

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 28.08.2025

Pronounced on : 15.12.2025

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**W.A.No. 1536 of 2014
and C.M.P.No. 149 of 2024
in Rev.Appl.Sr.No. 124199 of 2023
&
C.M.P.No. 13568 of 2025 in Rev.Appl.Sr.Nos.87579 of 2025 &
C.M.P.Nos. 10671, 15993, 15203, 15876 of 2025 and 17343 of 2017 in
W.A.No.1536 of 2014**

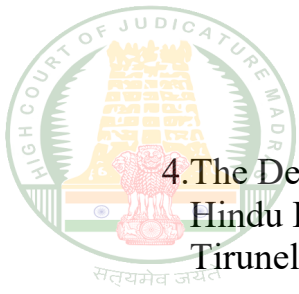
W.A.No. 1536 of 2014:

K.G.Krishnan

.. Appellant

Vs

- 1.The State of Tamil Nadu
Rep. by the Commissioner
And Secretary to Government,
Commercial Taxes and Religious Endowment,
Fort St.George,
Chennai – 600 009.
- 2.The Commissioner
Hindu Religious and Charitable Endowment,
Nungambakkam High Road,
Chennai – 600 034.
- 3.The Temple Administration Board,
Nungambakkam High Road,
Chennai – 600 034.



4.The Deputy Commissioner,
Hindu Religious and Charitable Endowment,
Tirunelveli.

5.S.Vaidyanathan

6.R.Subramaniyan

7.Shri.K.V.Sankarasubramaniam,
Managing Trustee,
Sri Annamalainathar Temple,
Kadayanallur Village,
No.6, Kariamanikkanperumal temple,
East Street, Kadayanallur Taluk,
Tenkasi District.

*(R7 suo motu impleaded vide
Order dated 24.06.2025)*

8MasjithutThaqwa
Rep.by its President Saifullah Hajah 1st
Street Fathima Nagar Kadayanallur Town
Thenkasi Dt.

9 S.S.U. Saifullah Khaja
S/o. Usman 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

10Mohideen Fathima
W/o. Syed Masood 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

11 E.S. Abubacker
S/o. Sheik Abdul Kader 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

12 K.H. Abdul Kadir
1st Street Fathima Nagar Kadayanallur Town
Thenkasi Dt.

13 V.S. Shamsuddin
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.



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14 S.A. Kamal Abdun Nasir
S/o. Abdul Kader 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

15 Haseena
W/o. Nawas Khan 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

16 Mohamed Jabarullah
S/o. Masood Sahib 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

17 Jaffar Sathiq
S/o. Amanullah 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

18 Sathakkathullah
S/o. Samsuddin 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

19 M.S. Saifullah
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

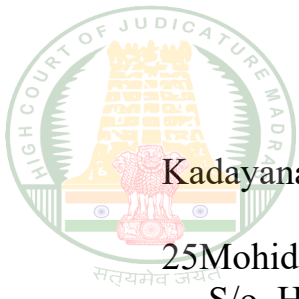
20 Raihana Beevi
W/o. Muhibbullah 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

21 Shahul Hameed Thaha
S/o. Abdul Kader 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

22 Mohamed Nijam
S/o. Sheik Uduman 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

23 M.S. Mohamed Farook
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

24 M.A. Usman
S/o. Abdul Kareem 1st Street Fathima Nagar



Kadayanallur Town Thenkasi Dt.

