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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	11.08.2025
Pronounced On	:	21.01.2026

CORAM:

THE HON'BLE MR.JUSTICE **K.K.RAMAKRISHNAN**

A.S.No.372 of 1991
and
CMP(MD)Nos.1114 of 2023

Arulmighu Kallalagar Thirukoil,
Alargarkoil,
by its Executive Officer. ... Appellant/Plaintiff

(Cause title of the appellant accepted under Order dated 11.04.1991 in CMP(MD)No.4686 of 1991)

Vs.

1.S.S.Rajaram

2.S.S.Ramasundar

3.S.S.Amarnath

4.S.G,Dindmani

5.S.S.Mohanram (Died)

6.S.K.Surendran

7.S.K.Ravindran

8.S.N.K.V.Subramanian (Died)

9.S.V.Duraiswamy

10.Tillok Chand (Died) ... Defendants/Respondents

11. S.M.Dhakshnamurthy

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(11th Respondent is brought on record as LRs of the deceased 5th Respondent vide Court order dated 07.02.2017 and 22.02.2017 made in MP(MD)Nos.4 to 6 of 2013 in AS(MD)No.372 of 1991 by SSSRJ)

12.S.S.Jeevanram
13.S.S.Ganesh

(Respondents 12 and 13 are brought on record as LRs of the deceased 8th Respondent vide Court order dated 07.02.2017 and 22.02.2017 made in MP(MD)Nos.7 to 9 of 2013 in AS(MD)No.372 of 1991 by SSSRJ)

14.T.Champalal
15.T.Dilipkumar ... Respondents

(Respondents 14 and 15 are brought on record as LRs of the deceased 10h Respondent vide Court order dated 11.08.2025 made in CMP(MD)No.12660 of 2025 in AS(MD)No.372 of 1991 by KKRKJ)

Prayer : This Appeal Suit has been filed under Section 96 of C.P.C., to set aside the judgment and decree dated 16.11.1990 made in O.S.No.267 of 1989 on the file of the II Additional Sub-Judge, Madurai.

For Appellant : Mr.A.K.Sriram, learned Senior counsel and Mr.S.Manohar

For Respondents : Mr.V.Meenakshi Sundaram for Mr.D.Nallathambi for R2, R3, R6, R7, R9 & R11 to R13

: Mr.J.Barathan for R14 & R15

: R5, R8 & R10 Died

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JUDGMENT

The plaintiff/Temple authority of Arulmighu Kallalagar Thirukovil, in O.S.No.267 of 1989 on the file of the II Additional Subordinate Judge, Madurai, has filed this appeal challenging the impugned judgment dated 16.11.1990.

2. For the sake of convenience and brevity, the parties are referred to as per their litigative status before the trial Court.

3. **The brief averments made in the plaint are as follows**:-

The plaintiff-temple averred that the suit scheduled property is the 'Inam land' comprised in T.D.No.1500. The said inam land was called as '*water pandal Maniyam*' dedicated to the trust for running water pandal during the festivals of the plaintiff temple. One Saravana Mudaliar was the trustee in possession of the inam land. Subsequently, as per the Section 30 of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1963, all minor inams were abolished and further, the same were vested with the Government including the suit scheduled

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property as per Section 3 of the Act. The temple authority, applied for settlement patta under the said Act. The Assistant Settlement Officer, Unit-I, Madurai, issued a ryotwari patta to the plaintiff-temple after due enquiry by the order dated 16.05.1967 in SR.No.923/m.i.Act/MDU/66. From the date 16.05.1967 onwards, the plaintiff-temple has become the absolute owner of the suit scheduled property. The defendants 1 to 9 unlawfully encroached the land by making number of constructions and also were in unlawful possession. Therefore, the temple authority sent a legal notice on 18.12.1989 to deliver the property and the same was suitably replied by the defendants stating that the defendants have taken steps to set aside the ryotwari patta issued by the Assistant Settlement Officer, Unit-I, Madurai. In view of the unlawful possession, illegal construction and to thwart further construction, the plaintiff-temple filed the present suit for recovery of possession, mandatory injunction directing the defendants to demolish the suit scheduled property, delivery of vacant possession, permanent injunction restraining the defendants from putting up any constructions in the suit scheduled property and mesne profit. They further stated that the suit is not bared by limitation as per the Section 109 of the Hindu religious and Charitable Endowments

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Act.

4. **The brief averments made in the written statement are as follows**:-

4.1. The defendants filed written statement denying the property covered under Section T.D.No.500 and also denying the '*water panthal maniyam land*' and they specifically denied that the land was not dedicated for the purpose of running water panthal during the festival of the plaintiff-temple.

