

SA(MD) No.16 of 2025 and CMP(MD).No.16732

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment reserved on 02.04.2026 | Judgment pronounced on .04.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

SA(MD) No.16 of 2025 and
CMP(MD).No.16732 of 2025 and CMP(MD).No.593 of 2025

Palanichamy

.. Appellant / 2nd Plaintiff

Vs.

1.Poochikalai
2.Poochikalai
3.Chinnasamy

.. Respondents / defendants

Prayer: Second Appeal filed under Section 100 CPC against the decree and Judgment passed in A.S.No.136 of 2020 on the file of the Subordinate Court, Manapparai dated 16.10.2024 reversing the Judgment and decree passed in O.S.No.256 of 2000 on the file of the Additional District Munsif Court, Manapparai, dated 11.07.2018.

For Appellant : Dr.C.Gunaseelaran

For Respondent No.1 : Mr.A. Saravanan
For respondent No.4 : Mr.N. Ramanathan
in CMP(MD).No.16732 of 2025

JUDGMENT

The second plaintiff, aggrieved by the reversal findings rendered by the



first Appellate Court, is the appellant in the present Second Appeal.

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2. I have heard Dr.C.Gunaseela Rupan, learned counsel appearing for the appellant, Mr. A. Saravanan, learned counsel for the 1st respondent, and Mr.A.N. Ramanathan, learned counsel appearing for the proposed 4th respondent in CMP(MD) No. 16732 of 2025.

3. The brief facts that may be necessary to adjudicate the present Second Appeal are as hereunder:

(i) The plaintiffs filed a suit in O.S. No. 256 of 2009 seeking a relief of declaration to declare them as pujari in Arulmigu Soolapidariamman Temple and for permanent injunction to restrain the defendants from in any manner interfering with the Pujariship rights. The suit was contested by the defendants stating that the plaintiffs did not have any pujari rights in the temple and they were not entitled to the reliefs as prayed for. After trial, the suit was decreed on 11.07.2018. After the decree dated 11.07.2018, a fit person was appointed for the administration and management of Arulmigu Soolapidari Amman Temple. Before the first Appellate Court, the first appeal was preferred by the first defendant, and the same was allowed on 16.10.2024.



ii) Pending the first appeal, the proposed 4th respondent, viz., the fit person of the temple, moved an application in I.A.No. 1 of 2022 seeking to implead himself as a party respondent in the first appeal. However, the said application was dismissed by order dated 07.12.2022. The proposed 4th respondent did not challenge the dismissal of the impleading application, and the said matter attained finality. However, in the present Second Appeal, the first respondent has taken out CMP(MD) No. 16732 of 2025 seeking to implead the 4th respondent, the fit person of the temple, contending that though the 4th respondent did not challenge the dismissal of the application in I.A. No. 1 of 2022, there was no occasion for the first respondent to take up the matter earlier. Further, in view of the pendency of the first appeal, though the first appeal has now been decided in favour of the first respondent, the first respondent states that the 4th respondent is a proper and necessary party for effective adjudication of the Second Appeal.

iii) The above said application has been strongly opposed by the learned counsel for the appellant, contending that when an attempt to implead the fit person was unsuccessful even before the first Appellate Court, it is not open to the successful first respondent to seek impleadment of the fit person of the temple in the present Second Appeal. It is also his contention that the fit person came to be appointed only pursuant to the decree granted in favour of the

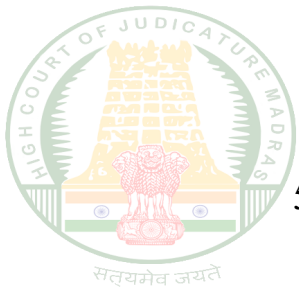


plaintiffs and, therefore, the fit person does not have any role to play. It is also his contention that the management and administration of the temple is an entirely different issue, and the suit is only to declare the pujari rights of the appellant and hence, the fit person is neither a proper nor a necessary party, and therefore, he seeks dismissal of the application.

iv) By order dated 16.03.2026, I had directed the CMP to be taken along with the Second Appeal. Accordingly, the Second Appeal, along with the CMP has been argued by the learned counsel for the respective parties.

4. With the consent of the learned counsel appearing on either side, the following substantial question of law was framed:

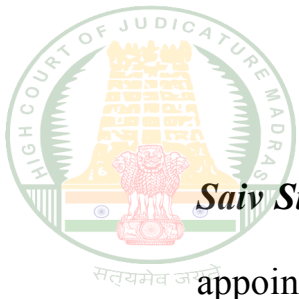
“Whether the lower Appellate Court is right in deciding the appeal solely on the ground that the amended provisions of the Hindu Religious and Charitable Endowments Act are applicable to the temple when the temple is not having any permanent structure, but only a Peedam with Soolam?”