25 Mohideen Abdul Kader

S/o. Haider Ali 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

26 S. Abdul Gafoor

S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

27 S.M. Mohamed Mydeen

S/o. Mohamed Hussain 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

28 Jannathul Firthous

W/o. Abubacker 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

29 S.M. Mohamed Ansar

S/o. Mohamed Hussain 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

30 Thahira Beevi

W/o. Kalik Usman 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

31 Mohamed Yousuf

S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

32 K.A. Abdul Kader

S/o. Abdul Rahuman 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

33 Sharbudeen

S/o. Magdoom Gani 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

34 S.S. Mohamed Jabarullah

S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

35 Rasool Gani



W/o. Abdul Majeeth 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

36 S.M. Abdul kader
S/o. Mohamed Yousuf 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

37 Abdul Majeeth
S/o. Sheik Abdul Kader 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

38 Shahul Hameed
S/o. Mohamed Masood 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

39 Haja Mydeen
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

40 Sheik Uduman
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

41 Magdoom Jahan
S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

42 Nagoor Meeran
S/o. Shahu Hameed 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

43 Khathija Beevi
1st Street Fathima Nagar Kadayanallur Town
Thenkasi Dt.

44 Kader Ali
S/o. Abdul Hameed 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

45 Amathur Rahman
D/o. Sintha Mathar 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

46 Sintha Masood



S/o. Mohamed Yousuf 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

47Ihshanullah

S/o. Abdul Jabbar 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

48 Sheik Uduman

S/o. Abdul Jabbar 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

49 Sheik uduman

S/o. Abdul Jabbar 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

50 Abdul Basith

S/o. Mohamed Masood 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

51Kaleelur Rahman

S/o. Shahul Hameed 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

52 Abdul Razak

S/o. Mohamed Sha 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

53Kaleelur Rahman

S/o. Mohamed Husain 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

54 Abdul Kader

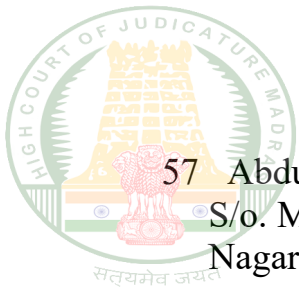
S/o. UdumanMydeen 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

55RamsiRahumathullah

S/o. Abdul Kuthoos 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

56Rahumathunisha

W/o. Abdur Rahim 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.



57 Abdul Kader
S/o. Mohamed Yousuf 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

58 Mohamed Sha
S/o. Mohamed Yousuf 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

59 Allimymoon
W/o. Ahamed 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

60 Sumaiya Barveen
W/o. Abdul Haathi 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

61 Asan Meeral
W/o. Abdul Majeeth 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

62 Akila Barveen
W/o. Mohamed Riyas 1st Street Fathima
Nagar Kadayanallur Town Thenkasi Dt.

63 Masood
S/o. Mohideen 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

64 Jahir Hussain
S/o. Mohideen 1st Street Fathima Nagar
Kadayanallur Town Thenkasi Dt.

65 Tamil Nadu Thowheeth Jamath
D.No.1A7 Kalanthar Masathan (Thagva) St
Kadayanallur Town and Taluk Tenkasi Dt. Rep
by its President Ismail

66 Mohaideen Meeral
S/o. Syed Masood D.No.1A/17 Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

67 S.M. Haja Mohaideen



S/o. Masood KalantharMasathan (Thagva) St
Kadayanallur Town and Taluk Tenkasi Dt.

68 S.S. Sheik Mohaideen

S/o. Masood D.No.1A26/2 KalantharMasathan
(Thagva) St Kadayanallur Town and Taluk
Tenkasi Dt.

69 S.S. MagthumThansula

S/o. S.S. HajaMohaideen D.No.1A/6A2
KalantharMasathan (Thagva) St Kadayanallur
Town and Taluk Tenkasi Dt.

70 K. Mohamed Mydeen

S/o. KalantharMasthan D.No.1A12 Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

71JameelaBeevi

W/o. Shahul Hameed D.No.1A17/1A Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

72Byroja

W/o. Kadhar D.No.1A8/1 KalantharMasathan
(Thagva) St Kadayanallur Town and Taluk
Tenkasi Dt.

73 M.A. Sabira

W/o. Mohamed Faizal D.No.1B/4 Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

74 Abdul Kader

S/o. Kamrutheen (late) D.No.236/96
Allimuppan St Kadayanallur Town and Taluk
Tenkasi Dt.

75 Mohamed Baseeth

S/o. Abdul Gani (late) D.No.1A29/1
KalantharMasathan (Thagva) St Kadayanallur
Town and Taluk Tenkasi Dt.



76 Diwan Fathima
W/o. Sintha Masood D.No.30 Muppudathi
Amman Kovil St KadayanallurTenkasi Dt.

77 Abdul Kader
S/o. Abdul Salam D.No.19/1J Kalanthar
Masathan St Kadayanallur Town and Taluk
Tenkasi Dt.

78 Siraj Nisha
W/o. Abdul Kader D.No.15/33 Ayyapuram
North St KadayanallurTenkasi Dt.

79Mahbooba
W/o. Sharif D.No.114/84 KalandarMasthan
St KadayanallurTenkasi Dt.

80 Mohamed Mydeen
S/o. Mohamed Hussain D.No.1A27/4 Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

81Shahul Hameed
S/o. Masood D.No.134A/42 KalandarMasthan
St KadayanallurTenkasi Dt.

82Nasrudeen
S/o. Abdul Kader D.No.1A7/1A Kalanthar
Masathan (Thagva) St Kadayanallur Town and
Taluk Tenkasi Dt.

83Saibun Nisha
W/o. Rahamathulla D.No.1C2/30 Ikabl Middle
St KadayanallurTenkasi Dt.

