



TNTU080002752016

Presented on : 10.11.2003

Registered on : 11.11.2003

Decided on : 30.04.2026

Duration : 22 years 5 months 20 days

IN THE COURT OF DISTRICT MUNSIF, VANIYAMBADI

Presided Over by THIRU. V. ESHWAR,B.E.,L.L.B.,

OS.100/2003

CNR.No.TNTU080002752016

Plaintiff:

C. Mahendiran

VERSUS

Defendant:

J.S.T. Nallappa

Advocate for Plaintiff: Tr. **K. Umar**

Advocate for Defendant: Tr. **R.V.Varadarajan, Tr.A.C.Devakumar and
Tr.D.Sampath.**

Claim: Suit for Declaration and Permanent Injunction and for Cost



JUDGMENT

(Delivered on 30.04.2026)

I. Nature of the Suit and Reliefs Sought

1. This is a suit instituted by the plaintiff praying for the following reliefs:

(a) for a declaration that the plaintiff is the Secretary of the M.J.M. and the Thiru. Vee. Ka. Middle School Educational Committee, Vaniyambadi;

(b) for a permanent injunction restraining the defendant, his men and agents from interfering with the functioning of the plaintiff as the Secretary cum Correspondent of the M.J.M. Trust and the Thiru. Vee. Ka. Middle School in any manner whatsoever;

(c) directing the defendant to pay the costs of the suit; and

(d) for such other reliefs as this Court may deem fit and proper in the circumstances of the cas.

II. Summary of the Complaint

2. The case set out in the complaint, briefly stated, is as follows. The plaintiff is said to have been elected as Secretary of the Mary James Memorial Trust (briefly, MJM Trust) on 16.12.2001. The Trust, according to the plaintiff, is a registered Trust bearing No. 361/1989. It was originally constituted by five trustees namely Thiru. L. Pandurangan, Thiru. R. Ravi, Thiru. Shanmugam,



Thiru. V. Chandirasekaran, and the defendant herein, for the purpose of promoting the education of children from the downtrodden sections.

3. The plaintiff further states that vide a resolution dated 11.08.2001, he was inducted as a trustee. The defendant, who had been the Secretary, is alleged to have indulged in financial impropriety and mismanagement of trust funds. After giving him a reasonable opportunity, the available trustees are said to have convened an executive committee meeting on 16.12.2001, condemned the conduct of the defendant, and removed him from the post of Secretary. On the same day, by a separate resolution, the plaintiff is said to have been elected as the Secretary of the Trust. Thereafter, by a further resolution dated 23.02.2002, the plaintiff claims to have been elected as Secretary cum Correspondent of the school's educational committee.

4. It is the further case of the plaintiff that the Trust is running one Thiru. Vee. Ka. Middle School at Chennampettai, Vaniyambadi. The plaintiff alleges that the strength of the school, which had once gone up to nearly 2,500 students, fell to less than 300 by reason of the mismanagement of the defendant. According to the plaintiff, the management of the Trust and the school has, since his election, been peacefully under his control. The defendant, who has no right or interest in the Trust, is said to be repeatedly interfering with the administration of the Trust and the school by feeding false information to the educational authorities and to the Headmaster. On 05.11.2003, the defendant is



alleged to have visited the school premises and misled the Headmaster by issuing instructions against the plaintiff. The plaintiff, finding no other alternative, has come before this Court seeking the reliefs already mentioned.

III. Summary of the Written Statement

5. The defendant has filed a detailed written statement resisting the suit. According to him, the suit is false, untenable in law, and is liable to be dismissed *in limine*. The pith and substance of the defence is as follows.

6. The defendant contends that the suit pertains to the administration of a public charitable trust; the Trust ought to have been impleaded as a party, and a suit of this nature can be entertained only by the District Court or the Court of the Subordinate Judge with the leave required under Section 92 of the Code of Civil Procedure. The plaintiff, having sued in his individual capacity and in the name of two private persons, is said to have no locus to seek a declaration of his status as Secretary of a registered trust.

7. On the merits, the defendant denies that the plaintiff was inducted as a trustee on 11.08.2001 or that he was elected as Secretary on 16.12.2001. The resolutions said to have been passed on those dates and on 23.02.2002 and 12.05.2002 are denounced as fabricated documents inconsistent with the byelaws of the Trust. The registration number of the Trust is said to be 361/1988, not 361/1989, and the very fact that the plaintiff has not produced the original Trust Deed is, according to the defendant, fatal to his case.