4.2. They also specifically denied that Saravana Mudaliar was the trustee of the said property at the request of the temple authorities.

4.3. They also denied the granting of roytwari patta in favour of the plaintiff-temple and also stated that the order was passed without giving notice to the defendants and hence, appeal was filed in CMA.No. 11 of 1983 and the same was set aside. Therefore, there was no title vested with the temple. Further, except the order of the settlement officer dated 16.05.1967, no document was produced to prove that the plaintiff-temple is the absolute owner of the suit scheduled property. The

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settlement officer passed the order in the year 1967 without giving notice to the defendants. The suit scheduled property was formerly known as "Palmyrah Grove" and it has been dealt by the family of Chetti Chockan Chettiar and then by Venkatarayalu Chettiyar and the sons of Chetty Chockan Chettiar and this property has been dealt under the partition deed dated 23.12.1869 between the sons of Venkatarayalu Chettiyar and his sons. The defendants are in the occupation of the property for a long time and in continuous possession. On the date of the filing of the suit, no title deed was vested with the temple except the order of the settlement officer dated 16.05.1967.

4.4. It is specifically stated that the property was purchased from one Saravana Mudaliar. The property conveyed being 41/2 Kuzhies of "Palmyrah grove" specifying the boundaries of the property, which correlates to the present suit property and other properties subsequently alienated. Under this document, there is a direction to perform the Thirukkan during the visit of Lord Kallalagar to Madurai during the festival of Chithirai Thiruvizha. It was never given as specific endowment. There was no entrustment of any property by the temple

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authority. There was no dedication. Therefore, the case of the plaintiff-temple that the property was dedicated to the Trust is not correct. It is for the mandagapadi of the family. The temple authority used to receive money from the defendants for the performance of "thirukkan" at the suit scheduled property every year. The plaintiff-temple was not in possession of the property and they did not dedicate any of the property to the defendants. The suit scheduled property is the own property of the defendants, and they are obligated to call the temple authority to erect the Lord Kallalagar in their own place during the Chithirai Thiruvizha festival to perform "Tirukkan". The four sons of Venkatarayulu Chettiar entered into partition on 03.06.1912. A portion of income was utilised for performing "thirukkan", "mandagapadi" and doing the distribution of water. They are in possession for more than 120 years. That being the situation, the order was obtained behind back of the defendants and settlement officer passed the order. Even during the settlement proceedings, no document was produced to substantiate the plaintiff-temple's title, except the settlement order. Without any original title deed, only on the basis of T.D entries, the case was filed by the plaintiff-temple. Without a relief of declaration of the title, the suit is not

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maintainable.

4.5. They also raised the plea that the civil Court has no jurisdiction to decide the title in respect of the finding in the settlement proceedings. Hence, they prayed for dismissal of the suit.

5. The learned trial judge, on the basis of the rival pleadings, framed the necessary issues. The plaintiff to prove the case, examined P.W.1 and marked Ex.P1 & Ex.P17 and also on the side of defendants, the second defendant was examined as D.W.1 and marked Ex.D1 to Ex.D205.

6. The learned trial judge after considering the entire evidence on record, dismissed the suit holding that the plaintiff-temple has not established the title over the suit scheduled property. The mere recital ***to perform the thirukkan and water panthal in the document of the defendants,*** does not mean any dedication, and the same does not come under the specific endowment defined under the Hindu religious and Charitable Endowments Act.

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6.1. The learned trial Judge has further held that the suit is maintainable irrespect of the settlement patta granted in the year 1967 and the settlement order was not only set aside in the appeal and in view of the judgment of the Hon'ble Supreme Court reported in 1985 (4) SCC 10, the suit is maintainable. The plaintiff-temple was never in possession of the property and the case of the plaintiff-temple that there was a specific endowment relating to the suit scheduled property is not accepted in view of the settled position of law laid down by this Court in various pronouncement which holds the field till day, that the "mandagapadi" does not come under the specific endowment purpose, and hence, the temple authority has no right to seek any of the relief claimed in the plaint.

7. Challenging the same, the plaintiff-temple has filed this appeal suit before this Court.

8.The learned Senior Counsel Thiru.A.K.Sriram and

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Mr.S.Manohar learned counsel appearing on behalf of the appellant made detailed submissions:

8.1. The learned senior counsel appearing for the appellant/temple authority has argued that the documents produced by the defendants itself contains clear recital of specific religious endowment. The documents clearly refers that there is specific dedication and hence, the case comes under the definition of Section 2(16) of the Hindu religious and Charitable Endowments Act.