84JanathulFirdhose
W/o. DiwanaMydeen D.No.29 Kalandar
Masthan St KadayanallurTenkasi Dt.

85 O.A. Syed Masood
S/o. Abubacker D.No.66/103 Attakulam St
KadayanallurTenkasi Dt.



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86Asiya Banu

W/o. Rahamathullah D.No.1A33/1 Kalandar
Masthan St KadayanallurTenkasi Dt.

87SumaiyaBarvin

C/o. Abdul Hathi D.No1A11 Kalandar
Pallivasal St KadayanallurTenkasi Dt.

88Fathu Muthu Sohara

W/o. Mohamed Iqbal D.No.67 Attakulam St
KadayanallurTenkasi Dt.

89 Mohamed Farook

S/o. KajaMydeen D.No.80/116 Kalandar
Masthan St KadayanallurTenkasi Dt.

90 Mohamed Maideen

S/o. Mohamed Sha D.No.160 Allimooan St
KadayanallurTenkasi Dt.

91Saibunisha

W/o. Rahamathulla D.No.1C 20/4/47 Iqbal
Middle St KadayanallurTenkasi Dt.

92 Amanullah

S/o. Mohamed Sultan D.No.1A-10 Thaqwa St
Fathima Nagar KadayanallurTenkasi Dt.

93Sinthamathar

S/o. Meerasha D.No.462/343A Bazzar Road
KadayanallurTenkasi Dt.

94AyishaBeevi

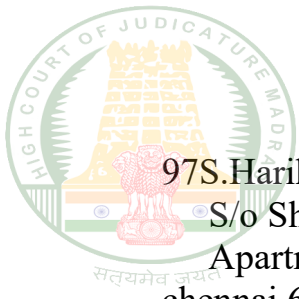
W/o. Akbar Ali D.No.1A20 Mubarak St
Fathima Nagar KadayanallurTenkasi Dt.

95Noohu Ali

S/o. Sowkath Ali D.No.1A301 Kalandar
Masthan (Thaqwa) stKadayanllurTenkasi Dt.

96 Syed Fathima

W/o. Asan Ibrahim D.No.C1/37 Iqbal Middle
St KadayanallurTenkasi Dt.



97S.Hariharan

S/o Sheeavanneswaralyer 39-c-1 Anu
Apartments south Boag Road T.nagar
chennai 600 017

98S.Ayyamani

S/o Late K.pSitaramaIyer 42/168 East
Street kadayanallur 627 751 tirunelveli Dt

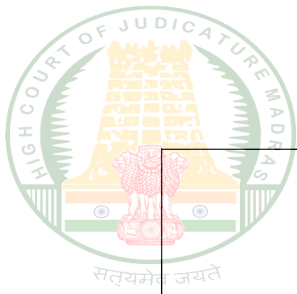
*(R8 to R98 impleaded vide this order
in C.M.P.Nos.15993, 15203 of 2025 and 17343 of 2017)*

.. Respondents

Prayer in W.A.No. 1536 of 2014 : Writ Appeal filed under Clause 15 of Letters

Patent against order dated 26.11.2023 made in W.P.No.10900 of 2007.

Case Nos.	For Petitioner / Appellant	For Respondents
W.A.No.1536 of 2014	Mr.R.Parthasarathy Senior Counsel For Ms.Surasika Parthasarathy	Mr.NRR.Arun Natarajan, Special Government Pleader – for R1 to R4 Mr.B.Kumar Senior Counsel For Mr.S.T.Bharath Gowtham – for R5 Mr.A.L.Somayaji Senior Counsel For Mr.T.S.Baskaran – for R6 Mr.R.Sankaranarayanan Senior Counsel For Mr.Abhinav Parthasarathy – for R7
CMP No.149 of 2024 in Rev.Appl.Sr.No. 124199 of 2023	Mr.V.Raghavachari, Senior Counsel For Mr.R.S.Diwaagar for M/s.Vivrti Law	Mr.R.Parthasarathy, Senior Counsel For Ms.Surasika Parthasarathy – for R1



