

**IN THE COURT OF THE SUBORDINATE JUDGE AT ARNI,  
TIRUVANNAMALAI DISTRICT**

Present : **Tmt.A.Daoudh Ammal, B.A., M.L.,**  
Subordinate Judge, Arni

Monday, the 21<sup>st</sup> day of April, 2025

**I.A.No.02/2024 in O.S.No.135/2021**

Arulmighu Sundara Vinayagar Temple, Kunnathur Village,  
Arni Taluk, Represented by its Non Hereditary Trustees,

1. P.Palani
2. A.Mani
3. M.Namachivayam
4. N.Rajendiran
5. D.Vijayalakshmi

... Petitioners/Plaintiffs

-Vs-

1. The Commissioner H.R. & C.E., Chennai
2. Joint Commissioner, H.R. & C.E., Thiruvannamalai
3. Assistant Commissioner, H.R. & C.E., Thiruvannamalai
4. The Inspector/Fit person, H.R. & C.E., Arni Town ... Respondents/Defendants

This Petition coming before me for final hearing on 25.02.2025 in the presence of Tr.K.Narayanan, Advocate for the Petitioners/Plaintiffs and Tr.K.R.Rajan, Additional Government Pleader for the Respondents/Defendants and having stood over for consideration till this date, this court delivered the following:

**ORDER**

Petition filed under Order 26 Rule 9 and Section 151 C.P.C. to appoint an

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Advocate/Commissioner to note down the physical features of the schedule mentioned Temple situated in S.No.149/2 Acre 0.25 cents along with the Temple land situated in Punja S.No.141/1 Acre 0.11 cents and Nanja S.No.142/6 Acre 0.38 cents total extent of 0.49 cents to be measured with the help of Taluk Surveyor, Arni and file his Report with Plan and for further orders.

## **2. Petition Averments in brief:**

The Petitioners are the Plaintiffs in the suit. The Petitioners have filed the suit for Declaration of Non Hereditary Trustee for the Temple as against the Respondents. The Respondents are not giving permission to renovate the Temple which is in dilapidated condition, which was Kullalers Community Temple built from their own funds in the year 1911 itself and still their Community people are worshiping regularly and spending money for the Pooja and other expenses etc., So the Petitioners have to enlighten to this court the worst condition of the Temple at present and completely ignored by the Respondents which requires the immediate renovation of the temple. Hence the Petition.

## **3. Counter Averments of 4<sup>th</sup> Respondent adopted by 1<sup>st</sup> to 3<sup>rd</sup> Respondents in brief:**

This Respondent does not admit any of the allegations made in the affidavit except those that are specifically admitted and the Petitioner is put to strict proof of the same. This suit has been actually filed for the relief of declaration of Non Hereditary Trustee and the Respondents had filed the Written Statement and the suit has been posted for Trial in the Special List. While so, this Petition has been filed by the Petitioner only to drag on the proceedings of the case, hence this Petition is not at all maintainable. The main suit have been filed to decide whether the Plaintiff has to be appointed as Non Hereditary Trustee or not. While so, this Petition filed for

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appointment of Advocate Commissioner to note down the physical features of the property and to measure the Temple along with the help of the Surveyor is not at all maintainable in law and this Petition is not at all necessary at this stage. As per the H.R. & C.E., the one time Pooja has been performed continuously for the Temple and funds have been allotted and deposited in the Account of the Poojari for conducting Poojas in the Temple by the H.R. & C.E., and thus the Poojas are performed regularly. Hence the possession of the Temple is not with the ancestors of Kullala Community people. While so the renovation of the Temple can be carried out only after obtaining permission from the Archaeological Department and until then renovation of the Temple could not be carried out. Hence the Petitioner has come forward with this Petition only to drag on proceedings of this case and this Petition has to be dismissed with cost.

#### **4. Point for Consideration :**

(i) Whether this Petition filed under Order 26 Rule 9 and Section 151 C.P.C. to appoint an Advocate/Commissioner to note down the physical features of the schedule mentioned Temple situated in S.No.149/2 Acre 0.25 cents along with the Temple land situated in Punja S.No.141/1 Acre 0.11 cents and Nanja S.No.142/6 Acre 0.38 cents total extent of 0.49 cents to be measured with the help of Taluk Surveyor, Arni and file his Report with Plan with has to be allowed or not?