8. The defendant traces the history of the school in considerable detail. It was started in the year 1953 at Door No. 253, Kosatheru, Chennampettai, Vaniyambadi, by his father, the late Thiru. James N. Selvadas, on the basis of the recognition granted on 11.06.1954 to Thiru. Vee. Ka. Middle School. The school was run as an aided minority institution. On 19.09.1984, Thiru. James N.Selvadas executed a registered Will (document No. 57/1984) at the office of the Sub-Registrar, Vaniyambadi, recording his wishes regarding the management of the trust and the school. He died on 04.01.1987. Between 1987 and 1989 the school was run under the direct control of the District Educational Officer. Pursuant to the testamentary directions of the late James N. Selvadas, the defendant, being his legal heir, instituted the Mary James Memorial Trust on 07.12.1988 at the Office of the Vellore Sub-Registrar, in the name of his mother Mary, the wife of the testator. From 24.07.1989 onwards, the trustees took charge of the school administration.

9. The defendant goes on to narrate the difficulties that arose first when his brother Herbert Gunaraj acted as Secretary and Correspondent and was relieved on 30.05.1999 in connection with O.S. No. 317/1995, then when Sudhakar Gunasekaran, the Headmaster of the I.E.L.C. school, was appointed Secretary and Correspondent on 08.06.2000 with the permission of the Education Department and was eventually removed on 23.03.2002, at which point the school administration once again came under the control of the School



Education Department from 11.07.2002. On 05.04.2002, M. Manogar was nominated as the Chairman of the Educational Committee.

10. The defendant complains that, contrary to the testamentary directions of his late father, the plaintiff and one Shanmugam, along with the plaintiff's father Chinnappillai and one Vijayan, fabricated documents using the name of the former Headmaster Chandrasekaran (who had stood as an attesting witness to the Will) and unlawfully held out the plaintiff, who is in fact a document writer, as the Secretary of the Trust. He further refers to the supplementary trust deed registered as document No. 214/2002 on 27.03.2002, the writ proceedings in W.P. Nos. 22850/2001 and 8196/2004 before the Hon'ble High Court of Madras, the setting aside of the ex parte decree in this very suit pursuant to the order in Crl.O.P. No. 2238/2019 dated 24.08.2023 on payment of Rs. 1,00,000/- as costs, and the gradual decline of the school strength from about 500 to a single student by 2013, when the school is alleged to have been illegally shifted to a different premises without departmental sanction.

11. The defendant also refers to the sale deed dated 31.07.2007 (document No. 3655/2007) executed in favour of the plaintiff's mother, Saraswathi, in respect of the very plot in which the school had been functioning. According to the defendant, the plaintiff stood as the document-writer for that sale and thereby acquired control over the school premises against the interest of the Trust. The defendant contends that under the testamentary stipulation only



family members can hold office as administrators of the Trust, and that the plaintiff, having no connection whatsoever with the family, can lay no claim to the office of Secretary. The plaint, on this account too, is said to be liable to be dismissed with exemplary costs.

IV. Issues Framed

12. Upon perusal of the pleadings, the following issues were framed by this Court:

- (1) Whether the suit is bad for not impleading the Trust as a party?*
- (2) Whether this Court has jurisdiction to try the suit?*
- (3) Whether it is true that the plaintiff was legally elected as the Secretary of the M.J.M. Trust and the Thiru. Vee. Ka. Middle School Educational Committee, Vaniyambadi?*
- (4) Whether it is true that the plaintiff has been peacefully administering the M.J.M. Trust and the Thiru. Vee. Ka. School Educational Committee, Vaniyambadi?*
- (5) Whether it is true that the defendant has interfered with the plaintiff's peaceful administration over the M.J.M. Trust and the Thiru. Vee. Ka. School Educational Committee, Vaniyambadi?*
- (6) Whether the plaintiff is entitled to the relief of declaration as prayed for?*



(7) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?

(8) What other relief, if any, is the plaintiff entitled to?

V. Evidence Adduced

13. On the side of the plaintiff, the plaintiff himself was examined as PW-1. Eleven documents were marked as Exhibits A1 to A11. Ex.A1 is a certified copy of the resolution of the M.J.M. Trust dated 11.08.2001; Ex.A2 is the certified copy of the resolution dated 16.12.2001; Ex.A3 is the certified copy of the resolution dated 23.02.2002; Ex.A4 is the certified copy of the resolution dated 12.05.2002; Ex.A5 is the authorisation letter said to have been issued by the Chairman of the M.J.M. Trust in favour of the plaintiff; Ex.A6 is the structural soundness certificate; Ex.A7 is the 'D' Certificate issued by the Tahsildar, Vaniyambadi; Ex.A8 is the sanitary certificate; Ex.A9 is the no-objection certificate of the Fire Service Department; Ex.A10 is the typed set of papers of W.P. No. 8196 of 2004; and Ex.A11 is the petition and affidavit in the said writ petition.