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W.A.No. 1536 of 2014 etc. b



		<p>Mr.NRR.Arun Natarajan, Special Government Pleader (HR&CE) – for R2 to R5</p> <p>Mr.B.Kumar, Senior Counsel For Mr.S.T.Bharath Gowtham – for R6</p> <p>Mr.A.L.Somayaji, Senior Counsel For Mr.T.S.Baskaran – for R7</p>
<p>CMP No.15203 of 2025 & CMP No.15876 of 2025 & CMP NO.10671 of 2025 in W.A.No.1536 of 2014</p>	<p>Mr.A.Velan For Mr.SMA.Jinnah</p>	<p>Mr.R.Parthasarathy, Senior Counsel For Ms.Surasika Parthasarathy – for R1</p> <p>Mr.NRR.Arun Natarajan, Special Government Pleader – for R2 to R5</p> <p>Mr.B.Kumar, Senior Counsel For Mr.S.T.Bharath Gowtham – for R6</p> <p>Mr.A.L.Somayaji, Senior Counsel For Mr.T.S.Baskaran – for R7</p> <p>Mr.R.Sankaranarayanan , Senior Counsel For Mr.Abhinav Parthasarathy – for R8</p>
<p>CMP No.13568 of 2025 in Rev.</p>	<p>Mr.M.Hariharan For</p>	<p>Mr.R.Parthasarathy Senior Counsel</p>



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Appl.Sr.Nos.87579 of 2025	Ms.RukmaniVenugopalan	For Ms.Surasika Parthasarathy – for R1 Mr.NRR.Arun Natarajan, Special Government Pleader – for R2 to R5 Mr.B.Kumar Senior Counsel For Mr.S.T.Bharath Gowtham – for R6 Mr.A.L.Somayaji Senior Counsel For Mr.T.S.Baskaran – for R7
CMP No.15993 of 2025 in W.A.No.1536 of 2014	Mr.M.Hariharan For Ms.RukmaniVenugopalan	Mr.R.Parthasarathy Senior Counsel For Ms.Surasika Parthasarathy – for R1 Mr.NRR.Arun Natarajan, Special Government Pleader – for R2 to R5 Mr.B.Kumar Senior Counsel For Mr.S.T.Bharath Gowtham – for R6 Mr.A.L.Somayaji Senior Counsel For Mr.T.S.Baskaran – for R7 Mr.R.Sankaranarayanan Senior Counsel For Mr.Abhinav Parthasarathy – for R8



COMMON JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

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W.A.Nos.1535 and 1536 of 2014 had been disposed on 23.03.2018. As against the same, R.Subramanian and S.Vaidiyanathan approached the Supreme Court in S.L.P.(C) No.11046 of 2025 and S.L.P.(C) No.21088 of 2025 on the ground that the disposal of the Writ Appeals had been without reference to C.M.P.Nos.16314 of 2018 in W.A.No.1535 of 2014 and C.M.P.Nos.16315 and 16316 of 2018 in W.A.No.1536 of 2014 that had had been pending before the Court at the relevant point in time.

2. The Supreme Court ultimately passed orders on 21.04.2025 and 24.04.2025 in the SLPs, directing the Division Bench of this Court to hear the Miscellaneous Petitions. The Miscellaneous Petitions were heard on 17.06.2025 and the following order was passed:

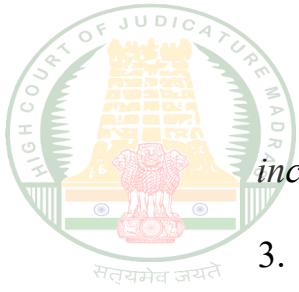
C.M.P.No.13402 of 2025 has been filed by the present Managing Trustee of the Temple seeking impleadment in C.M.P.No.16315 of 2018 in W.A.No.1536 of 2014. All the respondents as well as other counsel in this batch of petitions would accede to the position that he is a necessary party. Hence and for the reasons set out in the accompanying affidavit, C.M.P.No.13402 of 2025 is ordered.

2.C.M.P.No.16315 of 2018 filed seeking to recall the order dated 23.03.2018 in W.A.No.1536 of 2014 is allowed. As a consequence, order dated 23.03.2018 passed in W.A.No.1536 of 2014 is recalled.

3.C.M.P.Nos. 16314 & 16316 of 2018 are dismissed.

4.Heard in part. List on 23.06.2025 as a first item after admission and miscellaneous work.

5.The complete records in possession of the HR & CE Department in relation to this temple from the year 1994,



including the balance sheets will be produced.

3. It is hence that the order passed on 23.03.2018 in W.A.No.1536 of 2014 came to be recalled and the said Writ Appeal came to be listed afresh before us. We have also accepted the plea for impleadment, allowing CMP.No.15993 of 2025 filed by 57 persons, C.M.P.No.15203 of 2025 filed by 32 persons and C.M.P.No.17343 of 2017 filed by 2 persons.