8.2. The learned senior counsel further submitted that the learned trial Judge failed to consider that when the defendants took the plea of adverse possession, then there is no question of proving the title if the plea of adverse possession is admitted.

8.3.The learned Senior counsel further submitted that the settlement officer passed the order after considering the entire records. Apart from that, Ex.A1 inam fair register also was produced to prove the title of the temple. In the said circumstances, the defendants are in the illegal occupation, they are entitled to recover the property. There was no

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limitation for filing recovery of possession on behalf of the temple authority as per Section 108 of the Hindu religious and Charitable Endowments Act.

8.4. The learned Senior counsel would also submit that when the document itself shows that the property was dedicated for performing "thirukkan" and "water panthal", then there is no question of the absence of the absolute dedication.

8.5. The learned Senior counsel also relied the following judgments of the various Courts to substantiate his contention that the suit scheduled property is a specific endowment.

> *i)**Idol of Sri Renganathaswamy represented by its Executive Officer, Joint Commissioner Vs. P.K.Thoppulan Chettiar, Ramanuja Koodam Anandhana Trust, represented by its Managing Trustee and Others*** **reported in** ***(2020) 17 SCC 96.***
>
> *ii)**Kesar Bai Vs. Genda Lal And Another** reported in **(2022) 10 SCC 217.***
>
> *iii)**Dagadabai (Dead) by legal Representatives Vs. Abbas Alias Gulab Rustum Pinjari** reported in **(2017) 13 SCC 705.***

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*iv)**The State of Haryana & Another Vs. Amin Lal (Since Deceased) Through His Legal Heirs And Others in SLP(C)No.25213 of 2024.***

9.1. Thiru.V.Meenatchisundaram, the learned counsel appearing for the respondents 2, 3, 6, 7, 9 & 11 to 13 and Thiru.J.Barathan, the learned counsel appearing for the proposed respondents 14 & 15 would submit that the case of the appellants that the property is not a dedicated property and inam water panthal. The claim of the appellant only on the basis of the settlement proceedings dated 16.05.1967, is not legally maintainable and no document was produced except the Inamfair Register. On the other hand, the respondents produced the sale deed and subsequent partition deed to prove their ancestors has title over the suit scheduled property. The learned trial Judge considered the above said aspects, gave a finding that the appellant has failed to prove the title over the suit scheduled property and hence, the suit for recovery of possession is not maintainable on the basis of the analysis of evidence on fact. Therefore, there is no need to interfere with.

9.2. The learned counsel would further submit that as per the

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judgment of the Hon'ble Supreme Court dated in ***1985 (4) SCC 10***, the suit is maintainable irrespective of the granting of settlement patta during the proceedings. Moreover, in this case, the order was obtained behind the back of the respondents. The respondents are the owners of the property on the date of the settlement order. The property is the private property of the ancestors and they enjoyed the property as private property. Subsequently, it was alienated to number of persons and the remaining land was available and the same was properly considered by the learned trial Judge and dismissed the suit.

9.3. There was huge delay in filing the suit for recovery of possession and therefore, without declaration, the suit is not maintainable. The settlement proceedings dated 16.05.1967, was set aside in C.M.A.No.11 of 1983 by the competent tribunal and remanded back to the authority to consider the same.

9.4. The learned counsel would further submit that there was no question of specific endowment. There was no complete dedication and only the mandagapadi has been conducted in the property every year and

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they invite Lord Kallalagar in that place. For that purpose, the appellant/temple received the amount from the respondents every year, and they regularly visited that place. The "Mandagapadi" is clearly considered by this Court in 72 LW 646 and also very recently, the learned Judge of this Court in 2024 (4) LW 609 elaborately considered this aspect and held that the mandagapadi is not a specific endowment. Hence, the learned trial Judge correctly dismissed the suit filed by the appellant/temple authority.

10. This Court considered the rival submissions and perused the materials available on record and also the precedents relied upon by them.

11. From the rival contentions, made in the suits, the following points for determination arises in this appeal.

> *i) Whether the plaintiff/temple established the title over the suit scheduled property to maintain the suit for recovery of possession, mandatory injunction and permanent injunction against the defendants?*
>
> *ii) Whether the suit filed by the temple authority for recovery of possession and mandatory*

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injunction without relief of declaration is maintainable?

iii) Whether the the relief of plaintiff/temple is barred by limitation?

iv) Whether the performance of mandagapadi and water panthal during the festival comes under the definition of the specific endowment as per Section 2(19) of the Hindu Religious and Charitable Endowments Act?