14. On the side of the defendant, the defendant was examined as DW-1, one M. Manogaran was examined as DW-2 and Thiru. Chandrasekhar, retired Headmaster, was examined as DW-3. Five documents were marked as Exhibits B1 to B5. Ex.B1 is the certified copy of the registered sale deed dated 31.07.2007 (document No. 3655/2007) executed in favour of the plaintiff's



mother Saraswathi; Ex.B2 is the registered Trust Deed dated 07.12.1988 (the original document constituting the Mary James Memorial Trust); Ex.B3 is the certified copy of the order dated 28.08.2017 in E.P. No. 45/2014 in O.S. No. 63/2013 of the Additional District Munsif Court, Vaniyambadi; Ex.B4 is the certified copy of the registered Will dated 19.09.1984 (document No. 57/1984) executed by the late Thiru. James N. Selvadas; and Ex.B5 is the certified copy of the supplementary trust deed dated 27.03.2002 (document No. 214/2002).

VI. Arguments Advcaned

15. Heard the learned counsel on both sides at length. Their submissions may be summarised as follows.

16. Thiru. K. Umar, learned counsel for the plaintiff, vehemently contended that the suit is perfectly maintainable, having been filed under Section 9 of the Code of Civil Procedure for the protection of the plaintiff's individual rights as Secretary of the Trust. The plaintiff, it was urged, has been functioning in that office for the past twenty-five years, and till date no person has formally challenged that position by way of a regular suit. The expression "Correspondent", he submitted, signifies any person nominated by the trustees, and need not necessarily be a trustee in the strict sense. While conceding that the defendant did hold the office of Secretary before 16.12.2001, the learned counsel urged that the defendant disqualified himself by his subsequent conduct, by entering into an agreement to sell the trust property to a third party for



valuable consideration; by abandoning both the Trust and the school; and by leaving Vaniyambadi for good. Ex.B5, the so-called supplementary trust deed, is said to have been brought into existence unilaterally by the defendant and has no value in law. The learned counsel further urged that the registered Will at Ex.B4 has no relevance to the present dispute and that the doctrine of *factum valet* would protect any irregularity in the constitution of the trustees. Strong reliance was placed upon the admissions elicited from DW-1 in cross-examination, and it was submitted that the plaintiff need not implead the Trust because the suit is in his personal capacity to protect rights infringed against him personally. He prayed that the suit be decreed as prayed for with costs.

17. Thiru. A.C. Devakumar, learned counsel for the defendant, opposed the suit with equal vigour. He pointed out, in the first place, that the very framing of the suit suffers from a fatal defect: the first prayer speaks of "M.J.M." without the suffix "Trust", and the second prayer fails to specify the tenure of the office of "Secretary cum Correspondent". More fundamentally, he submitted, the suit is one which in substance seeks declaratory and injunctive relief touching the management of a public charitable trust; yet the Trust has not been impleaded as a party, and there is no resolution authorising the plaintiff to sue on behalf of the Trust. Section 92 of the Code of Civil Procedure has been altogether bypassed. The plaintiff has not produced the resolution book, and has examined no one besides himself. The induction of the plaintiff as a trustee on



11.08.2001 is false; the alleged removal of the defendant on 16.12.2001 is denied; and the burden of proving that the defendant ceased to be a trustee lies squarely on the plaintiff. The Will at Ex.B4 stands proved by the evidence of DW-3, one of the attesting witnesses, the other attestor having since died. He concluded by submitting that the suit is bad in law, ought never to have been instituted in this Court in this form, and is liable to be dismissed with exemplary costs.

VII. Discussion and Reasons for Decision

18. Before turning to the issues, it is necessary to set down the broad facts that emerge from the record. Some of these facts are admitted; others are disputed but admit of straightforward findings on the materials placed before this Court.

19. It is admitted on both sides that the school known as Thiru. Vee. Ka. Middle School at Chennampettai, Vaniyambadi was started in the year 1953-54 by the late Thiru. James N. Selvadas, the father of the defendant. It was an aided school which received recognition by virtue of the order dated 11.06.1954. James N. Selvadas executed a registered Will on 19.09.1984 (Ex.B4, document No. 57/1984) and died on 04.01.1987. Between 1987 and 1989 the school was placed under the control of the District Educational Officer. On 07.12.1988 the registered Mary James Memorial Trust was constituted by Ex.B2 and the trustees took charge of the school on 24.07.1989. The Trust bears registration



No. 361/1988, a fact which the plaintiff initially disputed but which his own witness PW-1 ultimately conceded under cross-examination, after first having claimed the year of registration to be 1989.

20. It is also not in dispute that there was a series of changes in the Secretaryship of the Trust thereafter, first the defendant's brother Herbert Gunaraj till 30.05.1999, then Sudhakar Gunasekaran from 08.06.2000 till 23.03.2002, after which the school once again came under departmental administration. On 05.04.2002 one M. Manogar was named Chairman of the Educational Committee. On 27.03.2002, by document No. 214/2002, a supplementary trust deed (Ex.B5) was registered. On 11.06.1954 the school had been originally recognised at Door No. 253, Kosatheru, Chennampettai. The school continued to function from that rented premises till about 2014, after which it was shifted to a building situated at Doctors' Colony, Nethaji Nagar. Sometime in the meanwhile, by registered sale deed dated 31.07.2007 (Ex.B1, document No. 3655/2007), the very plot of land where the school had been functioning was purchased by the plaintiff's mother, Saraswathi, on the strength of a power of attorney executed in favour of one P. Vijayan, who is the brother-in-law of the plaintiff. The original sale deed Ex.B1 records that it was the plaintiff himself who typed the document. The strength of the school, which once stood at about 500 students, had by 2013 fallen to thirteen and is presently around forty.