4. We have heard the detailed submissions of Mr.R.Parthasarathy, learned Senior Counsel appearing for Ms.Surasika Parthasarathy, learned counsel for the appellant in W.A.No.1536 of 2014 and R1 in C.M.P.Nos.149 of 2024, 15203, 15876, 10671, 13568 and 15993 of 2025, Mr.NRR. Arun Natarajan, learned Special Government Pleader (HR & CE) for R1 to R4 in W.A.No.1536 of 2014 and R2 to R5 in C.M.P.Nos.149 of 2024, 15203, 15876, 10671, 13568 and 15993 of 2025, Mr.B.Kumar, learned Senior Counsel appearing for Mr.S.T.Bharath Gowtham, learned counsel for R5 in W.A.No.1536 of 2014 and R6 in C.M.P.Nos.149 of 2024, 15203, 15876, 10671, 13568, 15993 of 2025, Mr.A.L.Somayaji, learned Senior Counsel for Mr.T.S.Baskaran, learned counsel for R6 in W.A.No.1536 of 2014 and R7 in C.M.P.Nos.149 of 2024, 15203, 15876, 10671, 13568 and 15993 of 2025, Mr.R.Sankaranarayanan, learned Senior Counsel appearing for Mr.Abhinav Parthasarathy, learned counsel for R7 in W.A.No.1536 of 2014, R8 in C.M.P.Nos.15203, 15876, 10671 and 15993 of 2025, Mr.V.Raghavachari, learned Senior counsel appearing for Mr.R.S.Diwaagar, learned counsel for the petitioner in C.M.P.No.149 of 2024,

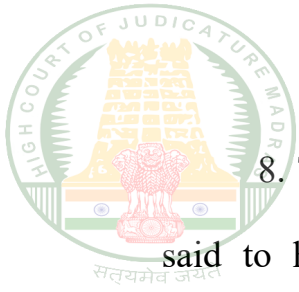


Mr.A.Velan, learned counsel appearing for Mr.SMA.Jinnah, learned counsel for the petitioners in C.M.P.Nos.15203, 15876 and 10671 of 2025, Mr.M.Hariharan, learned counsel for Ms.RukmaniVenugopalan, learned counsel for the petitioners in C.M.P.Nos.13568 and 15993 of 2025.

5. The subject matter of W.A.No.1536 of 2014 is 3.93 acres of land in Kadayanallur Village, Tirunelveli District ('land'/'land in question'/'subject land'). This subject matter alone survives for consideration as the issue of trusteeship of S.Vaidiyanathan, subject matter of W.A.No.1535 of 2014 arising from W.P.No.6978 of 2008, does not survive any further and that Writ Appeal has been allowed.

6. The subject land was owned by the Kadayanallur Arulmigu Annamalai Nathar Temple ('Temple') as part of assets encompassing 31.44 acres of Nanja lands and 94.11 acres of Punja lands. On 28.12.1992, one V.Subramaniya Iyer, who was holding the position of hereditary trustee of the temple, sent a proposal to the Temple Administration Board ('Board'/'TAB') requesting permission to sell the subject lands in S.Nos.49/1, 49/3, 52/1, 52/3 and 53/1.

7. The upset price for the above lands was fixed by the Joint Commissioner under his report dated 07.07.1993 prepared in conjunction with the District Collector. Sanction for sale of the subject land was given by the TAB on 21.07.1994 under Resolution No.732 and vide proceedings dated 23.08.1994, and the Joint Commissioner, Tirunelveli was directed to initiate public auction in accordance with law.

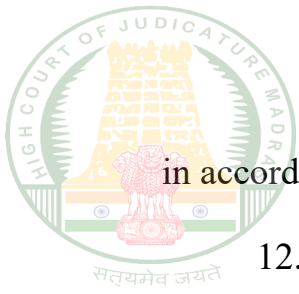


8. The public auction was conducted on 19.06.1995 and five persons are said to have participated. The highest bid was from one R.Subramaniam, nephew of the Trustee V.Subramaniya Iyer and as against the upset price of Rs.3,10,000/-, his bid was Rs.10,17,000/-.

9. It was only thereafter, that objections to the sale were sought by the Commissioner, Hindu Religious Charitable and Endowments Department (HR & CE Department) on 28.07.1995 in terms of the proviso to Section 34 of the Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act') and some objections, including objections from one Ramanathan and another from K.S.S.Uduman Mohideen, the review petitioner, had been received. The auction valuation of the subject property, as being far below the market value, was also questioned in one objection.

10. The objections were rejected by the TAB and the sale confirmed in favour of R.Subramanian vide order dated 22.09.1995. The confirmation of sale was on 'as is where is basis', which meant that the auction purchaser would have to deal with the encroachers and take steps to recover the subject property from them.