12. The appellant filed a suit for mandatory injunction to remove the construction made in the suit scheduled property, recovery of vacant land and permanent injunction restraining the respondents from making further construction in the suit scheduled property stating that the property is the absolute property of the appellant/temple on the ground that the same was the '*water panthal inam land*'. The same was in the occupation of one Saravana Mudaliar as a trustee and thereafter, as per the Inam Abolition Act, 1963, the title was vested with the government and the the settlement proceedings was initiated under the Act and they got order from the settlement officer dated 16.05.1967. From the date of 1967, the appellant/plaintiff is the absolute owner of the suit scheduled property and hence, they claimed for delivery of the property. Thereby,

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notice was issued only on 24.12.1988. But the suit was filed on 12.04.1989.

13. This Court perused the entire records and the evidence of P.W.1. The appellant/plaintiff came forward with the case that the temple land is a '*inam water panthal maniyam*' on the basis of the two documents namely, '*Inam Fair Register*' and the '*settlement order*' passed by the Assistant Settlement Officer, Unit-I, Madurai. In all circumstances, the '*Inam Fair Register*' is not a document to prove the title. The settlement proceedings dated 16.05.1967 is also a subject matter of CMA.No.11 of 1983 and the same was set aside and as admitted by the parties the same has been confirmed by this Court in S.T.A.No.2 of 1989. Apart from the above, no title deed or any other document was produced on behalf of the appellant/temple to show that the land is the '*water panthal maniyam*'. Without establishing their title, now they placed reliance of the following contents of the documents mentioned in the respondent's title deed and argued that the property is the specific endowment property and covered under Section 2(19) of the Hindu Religious and Charitable Endowments Act. This Court is unable

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to accept the argument of the learned Senior counsel for the appellant, for the reason that the similar averment in the document relied on by him is already interpreted by this court elaborately in the following cases and held that "Mandagapadi is a devotional act by private individuals who 'invite' the deity to their premises and incur expenses voluntarily and not part of the principal temple festival, and does not constitute a specific endowment. It does not envisage divestiture of property in favour of the deity nor a transfer of beneficial interest to the public. Contributions or fees paid by devotees to the temple during such ritualistic conduct cannot elevate the land to the status of a specific endowment." The relevant portion of the judgment 65 LW 368:

> *"The mandagapadi is not an integral part of the Chitrapournami Festival of the temple which is being conducted every year on the sands of the Vaigai. It is in no way connected with it. The occasion of that festival is taken advantage of to perform the worship under the trust when the Deity would be on its way to or from the temple to Madurai for the festival. Such worship which is familiarly known as Mandagapadi is common in our country. The Deity is invited to stop a while and worship is offered at places where the devotees want to worship it. An endowment for the conduct of such worship cannot be a specific endowment as it is in no way connected with the temple or any of its principal festivals. It is intended only for the benefit of the persons offering worship. Such an endowment being neither for the public nor for the performance of any recognized puja or festival of the temple. In Deoki Nandun V. Muralidhar (1) reported in AIR 1957 SCR 133, the Supreme Court held that in the case of a*

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private trust the beneficiaries would be specific individuals while in the case of a public endowment it would be the general public or a class thereof. In the present case, there is no difficulty in finding that the intention of the donor was to secure spiritual benefit to Mooka Konar and his family. I am of opinion that the conclusion of the lower Court that the trust is a private one is correct".

14. This Court in the reported case in 2024 4 LW 609 elaborately considered the similar issues and decided the issue against the appellant/temple. In the said case also, similar point was raised by the same appellant/temple against different persons. This Court considered the earlier proceedings decided by this Court and specifically holds that the concept of mandagapadi is unique, and in mandagapadi, the deity is invited, and worship is offered at the places where the devotees want to worship. The relevant paragraph 27 reads as follows:

"27. Finally, this Court is of the considered opinion that when the deity of Kallalagar is carried from Alagarkoil and return to Alagarkovil, some worshipers would offer neivathiyam, some offer poornakumba deepam, some offer deepam etc. Many worshipers No would offer one or the other things to the deity. All these offerings would happen on the mid of the road. However, some deity to a particular place and the deity persons would offer by inviting the would be available just for few minutes which is termed as Mandagapadi and for which an

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endowment is created. a mandagapadi does not mean only the performance of the pooja to the deity, but also includes annadhanam (feeding) to the guest invited for the occasion and other expenses connected to the pooja. A person who could not - afford a place for mandagapadi would do it on the road with annadhanam to people in and around him. A person who could afford an exclusive place for mandagapadi would do it in the place earmarked for it and annadhanam to guest invited to such place. If such mandagapadi of worshiping, offering, annadhanam is allowed to be interfered with, then it clearly amounts to interfering in one's fundamental right to worship, offering and annadhanam."