21. The dispute that is now before this Court is essentially a dispute over the office of Secretary of the M.J.M. Trust and Correspondent of the Thiru.Vee.Ka. Middle School. The plaintiff claims to have been elected to that office on 16.12.2001 and to have continued in office ever since, while the defendant maintains that no such election ever took place, that the alleged resolutions are fabricated, and that the plaintiff being a stranger to the family of the founder could never, on the testamentary directions of his late father, hold office as administrator of the Trust. With those broad facts in mind, this Court now turns to the issues.

As to Issues Nos. 1 and 2 — Whether the suit is bad for non-joinder of the Trust and whether this Court has jurisdiction to try it

22. Both these issues raise threshold questions and may conveniently be considered together. The plaintiff has come to Court describing himself as Secretary of the M.J.M. Trust and as Secretary cum Correspondent of the Educational Committee of the Thiru. Vee. Ka. Middle School. The first prayer in the plaint asks for a declaration that he is the Secretary of those very institutions; the second prayer asks for an injunction against interference with his functioning as such. There is no cavil that the relief is sought in respect of a registered charitable trust constituted under Ex.B2.

23. In a suit of this nature, the Trust is plainly a necessary party. A declaration that 'A' is the Secretary of a particular trust binds nobody if the trust



itself, the body whose office is being claimed, is not before the Court. An injunction against B not to interfere with A's functioning as Secretary leaves untouched the question whether the trust recognises A as such. The very purpose of the relief sought makes it indispensable that the Trust be brought on record. The objection raised in the written statement therefore goes to the root of the matter.

24. PW-1 was confronted with this very objection in cross-examination and his answers are revealing. To the question whether the suit is one relating to the administration of a Trust, he answered:

"இந்த அசல் வழக்கானது ஒரு டிரஸ்ட்-ன் நிர்வாகம் சார்ந்த வழக்கு என்றால் சரிதான். டிரஸ்ட்-ன் நிர்வாகம் தொடர்பாக தாக்கல் செய்யப்பட்டுள்ள இந்த வழக்கில் டிரஸ்டின் மற்ற டிரஸ்டிகளை தரப்பினர்களாக சேர்க்காததற்கு என்ன காரணம் என்றால் பிரதிவாதி மட்டும் தான் தவறு செய்தார், அதனால் அவருக்கு எதிராக மட்டும் வழக்கு தாக்கல் செய்யப்பட்டுள்ளது."

25. In the next breath, however, he claimed not to know that a suit relating to the administration of a trust without impleading the Trust or its other trustees would be defective. Pressed further, he was constrained to admit:



"வழக்குரையில் மேற்கண்டவாறு டிரஸ்ட் என்ற
வார்த்தை சேர்க்கப்படாமல் இருப்பது குறித்து
எதிர்வழக்குரையில் சொல்லப்பட்டுள்ள போதிலும் அதனை
பொறுத்து திருத்தம் செய்ய நடவடிக்கை எடுக்காமலும் அதனை
பொறுத்து எனது முதல் விசாரணையில் விளக்கம் சொல்லாமல்
இருப்பதற்கும் என்ன காரணம் என்றால் அது அவசியமில்லை."

26. This Court is unable to share the plaintiff's view that an amendment to bring in the Trust was "unnecessary". The omission was not a mere technical lapse but a substantive defect. The doctrine of necessary parties under Order I Rule 9 read with Order I Rule 10(2) of the Code of Civil Procedure is not a matter of mere ritual; the absence of a party in whose presence alone an effective decree can be passed renders the suit bad for non-joinder. The plaintiff's complaint is, in substance, that he is the Secretary of the Trust and that the defendant, a former Secretary and admittedly one of the original trustees, has no right to interfere with his functioning. The Trust, in such a complaint, is not a stranger; it is the very body whose office is in dispute. As was observed in *Kasturi v. Iyyamperumal [(2005) 6 SCC 733]*, the test of necessary party is whether the relief claimed cannot be effectually granted in the absence of the party concerned. That test is squarely answered against the plaintiff in the present suit.



27. The defendant has also raised a more fundamental objection that a suit which seeks declaratory and injunctive relief in respect of the management of a public charitable trust must be brought in compliance with Section 92 of the Code of Civil Procedure, with the leave of the Court and in the District Court or such other Court as the State Government may empower in that behalf. There is, no doubt, a distinction between a suit by a trustee in vindication of his individual rights as a trustee and a suit by two or more persons interested in the trust seeking the reliefs enumerated in Section 92 of the Code. The decision of the Hon'ble Supreme Court in *Vidyodaya Trust v. Mohan Prasad R. [(2008) 4 SCC 115]*, holds that the bar of Section 92 is attracted where the relief claimed is one of those enumerated in the section and the suit is brought in a representative capacity to vindicate public rights, but not where the suit is for the assertion of a private right.