11. In 1996, there was an amendment to Section 34 of the Act, and Section 34 was amended by substitution of the word 'Commissioner' in place of 'Temple Administration Board'. The same year, W.P.No.11469 of 1996 was filed by one Hariharan seeking a mandamus forbearing the respondents from permitting, sanctioning and approving the sale of the temple properties, except



in accordance with law.

12. That Writ Petition came to be finally disposed on 06.07.2000 in the following terms:

'By consent, the main writ petition itself is taken up for disposal.
2.The petitioner has approached this Court to issue a Writ of Mandamus directing respondents 1 to 4 to forbear from permitting, sanctioning or approving the sale of properties of Arulmighu Annamalai-nathar Temple, Kadayannallur, excepting in accordance with law.
3.Heard the learned counsel for the petitioner as well as learned Government Advocate for respondents 1 to 4.
4.With reference to various averments/apprehensions made in the affidavit filed in support of the above Writ petition, the Additional Commissioner H.R. and C.E. Administration Department, Chennai-34 has filed counter affidavit disputing various averments made by the petitioner. It is stated that the Inspector, H.R. and C.E., Pulianagudi, had in his report dated 29.5.92 suggested that the proposal for sale of property of the temple would be beneficial to the institution and the Deputy Commissioner also recommended the sale in public auction. Based on the recommendation of the Deputy Commissioner, the proposal was placed before the Temple Administration Board for their approval. The Board approved the proposal and permitted the Deputy Commissioner, Tirunelveli, to sell the land by public auction after having made wide publicity in leading Tamil dailies. In the auction, the bid of one R.Subramanian was the highest one for Rs.10,17,000/- and thereafter, the Deputy Commissioner submitted a proposal to the Commissioner about the auction conducted by him and the highest amount of Rs.10,17,000/-. Knocked by the said R.Subramanian. Thereupon, the Commissioner, H.R. and C.E. Administration Department issued a notice dated 28.7.95 and also made publicity in Tamil Dailies of the intention of the Department to sell the lands of 3.93 acres in favour of the said R.Subramanian, the highest bidder in the public auction held on 19.6.95 and also called upon for objection and suggestion from the public as to the proposed sale. It is further seen that the Commissioner has vetoed the auction by his proceedings dated 16.5.97 which was not in accordance with Section 34 of the Act. It is further stated that as the auction which was conducted on 19.6.95 was rejected by the Commissioner, the present Writ petition becomes infructuous. The particulars and the



statement of facts made in the counter affidavit of the Additional Commissioner are hereby recorded.

5.In the light of the stand second respondent, no direction need be issued to the respondents as claimed by the petitioner. On this ground, the Writ petition is dismissed. No costs. Consequently, W.M.P.No.15399/96 is closed.'

13. The hereditary trustee Subramaniya Iyer passed away on 22.11.1996 and S.Vaidiyanathan stepped into that position by proceedings of the Commissioner dated 31.12.1996. The Commissioner, HR & CE on 16.05.1997, on an examination of the record, set aside the resolution of the TAB dated 21.07.1994 granting sanction for the sale of the subject land as he was of the view that that sale had not been conducted in a proper manner and that the statutory procedure, especially relating to the auction sale and the call for objections, had been violated.

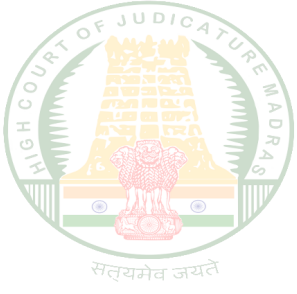
14. The order of the Commissioner dated 16.05.1997 reads thus:

இந்து சமய அறநிலைய ஆட்சித்துறை
அனுப்புநர் பெறுநர்
திரு ச.மெய்கண்ட தேவன், இ.ஆ.ப. இணை ஆணையர்,
ஆணையர் இந்து சமய அறநிலைய
ஆட்சித்துறை,
சென்னை-34. திருநெல்வேலி.

வீ.எண்.7/95 வீ.1 நாள் 16.5.97

அய்யா,

பொருள்:- நிலவிற்பனை - சட்டப்பிரிவு 34-ன் கீழ்
திருநெல்வேலி கட்டபொம்மன் மாவட்டம் -
தென்காசிவட்டம் - கடையநல்லூர்
அருள்மிகு அண்ணாமலைநாதர்
திருக்கோயிலுக்குச்
சொந்தமான தரிசு நிலம் 3.93 ஏக்கர்
பொது ஏலத்தில் விற்பனை செய்தல் குறித்து.



