA.No.3/2024 for rejection of plaint and rejected the suit. As against which the present appeal has been filed. The trial court in IA.No.3/2024 rejected the plaint for want of jurisdiction. On careful perusal of Order VII, Rule 11 CPC, a plaint can be rejected only if it falls under any one or more grounds stated in Order VII, Rule 11 CPC.

4.2 On perusal of the order copy in IA.No.3/2024, the trial court rejected the plaint as barred under law. The trial court stated that the suit has been filed for permanent injunction not to disturb the peaceful celebrations of the festivals in the suit temples and not to disturb the

peaceful celebration of the festivals while receiving Honours by the plaintiff on the basis of the will executed by Mr.Ponnuchamy Ambalam dated 02.11.2018.

4.3 The trial court stated that the suit is hit under Hindu Religious and Charitable Endowments Act, following the verdict of Hon'ble High Court of Madras in Muthamilselvan and others Vs A.Manickam and others (2004 (4) CTC 650). Considering the above facts and the precedents aforesaid, this appeal suit filed by the unsuccessful plaintiff and it is pending for arguments. Without getting into the merits of the case and considering the Section 63(e) of TN HR & CE Act, 1959 there is a bar where the joint commissioner alone has got the jurisdiction to entertain the case relating to Honours, emoluments or prerequisites in any religious institution and there is a bar Under Section 108 of TN (HR & CE) Act. Hence this petition with respect to the Honours and celebration of festivals and to grant ad-interim injunction is not maintainable in law.

5. Result:-

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

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 23rd day of March 2026.

Appellate Authority/
Subordinate Judge,
Melur.

Both sides of witness and document :- Nil

Appellate Authority/
Subordinate Judge,
Melur.

Draft/Fair Order
in
IA.No.1/2025
in
AS.No.25/2025
Dt : 23.03.2026
Sub Court, Melur