5. The arguments of the learned counsel for the appellant:

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(i) The learned counsel for the appellant would state that the plaintiffs are claiming to establish and declare rights which are hereditary in nature and also based on customary practice, which has been in existence from time immemorial in the plaintiff temple, viz., Soolapidari Amman Temple. He would refer to Section 55 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (herein after referred as “Act”), contending that the said Section cannot be applied to the facts of the present case. On the contrary, it is his submission that the judgment of the Hon’ble Supreme Court reported in **1972 (2) SCC 11** in the case of ***Seshammal and others etc. vs. State of Tamil Nadu***, and the judgment of the Hon’ble Supreme Court reported in **2016 (2) SCC 725** in the case of ***Adi Saiv Sivachariyargal Nala Sangam and others vs. Government of Tamil Nadu and another***, have been subsequently followed by the Division Bench of this Court in its judgment dated **27.06.2022** in ***W.P.(MD) Nos. 15739 and 16287 of 2021*** in the case of ***Chellapa Iyer vs. State of Tamil Nadu rep. by Secretary to Government, Hindu Religious and Charitable Endowments Department and others***. Relying on the above judgments, the learned counsel for the appellant states that the Hon’ble Supreme Court as well as this Court have consistently held that when it comes to the appointment of archakas, the ratio laid down in the cases of ***Seshammal and others*** and ***Adi***



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Saiv Sivachariyargal Nala Sangam will have to be applied, and if there is any appointment contrary to the said provisions or directions of the Hon'ble Supreme Court, it shall be open to the aggrieved persons to challenge the individual appointment in the manner known to law.

(ii) Relying on relevant paragraphs in the above three decisions, the learned counsel for the appellant contends that the Hon'ble Supreme Court has also accepted and adopted the hereditary principle, which has been duly recognised under Section 55 of the Act, and in such circumstances, the plaintiffs were certainly entitled to have their rights declared. This is especially so when the Division Bench of this Court in ***Chellapa Iyer case*** has also held that an aggrieved person is entitled to challenge any appointment made contrary to the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act and the decisions of the Hon'ble Supreme Court in ***Seshammal and others*** and ***Adi Saiv Sivachariyargal Nala Sangam***, in the manner known to law.

(iii) The learned counsel appearing for the appellant would further contend that the plaintiffs have filed Exs. A1 and A2, which clearly recognize the factum of the plaintiffs performing pooja in the temple. The learned counsel would further state that, in view of the customary rights and practices in place, the authorities cannot invoke Section 55 of the Act to deny the entitlement of

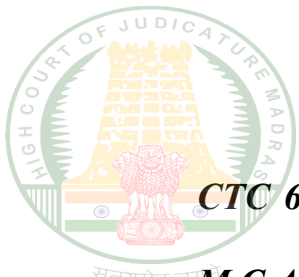


the plaintiffs to pujari rights.

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6. Per contra, the learned counsel appearing for the first respondent would state that Section 55 of the Act has undergone an amendment and the case of the appellant probably would have no legs to stand in view of the amended Section 55 of the Act, which has also been dealt with in the judgment of the Hon'ble Supreme Court in *Seshammal and Others case*. He would therefore contend that the amended Section 55 of the Act makes it very clear that the practice of recognising any customary or hereditary rights has been taken away under the said amendment. In such circumstances, the plaintiffs cannot come before the Civil Court and seek any such relief.

7. As regards the evidence, he would state that Exs. A1 and A2, which were marked during trial, have been found to be not reliable piece of evidence, and no acceptable or satisfactory evidence has been adduced by the plaintiffs to establish any absolute right or customary practice. Even otherwise, the learned counsel would contend that, in view of the amended Section 55 of the Act, the plaintiffs have no right to claim appointment. He would further state that the suit itself was not maintainable, as the plaintiffs ought to have approached the Joint Commissioner under Section 63(e) of the Act. In support of his submissions, he relied upon the decisions of this Court reported in 1) **1999 (2)**



CTC 625, in the case of ***V.S. Lakshminarayanan Iyenger and 8 others Vs.***

M.C.Arunachla Pillai and 8 others 2) reported in **2010 (4) LW 171**, in the case

of ***K.Devarajan and other Vs. The Commissioner of HR and CE Department***,

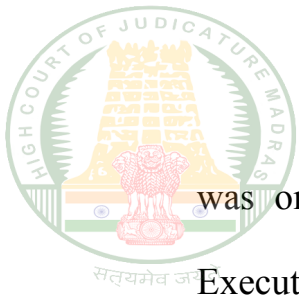
as well as the judgment in ***Seshammal and Others***, which has also been relied

upon by the learned counsel for the appellants. Therefore, he prayed for

dismissal of the Second Appeal.

8. The learned counsel for the 4th respondent has stated that, in view of the application moved during the pendency of the first appeal, it is entirely the discretion of the Court as to whether he should be impleaded or not, and that the attempt made by the 4th respondent himself to be impleaded during the pendency of the first appeal was unsuccessful. Though the Executive Officer / fit person is now sought to be impleaded by the first respondent in the Second Appeal, I do not see how the presence of the 4th respondent would add any value in arriving at a decision in the Second Appeal. In fact, the 4th respondent had earlier sought impleadment during the pendency of the first appeal, and the appellate Court dismissed the said application.