28. The plaintiff places considerable reliance on this distinction and contends that he sues only to protect his own private right. The very office he seeks to protect, that of Secretary of the M.J.M. Trust, is itself an office in a public charitable trust devoted to education of the downtrodden, and a declaration of his entitlement to that office is in substance a declaration regarding the management of the Trust within the meaning of Section 92(1)(c). Further, even if the suit be treated as one for the vindication of a private right and so saved from the bar of Section 92, the absence of the Trust and the four



other trustees from the array of parties is fatal: the rights asserted are rights against the Trust, and a decree given in their absence would not bind them.

29. There is yet another and graver dimension to this issue. The Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 occupies the field so far as the management of recognised private schools, including aided schools, is concerned. Sub-section (1) of Section 53 of that Act ousts the jurisdiction of civil courts in respect of any matter for which provision is made in the Act, save where the action is alleged to have been taken in bad faith. The Hon'ble High Court of Madras has, in a long line of decisions, held that disputes regarding the office of Secretary, Correspondent, and Headmaster of an aided private school fall within the regulatory framework of the 1973 Act and the rules made thereunder, and that the civil court ought not to entertain suits which trench upon that field. The plaintiff himself, in the cross-examination of DW-1, brought out the admission that this school is an aided private school. PW-1, when confronted with this provision, stated:

"தனியார் பள்ளிகள் ஒழுங்குபடுத்தும் சட்டம் 1992 பிரிவு

53 படி தனியார் பள்ளிகள் சம்பந்தமான எந்த விதமான வழக்குகளும் உரிமையியல் நீதிமன்றத்தில் தாக்கல் செய்ய முடியாது என்ற விவரம் எனக்கு தெரியுமா என்றால் தெரியும். டிரஸ்ட் சார்ந்த வழக்கு என்பதால் இந்த நீதிமன்றத்தில் இந்த வழக்கை தாக்கல் செய்ய முடியும்."



30. The witness, while erroneously referring to the year of the Act as 1992, was clearly aware of the bar. His attempt to side-step the bar by saying that the suit is one relating to the Trust does not avail him; for the relief sought is, in part, a declaration of his status as Secretary cum Correspondent of the school's educational committee, squarely a school management matter falling within the 1973 Act. To this extent, the suit is also liable to fail on the threshold of jurisdiction.

31. This Court therefore is of the view that the suit is bad for non-joinder of the Trust and the other trustees and is, on that ground alone, liable to fail; and that to the extent the relief sought touches the management of the aided private school, this Court has no jurisdiction to entertain the suit.

As to Issue No. 3 — Whether the plaintiff was legally elected as Secretary of the M.J.M. Trust and the Educational Committee

32. This is, in many ways, the central issue in the suit. The plaintiff has placed before this Court four certified-copy resolutions, Ex.A1 of 11.08.2001 (his alleged induction as a trustee), Ex.A2 of 16.12.2001 (his alleged election as Secretary), Ex.A3 of 23.02.2002 (his alleged election as Secretary cum Correspondent of the Educational Committee), and Ex.A4 of 12.05.2002, together with the authorisation letter Ex.A5. The burden of proving that he was lawfully elected to those offices is undoubtedly on the plaintiff. Section 104 of the Bharatiya Sakshya Adhiniyam, 2023 (corresponding to Section 101 of the



Indian Evidence Act, 1872) places that burden on him who asserts the affirmative of the issue.

33. The plaintiff has chosen to step into the box as the sole witness on his side. He has not examined any of the trustees who are alleged to have voted for his induction or his election. He has not examined the Chairman who is said to have authored Ex.A5. He has not produced the original resolution book of the Trust. When asked why originals were not filed, his answer was that he could not say without seeing them.

34. The reason for this conspicuous absence of corroboration becomes evident when the cross-examination of PW-1 is carefully read. He admitted that the original Trust documents are with the Trust administration, and pointed to one Vijayan as the present Chairman, Sarankumar as the Treasurer, and Mahendiran (himself), Vijayan, Sarankumar, Vijayakumari and Chandrasekar as the present office-bearers. He admitted that Vijayan is his brother-in-law and Vijayakumari his sister. The body which he claims to be the legitimate trustees is therefore composed almost entirely of the plaintiff's own relations.

35. Even more telling is the failure of the plaintiff to produce the original resolution book or any contemporaneous record of the meetings of 11.08.2001, 16.12.2001 and 23.02.2002. A secondary of a private document is admissible only upon the foundation being laid for the absence of the original, that the original has been lost or destroyed, that it is in the possession of the opposite



party who has refused to produce it on notice, or any of the other circumstances specified in the section. No such foundation has been laid. The plaintiff says simply that the originals lie with the Trust, but he is, on his own showing, the Secretary of that very Trust and the custodian of those documents. The certified copies are, in the circumstances, of little evidentiary value.