There was no dedication of the property either for Religious Charitable Activities or Specific Religious Endowment with complete dedication and divestiture of property. Further, the mandagapadi does not form part of the festival of the Lord Kallalagar Temple. Therefore, the plea of the specific endowment is against the above precedents already holding the field. Therefore, this Court is unable to accept the submission of the learned Senior counsel for the appellant/temple that the "said mandagapadi" comes under the definition of "specific endowment".

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15. Strong reliance was placed by the learned senior counsel for the appellant/temple on the judgment of the Hon'ble Supreme Court in *Idol of Sri Renganathaswamy represented by its Executive Officer, Joint Commissioner Vs. P.K.Thoppulan Chettiar,* ***Ramanuja Koodam Anandhana Trust, represented by its Managing Trustee and Others*** **reported in** ***(2020) 17 SCC 96*** and on the judgment of the Hon'ble Division Bench of this Court reported in ***case of the Idol of Sri Renganathaswamy, Vs. J.Sriram and others*** reported in ***2023 2 LW 577***. But, they are on different facts. The contents of the document relied on in the above said cases is not similar to the facts of the present case, where there is a complete dedication and divestiture of the property for the performance of the festival related to the religious activities. More particularly, there is a direction given in the said documents to perform Archana and do all the other religious charitable duties. In this case, there is neither complete dedication nor complete divestiture of the property for the religious endowment. Here there is entirely a different concept. “Mandagapadi” is the entirely different concept. Here, law was settled by this court long back in 1959 in the reported cases in 65 LW 368 and 72 LW 646 and the same has not been either overruled or

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reversed till date. There is no subsequent development of law that was brought to the knowledge of this Court to take a different view as against the law occupying in the field. In fact, the view taken in the above precedents was reiterated in ***2024 4 LW 609***. Therefore, this Court is unable to accept the plea of the learned senior counsel for the appellant/temple in view of the principle of *Stare decisis*. In all mandagapadi cases, this Court, consistently held that it does not come under the Hindu Religious and Charitable Endowments Act. It is only an offering of Lord Kallalagar to visit their own building for the family worship. For which, temple authority collected fees from the respondents by giving receipt. Therefore, the case of the learned senior counsel that the property comes under the definition of specific endowment is misconceived one and the same is liable to be rejected.

16. The appellant/temple has to prove the case as held by the Hon'ble Supreme Court in the case of 1985 (4) SCC 10 with proper title deeds. This Court finds no document to prove the title of Temple. The appellant/temple should stand on its own leg, not on the weakness of the defendant's case. Therefore, learned Senior counsel argument based on

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the judgment of the Hon'ble Supreme Court in the case of ***Kesar Bai v. Genda Lal***, reported in ***2022 (10) SCC 217***, in the case of ***The State of Haryana and another vs. Amin Lal (Since deceased) through his Lr's and others*** reported in ***2024 INSC 875*** is not acceptable in this case. From the respondent's document, this Court finds that there is no right to the appellant/temple to claim the recovery of suit property. Since the appellant/temple claims title only on the basis of the Assistant Settlement Officer, Unit-I, Madurai, which has been set aside in CMA.No.11 of 1983, it is not a proof of title. There is a cloud on title as rightly argued by the learned counsel for the respondents. More particularly, the respondents established their title. There is no scrap of material to show that this is '*water panthal maniyam*'. Therefore, in all aspects, the appellant/temple failed to prove the case with preponderance of probabilities. Therefore, this Court finds no merit in the appeal and the appeal is liable to be dismissed.

17. Accordingly, this Appeal suit is dismissed and the judgment and decree passed by II Additional Sub-Judge, Madurai, in in O.S.No. 267 of 1989, dated 16.11.1990, is hereby confirmed. There shall be no

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order as to costs. Since there is no dispute regarding the dismissal of S.T.A.No.2 of 1989 and S.T.A.No.9 of 1990, this Court is not inclined to receive the additional documents filed by the respondents. Accordingly, C.M.P.(MD).No.1114 of 2023 stands dismissed.

21.01.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To:

1. The II Additional Sub-Judge,
   Madurai.

2. The Record Keeper,
   Vernacular Section,
   Madurai Bench of Madras High Court,
   Madurai.

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K.K.RAMAKRISHNAN,J.

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