9. Insofar as the contention regarding delay is concerned, though it has been pointed out by the learned counsel for the petitioner / first respondent that there can be no delay since the appointment of the fit person / Executive Officer



was only after the suit was decreed, in any event, I do not find that the Executive Officer / fit person is either a proper or necessary party to the Second Appeal. The only issue that is required to be considered in the Second Appeal is the applicability of Section 55 of the Act, for which the presence of the 4th respondent is not necessary. Hence, the said **CMP(MD).No.16732 of 2025** is **dismissed**.

10. The core issue relates to Section 55 of the Act, which is extracted hereunder for ready reference:

55. Appointment of office-holders and servants in religious institutions:

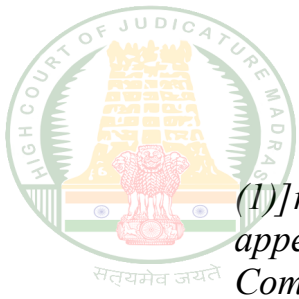
(1) Vacancies, whether permanent or temporary, among the office-holders or servants of a religious institution shall be filled up by the trustee [in all cases.]

[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) [***]*

(4) Any person aggrieved by an order of the trustee under [sub-section

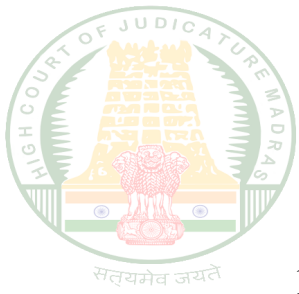


(1)] may, within one month from the date of the receipt of the order by him, appeal against the order to [the Joint Commissioner or the Deputy Commissioner)

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11. In cases where the office or service is hereditary, the person next in the line of succession shall be entitled to succeed. However, Section 55 of the Act was amended by Act 2 of 1971. In the case of **Seshammal and Others**, the Hon'ble Supreme Court was dealing with the un-amended Section 55 of the Act and, in that context, recognised customary practices and hereditary rights. However, in the present case, admittedly, on the relevant date, the amendment had come into force, and therefore, the present Section 55 of the Act alone can be applied to the facts of the present case.

12. It is clear from a reading of the amended provision that the same applies to Archagars, and no person shall be entitled to appointment to any vacancy, whether permanent or temporary, on the ground that he is next in the line of succession to the last holder of the office. By virtue of the amendment to Section 55 of the Act, the rights available to a person who was claiming to be the next in the line of succession have been wholly taken away. Therefore, it is not open to the plaintiffs to contend that, having performed pujari rights and also having established certain customs, they are entitled to be declared as pujaris.



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13. In this context, the decisions that have been relied on by the learned counsel for the first respondent, assume significance. In ***V. S. Lakshminarayanan case***, this Court held that, by virtue of the amended Section 55 of the Act, the plaintiffs cannot seek a declaration recognising them as hereditary Archagars. Similarly, in ***K. Devarajan's case***, this Court held that, by Act 2 of 1971, all reference to notice of service under religious circumstances as hereditary or otherwise has been deleted, and the amended Section 55(2) of the Act, along with the explanation to Sub-Section 55(1) of the Act, makes it clear that no person can claim to be entitled to be recognised or appointed as a hereditary Archagar or pujari in a religious institution. The ratios laid down in these cases squarely apply to the facts of the present case. I do not see how the ratio laid down by the Apex Court in ***Seshammal's case*** would apply to the present case on the said decision as already discussed the Apex Court was only testing the amended Section 55 of the Act.

14. The plaintiff has approached this Court seeking a declaration that hereditary pujarships have to be recognised in view of the amendment to Section 55 of the Act. I do not see how the plaintiff is entitled to any such relief in the first place. The first Appellate Court has rightly appreciated the legal position and set aside the decree of the trial Court. I do not find any infirmity or



illegality in the well-considered findings of the first Appellate Court.

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15. In fine, there is no merit in the Second Appeal. The substantial question of law is answered against the appellant. Accordingly, this Second Appeal is dismissed, thereby confirming the Judgment and Decree passed by the first Appellate Court. It is made clear that the dismissal of the appeal will not prevent any person claiming a right from moving under Section 63(e) of the Act and seeking appointment as pujari by establishing hereditary customs to the satisfaction of the authority. Consequently, the CMP(MD).No.593 of 2025 is closed. The CMP(MD).No.16732 of 2025 is dismissed. No costs.

.04.2026

Neutral Citation Case : Yes / No

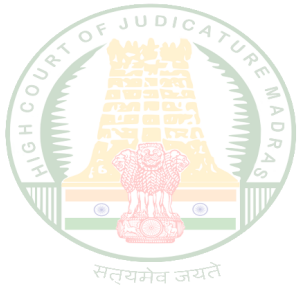
Speaking / Non-speaking order

Index : Yes/No

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To

1. The Subordinate Court, Manapparai.
2. The Additionl District Munsif Court, Manapparai.



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SA(MD) No.16 of 2025 and CMP(MD).No.16732 -j-----

P.B.BALAJI.J.

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Pre-delivery Judgment made in
SA(MD) No.16 of 2025 and
CMP(MD).No.16732 of 2025 and
CMP(MD).No.593 of 2025

.04.2026