36. Apart from the absence of corroborative oral and documentary evidence, the resolutions themselves run head-on into the testamentary disposition contained in the registered Will Ex.B4. That Will, executed on 19.09.1984 by Thiru. James N. Selvadas as the founder of the school, has been proved through DW-3 Chandrasekhar, who served as Headmaster of the school from 1967 till his retirement in 1997. He stood as the first attesting witness to the Will and has identified his signature in the box. The second attesting witness, Kumaranathan, has since died. The mode of proof of a Will under Section 67 of the Bharatiya Sakshya Adhiniyam, 2023 read with Section 63 of the Indian Succession Act, 1925, has thus been complied with, the testator being dead and one attestor having been examined and the other being unavailable. Ex.B4 stands as a proved document.

37. It is significant that the Will itself directs that the management of the Trust and the school shall vest in the family of the founder. This was the testimony of DW-2 Manogaran, who at one place stated:



"தன்னுடைய 5 பிள்ளைகளில் அவர் குடும்பத்தில் யார் நிர்வாகம் செய்கிறார்களோ அவர்களைத் தவிர வேறு யாருக்கும் பள்ளி நிர்வாகம் செய்ய யாருக்கும் உரிமை இல்லை என எழுதப்பட்டு இருந்தது."

38. DW-1, the defendant himself, was emphatic on the point in his evidence and even more so in cross. The plaintiff is admittedly not a member of the founder's family. He is, by his own admission in cross-examination, a document writer. He is the son of one Chinnappillai. He is not the son, daughter or descendant of Thiru. James N. Selvadas. The induction of such an outsider into the office of Secretary of a family-administered educational trust, without any contemporaneous record and without any one of the original trustees being examined to vouchsafe the resolutions, is a proposition that this Court is unable to accept on the evidence presently before it.

39. To this it may be added that the plaintiff has shown a remarkable indifference to the very basic incidents of the office he claims to hold. In cross-examination, when asked whether direct grant comes to the school, he deposed as, "இல்லை, நான் பள்ளியின் செயலாளர் என்ற முறையில் நிர்வாகத்திடம் இருந்தே மானியம் வழங்கப்படுகிறது", but in the same breath admitted that the salaries of the teachers come through the Sub-Treasury and that he himself does not know the amount. He claimed that there is presently only one government-



paid teacher in deputation; the school strength has fallen to about forty. The picture that emerges is not of a properly functioning office held by an elected Secretary, but of a person clinging to a paper title disconnected from any genuine administrative function.

40. It is also necessary to notice the marked discrepancy regarding the registration number of the Trust. The plaint states the registration number to be 361/1989; the actual registration number, as borne out by Ex.B2 (the original Trust Deed) and as ultimately conceded by PW-1 in cross, is 361/1988. A person who claims to be the Secretary of a Trust, but who does not even know the correct registration number of the very Trust whose Secretaryship he is asserting, raises a serious question over the authenticity of his pretensions. Ex.B2, the original Trust Deed of 07.12.1988, is the very foundational document of the Trust; its absence from the plaintiff's documents and its production by the defendant himself is telling.

41. It was urged by the learned counsel for the plaintiff that the doctrine of *factum valet* would protect any irregularities in the constitution of the body of trustees. That doctrine, however, has no application where the very fact of an election or induction is in dispute and is unproved. *Factum valet quod fieri non debuit* (that which ought not to have been done is yet valid when done) presupposes that something has, in fact, been done. Where the question is whether anything was done at all, the maxim has no scope.



42. On a careful and dispassionate review of the entire evidence on record, this Court finds that the plaintiff has not discharged the burden of proving that he was lawfully inducted as a trustee on 11.08.2001 or that he was lawfully elected as Secretary of the M.J.M. Trust on 16.12.2001 or as Secretary cum Correspondent of the Educational Committee on 23.02.2002. The certified-copy resolutions Ex.A1 to Ex.A4 stand uncorroborated, by the testimony of any other trustee, and by the testamentary disposition of the founder. They are, in the language of the written statement, fabricated documents brought into existence by a circle of the plaintiff's own relations to wrest control of an aided minority institution from the founder's family.

43. This Court therefore proposes a finding on Issue No. 3 against the plaintiff.

As to Issues Nos. 4 and 5 — Whether the plaintiff has been peacefully administering the Trust and the school, and whether the defendant has interfered with such administration

44. These two issues are inter-linked and may conveniently be addressed together. The premise of both issues is that the plaintiff was, at the relevant time, in lawful possession of the office of Secretary. That premise has not been established, and so the question of "peaceful administration" being interfered with does not, strictly speaking, arise. Nevertheless, since evidence has been led on these aspects, this Court briefly notices it.