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பார்வை:- இவ்வலுவலக ந.க.364/93 வீ.1 நாள் 23.8.94
2. திருநெல்வேலி துணை ஆணையர் ந.க.1734/93
இ3 நாள் 23.6.1995

3. அரசு வழக்கறிஞர் கடிதம் நாள் 1.2.1997

திருநெல்வேலி கட்டபொம்மன்மாவட்டம், தென்காசி வட்டம்கடையநல்லூர் அருள்மிகு அண்ணாமலைநாதர் திருக்கோயிலுக்குச் சொந்தமான ச.எண்.49/1, 49/3, 52/1 52/3 மற்றும் 53/1ல் உள்ள 3.93 ஏக்கர் நிலத்தினை பொது ஏலத்தில் விற்பனை செய்யும் பொருட்டு சட்டப்பிரிவு, 34-ன் கீழ் நடவடிக்கைதொடர் பார்வை 1ல் கண்டுள்ள இவ்வலுவலக தமிழ்நாடு திருக்கோயில் நிர்வாக வாரிய செயலரின் செ.மு. ந.க. 364/93 வீ.1 நாள் 23.8.94ல் திருநெல்வேலி துணை ஆணையருக்கு உத்தரவிடப்பட்டது.

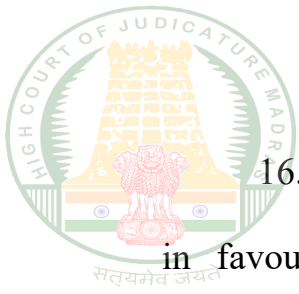
பார்வை 2ல் காணும் திருநெல்வேலி துணை ஆணையர் குறிப்பில் மேற்படி நிலங்களை 19.6.95 அன்று பொது ஏலத்தில் விற்பனை செய்ய நடவடிக்கை எடுத்து, அறிக்கை சமர்ப்பிக்கப்பட்டுள்ளது. மேற்படி நிலங்கள் பொது ஏலத்தில் விடப்பட்டு திரு.இரா.சுப்பிரமணியன் என்பவருக்கு ரூ.10,17,000/- க்கு விற்பனை செய்யப்பட்ட ஏல நடவடிக்கையினை உறுதி செய்ய அறிக்கை சமர்ப்பிக்கப்பட்டது. ஏல நடவடிக்கையினை/ உறுதி செய்ய தமிழ்நாடு திருக்கோயில் நிர்வாக வாரியம் சுற்றுக்குறிப்பு எண்.147 நாள்21.1.96ல் அனுமதி வழங்கியுள்ளது.

மேற்படி பொது ஏலத்தினை தமிழ்நாடு திருக்கோயில் நிர்வாகவாரியம் ஒப்புதல் அளித்தாலும் விற்பனை குறித்து இறுதி உத்தரவு பிறப்பிக்கப்படவில்லை.

மேற்படி விற்பனை குறித்து, தற்போதைய சென்னை அரசு வழக்குறைஞரின் சட்டக் கருத்தினை 29.6.97ல் கோரப்பட்டது.

சட்டப்பிரிவு, 34-ன்படி ஆலய நிலத்தினை விற்பனை செய்ய முதலில் விற்பனை செய்யவிருக்கும் விபரத்தினை அறிவிப்ப, விளம்பரம் செய்து ஆணைய முன்புவிசாரணை வைக்கப்பட்டிருக்கவேண்டும். இந்த விற்பனை சம்மந்தமாக திருநெல்வேலி துணை ஆணையரே விற்பனைக்கு நடவடிக்கை எடுக்கப் பணித்ததில், விற்பனை செய்வதற்குரிய



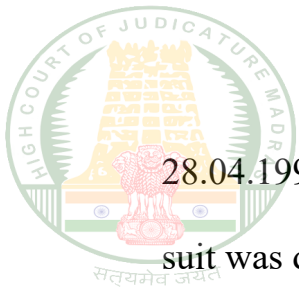


16. On 28.04.1999 and 29.04.1999 S.Vaidiyanathan executed sale deeds in favour of three persons, i) Kumar @ Subramanian, ii) Chandru @ Chandrasekar and iii) Kaja Mohideen and Abdul Majied. The first amongst them is the successful auction purchaser. This resulted in the framing of charges as against said S.Vaidiyanathan by the Joint Commissioner on 03.06.1999, the allegation being in regard to the unilateral execution of sale deeds without obtaining prior sanction under Section 34 of the Act.