(ii) To what other reliefs, the Petitioners are entitled for?

5. Heard. Records Perused. There is no oral or documentary evidence let in on both the sides.

#### **Points No.1 &2:**

6. The Petitioners are the Plaintiffs in the suit. The Petitioners have filed the

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suit for Declaration of Non Hereditary Trustee for the Temple as against the Respondents. The Respondents are not giving permission to renovate the Temple which is in dilapidated condition, which was Kullalers Community Temple built from their own funds in the year 1911 itself and still their Community people are worshipping regularly and spending money for the Pooja and other expenses etc., So the Petitioners have to enlighten to this court the worst condition of the Temple at present and completely ignored by the Respondents which requires the immediate renovation of the temple. Hence the Petition. It is to be noted that the Respondents have contended that the suit has been actually filed for the relief of declaration of Non Hereditary Trustee and the Respondents had filed the Written Statement and the suit has been posted for Trial in the Special List. While so, this Petition has been filed by the Petitioner only to drag on the proceedings of the case, hence this Petition is not at all maintainable. The main suit have been filed to decide whether the Plaintiff has to be appointed as Non Hereditary Trustee or not. While so, this Petition filed for appointment of Advocate Commissioner to note down the physical features of the property and to measure the Temple along with the help of the Surveyor is not at all maintainable in law and this Petition is not at all necessary at this stage. As per the H.R. & C.E., the one time Pooja has been performed continuously for the Temple and funds have been allotted and deposited in the Account of the Poojari for conducting Poojas in the Temple by the H.R. & C.E., and thus the Poojas are performed regularly. Hence the possession of the Temple is not with the ancestors of Kullala Community people. While so the renovation of the Temple can be carried out only after obtaining permission from the Archeological Department and until then renovation of the Temple could not been carried out. Hence the Petitioner has come forward with this Petition only to drag on proceedings of this case and this Petition has to be dismissed with cost.

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7. It is to be noted that this Petition have been filed for appointment of an Advocate Commissioner to note down the physical features of the schedule mentioned Temple situated in S.No.149/2 Acre 0.25 cents along with the Temple land situated in Punja S.No.141/1 Acre 0.11 cents and Nanja S.No.142/6 Acre 0.38 cents total extent of 0.49 cents to be measured with the help of Taluk Surveyor, Arni and file his Report with Plan. It is to be noted that the Respondents have raised their objections in allowing this Petition stating that the suit has been actually filed for the relief of declaration of Non Hereditary Trustee and the Respondents had filed the Written Statement and the suit has been posted for Trial in the Special List. While the main suit have been filed to decide whether the Plaintiff has to be to appointed as Non Hereditary Trustee or not, this Petition filed for appointment of Advocate Commissioner to note down the physical features of the property and to measure the Temple along with the help of the Surveyor is not at all maintainable in law and this Petition is not at all necessary at this stage. As per the H.R. & C.E., the one time Pooja has been performed continuously for the Temple and funds have been allotted and deposited in the Account of the Poojari for conducting Poojas in the Temple by the H.R. & C.E., and thus the Poojas are performed regularly. Hence the possession of the Temple is not with the ancestors of Kullala Community people. While so the renovation of the Temple can be carried out only after obtaining permission from the Archaeological Department and until then renovation of the Temple could not been carried out. Hence the Petitioner has come forward with this Petition only to drag on proceedings of this case and has to be dismissed with costs. Therefore this court considers that since the main suit in O.S.No.135/2021 has been filed for the relief of declaration of Non Hereditary Trustee and the Respondents had filed the Written Statement and the suit has been posted for Trial in the Special List and renovation of the Temple can be carried out only after obtaining permission from the Archeological

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Department and until then renovation of the Temple could not be carried out, as rightly contended by the Respondents, this Petition filed for appointment of Advocate Commissioner to note down the physical features of the property and to measure the Temple along with the help of the Surveyor is not at all maintainable in law and this Petition is not at all necessary at this stage. Hence this court is not inclined to allow this Petition, in the interest of justice.

8. In the result, this Petition stands Dismissed, without costs, in the interest of justice.

Directly dictated by me to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court, on this, the 21<sup>st</sup> day of April, 2025.

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**Petitioners side witnesses and documents :** NIL

**Respondents side witnesses and Documents:** NIL

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