45. The plaintiff's case on actual interference is confined to the single allegation that on 05.11.2003 the defendant came to the school and gave instructions to the Headmaster against the plaintiff. There is no Headmaster examined to support this. There is no contemporaneous complaint, no notice issued by the plaintiff to the defendant, no document from the school records relied upon. In cross-examination, the defendant categorically denied that he had visited the school on that day. He stated that he had been away from Vaniyambadi from 2001 onwards and that he had had no occasion to visit the school in 2003. He went so far as to admit:

"2001-ம் ஆண்டிலிருந்தே நான் மேற்படி டிரஸ்ட்டை விட்டு சென்றுவிட்டதால் 2003-ம் ஆண்டில் நான் டிரஸ்ட்டின் பள்ளிக்கு செல்ல வேண்டிய அவசியம் ஏற்படவில்லை".

46. This seriously weakens the defendant's earlier assertion that he had visited the school on 05.11.2003 "to inspect the rights and to take legal action", a statement made in the written statement which he has now resiled from. But it also undermines the plaintiff's case of an active, continuing interference; for if the defendant was indeed away from Vaniyambadi from 2001 onwards, the alleged interference of 05.11.2003 falls flat. PW-1 himself, in his examination-in-chief, says nothing more about "interference" than the bare visit of 05.11.2003. There is no evidence on record that the defendant has, after the institution of this suit, done anything to disturb the working of either the Trust or



the school.

47. On the other hand, the evidence shows that for some twenty-three years between 2001 and the date of trial, the defendant did not pursue any active step at the school or the Trust office. He pursued his remedies before the High Court of Madras in W.P. No. 22850/2001 and W.P. No. 8196/2004; he had the ex parte decree in this very suit set aside through Crl.O.P. No. 2238/2019 dated 24.08.2023 on payment of Rs. 1,00,000/- as costs. Beyond those legal proceedings, his interest in the Trust and the school was negligible.

48. Equally, however, the plaintiff's claim of "peaceful administration" must be tested against his admissions. He admitted that no resolution book of the Trust has been filed; that he cannot say with certainty when board meetings were held after 2001; that the original Trust Deed is not with him; that he himself was the typist for the sale deed Ex.B1 by which the very plot on which the school was running was conveyed in 2007 to his mother by way of a power of attorney executed in favour of his brother-in-law.

49. Taking the evidence as a whole, this Court is unable to find that the plaintiff has been in any meaningful sense the lawfully-administering Secretary of the Trust, and equally unable to find that the defendant has, at any point material to the suit, actively interfered with such administration. Issue No. 4 is therefore proposed to be answered against the plaintiff. Issue No. 5 is proposed to be answered in the negative as well, since there is no satisfactory evidence of



interference by the defendant.

As to Issue No. 6 — Whether the plaintiff is entitled to the relief of declaration

50. Section 34 of the Specific Relief Act, 1963 enables a person entitled to any legal character to institute a suit for a declaration that he is so entitled, and the court may, in its discretion, make such declaration. The provision is, however, hedged by the proviso that no court shall make any such declaration where the plaintiff is able to seek further relief and omits to do so. The exercise of the power is, in any case, discretionary and is to be tempered by considerations of justice, the conduct of the plaintiff, the form of the suit, and the absence of necessary parties.

51. In the present suit, the plaintiff has failed on the basic factual question of his election. He has failed to establish that the defendant interfered with him. He has failed to implead the Trust whose Secretaryship he is asserting. He has come to a Court whose jurisdiction is, at the very least, doubtful in respect of the school management aspect. Section 34 of the Specific Relief Act is in such a setting hardly available to him. No declaration of legal character can issue when the legal character itself is on the face of the record unproved, the proper parties are absent, and the relief, even if granted, would in substance amount to interference in the management of an aided minority school in disregard of the regulatory regime.



52. This Court therefore proposes to record a finding on Issue No. 6 against the plaintiff and to decline the relief of declaration.

As to Issue No. 7 — Whether the plaintiff is entitled to the relief of permanent injunction

53. The relief of permanent injunction is governed by Sections 38 and 41 of the Specific Relief Act, 1963. A permanent injunction is granted to prevent the breach of an obligation existing in favour of the plaintiff. The plaintiff must establish a clear right and a real or imminent threat to that right. Section 41(h) bars the grant of an injunction when an equally efficacious relief can certainly be obtained by another usual mode of proceeding except in case of breach of trust.

54. Where the principal substantive relief of declaration has failed, the consequential relief of permanent injunction must, as a rule, fail with it. Apart from this, no real or imminent threat to the plaintiff's claimed right has been established. The defendant, by his own admission, was away from Vaniyambadi from 2001 to 2016 and confined himself to writ proceedings before the High Court. Twenty-three years have passed since the suit was instituted, and there is nothing on record to suggest that the defendant has, in those years, done anything physically or administratively at the school or the Trust to disturb the plaintiff. An injunction is not granted in the abstract, against an apprehension that has not crystallised into a concrete threat.



55. This Court therefore proposes to record a finding on Issue No. 7 against the plaintiff.

As to Issue No. 8 — What other relief

56. In view of the findings on the foregoing issues, no further relief survives for consideration.

57. Before parting with the discussion, this Court considers it necessary to record certain observations that arise from the unusual length of these proceedings and the conduct of the parties.

58. This suit was instituted on 10.11.2003. It is now decided on 30.04.2026, a duration of more than 2 decades. An ex parte decree had once been passed; that decree was set aside by the Hon'ble High Court in Crl.O.P. No. 2238/2019 by order dated 24.08.2023, on payment of Rs. 1,00,000/- as costs by the defendant. In the meanwhile, the school has dwindled from a strength of nearly five hundred students to about forty. The site at Door No. 253, Kosatheru, Chennampettai, the very plot at which Thiru. James N. Selvadas had nurtured the institution from 1953 onwards, has been the subject of a sale in 2007 in favour of the plaintiff's mother on the strength of a power of attorney executed in favour of the plaintiff's brother-in-law, with the plaintiff himself standing as the document-typist. Whatever the rival contentions of the parties on the legality of these transactions, the picture that emerges is one of an institution founded in pursuit of the laudable object of educating the children of the downtrodden and



now reduced to a forum for the personal disputes of a small group.

59. This Court has, while writing the foregoing discussion, kept itself within the four corners of the pleadings, the evidence, and the issues framed. It is not for this Court, in this suit, to decide who is in fact the lawful Secretary of the M.J.M. Trust; that question cannot be decided in the absence of the Trust itself and the other trustees, and may at any rate require the leave of a court competent under Section 92 of the Code of Civil Procedure. All that this Court can and does say is that the plaintiff, on the case set up by him in this suit, has not made out an entitlement to the reliefs prayed for.

60. It is appropriate to remind both sides that nothing said in this judgment should preclude the proper authorities namely, the District Educational Officer, the Sub-Registrar's office where the trust documents stand registered, and such other competent forum as may be appropriate under the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, from taking such action as the law contemplates in respect of the management of the school and the integrity of the trust property. Nor shall anything said in this judgment preclude any of the trustees, or any person interested in the Trust, from taking recourse to such proceedings under the Code of Civil Procedure or the law relating to public charitable trusts as may be available in law.

**VIII. Result**

61. In the result, this **suit is dismissed**. The parties shall bear their own costs.

Directly typed by me in my official laptop, corrected and pronounced by me in open Court on this the 30th day of April, 2026.

**District Munsif,
Vaniyambadi.**

APPENDIX**List of Witnesses examined for the Plaintiff:**

PW-1 : C. Mahendiran (Plaintiff)

List of Exhibits marked for the Plaintiff:

Exhibit	Date	Description
Ex.A1	11.08.2001	Certified copy of Resolution No. 1 of the M.J.M. Trust
Ex.A2	16.12.2001	Certified copy of Resolution No. 3 of the M.J.M. Trust
Ex.A3	23.02.2002	Certified copy of Resolution No. 2 of the M.J.M. Trust
Ex.A4	12.05.2002	Certified copy of Resolution No. 2 of the M.J.M. Trust
Ex.A5	-	Authorisation letter said to have been issued by the Chairman of the M.J.M. Trust in favour of the plaintiff
Ex.A6	-	Structural soundness certificate (A.B.C. Certificate) of Thiru. Vee. Ka. Aided Middle School
Ex.A7	-	'D' Certificate issued by the Tahsildar, Vaniyambadi
Ex.A8	-	Sanitary certificate



Ex.A9	-	No-Objection Certificate of the Fire Service Department
Ex.A10	-	Typed set of papers of W.P. No. 8196 of 2004
Ex.A11	-	Petition and Affidavit in W.P. No. 8196 of 2004

List of Witnesses examined for the Defendant:

DW-1 : J.S.T. Nallappa (Defendant)

DW-2 : M. Manogaran

DW-3 : Chandrasekhar (Retired Headmaster of Thiru. Vee. Ka. Middle School)

List of Exhibits marked for the Defendant:

Exhibit	Date	Description
Ex.B1	31.07.2007	Certified copy of registered sale deed (document No. 3655/2007) executed by Raniammal & others in favour of Saraswathi (mother of the plaintiff)
Ex.B2	07.12.1988	Original Trust Deed of the Mary James Memorial Trust (Registration No.361/1988)
Ex.B3	28.08.2017	Certified copy of order dated 28.08.2017 in E.P. No. 45/2014 in O.S. No.63/2013 of the Additional District Munsif Court, Vaniyambadi(dismissal order)
Ex.B4	19.09.1984	Certified copy of registered Will (document No. 57/1984) executed by Thiru. James N. Selvadas
Ex.B5	27.03.2002	Certified copy of supplementary trust deed (document No. 214/2002) to the Mary James Memorial Trust dated 07.12.1988

**District Munsif,
Vaniyambadi.**