17. The proceedings for suspension of S.Vaidiyanathan from Trusteeship paved the way for appointment of a Fit Person. Those proceedings culminated in the institution of W.P.No.6987 of 2009 by Vaidyanathan challenging the order passed by the Special Commissioner and Secretary to Government in the Review Petitions vide G.O.(pa) No.429 Tamil Development Charitable Endowment and Information Department dated 31.12.2007, that was allowed on 30.04.2009, as against which W.A.Nos.1535 of 2014 was filed by K.G.Krishnan.

18. The Writ Appeal came to be closed on 23.03.2018 and has attained finality. We have, vide order dated 17.06.2025 noted that that order shall not be disturbed and as on 23.05.2018, that stream of events had come to an end.

19. On 13.03.1999, S.Vaidiyanathan cancelled the sale deeds executed by him on 28.04.1999 and 29.04.1999. Not knowing about the factum of the cancellation, one Sivaraman instituted O.S.No.252 of 2000 on the file of the District Munsif at Tenkasi seeking a declaration that sale deeds dated



28.04.1999 and 29.04.1999 (in all, three sale deeds) were null and void. The suit was decreed on 01.06.2001 as prayed for.

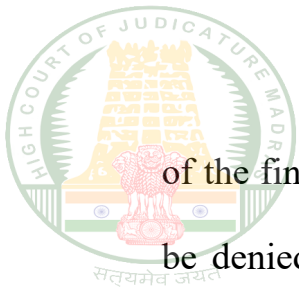
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20. Thus, with the cancellation of the sale deeds in 1999 as well as the decree passed on 01.06.2001, the sale in favour of Kumar @ Subramanian stood effaced in law.

21. While so, Subramanian, having slept over the matter till 2001, all of a sudden moved a petition before the Government of Tamil Nadu on 21.11.2001, aggrieved by the cancellation of the auction on 16.05.1997 by the Commissioner, HR & CE. It is thus that on 27.08.2002, G.O.No.195 came to be passed setting aside order dated 16.05.1997.

22. The grounds for the setting aside of the cancellation were that i) the TAB was vested with power under Section 34 of the Act to sanction the sale, ii) the procedure followed for auction was correct, iii) the subject land had been sold on 'as is where is basis', iv) the money received from the auction purchaser had not been returned, v) the Commissioner, HR & CE does not have the authority to set aside the order passed by the TAB and vi) the cancellation of the resolution of the TAB by the Commissioner on 16.05.1997 had been without notice to the auction purchaser and hence there had been a violation of the principles of natural justice.

23. In fine, the Commissioner, HR & CE had been directed to execute sale deeds in favour of R.Subramanian within a week. On 24.10.2002, the Commissioner, HR & CE sent a request to the Government for re-consideration



of the findings and conclusion in G.O.No.195 dated 27.08.2002, which came to be denied by order passed by the Secretary to Government dated 04.02.2004 reiterating the contents of G.O.No.195 dated 27.08.2002. The Commissioner, HR & CE was directed to implement G.O.Ms.No.195 dated 27.08.2002 and execute sale deeds in favour of R.Subramanian.

24. S.Vaidiyanathan who continued as Administrator of the temple had received directions consequentially to execute the sale deed in favour of R.Subramanian and did so on 03.05.2004. S.Vaidiyanathan was removed from trusteeship on 27.06.2006 and that has attained finality. An Executive Officer had come to be appointed on 12.02.2008 and has been in charge of the functioning of the temple ever since 12.02.2008.

25. In light of the judgement of the Supreme Court in the matter of *Dr.Subramanian Swamy V. State of Tamil Nadu and others*¹, the appointment of an Executive Officer in the temple is only to tide over an exigency / emergent situation. While there may certainly have been a need for an adhoc appointment for EO at that time, the Department should have taken steps to regularise the matter once the exigency tided over. This has not been done, and there is a direction to the authorities to initiate action forthwith, as per law, to appoint a Board of Trustees. This exercise shall be completed within four (4) months from date of receipt of this order.

26. In W.P.No.10900 of 2007, K.G.Krishnan challenged G.O.Ms.No.195.

¹ 2014 5 SCC 75



The Writ Petition had come to be disposed on 26.11.2013 accepting the contention that the auction sale had not been conducted properly. The writ

Court noted that the civil Court had set aside the sale deeds and that proper procedure had not been followed by the department in the conduct of auction.

However, in conclusion, the Court directs the writ petitioner to approach the authorities for redressal. The operative portion reads thus:

14. In view of the foregoing discussions it is not in dispute that the properties of the temple have been purchased by the relatives of into Trustee SubramaniaIyer. Thereafter, questioning Sale Deed, a suit in O.S.No. 252/2000 before the District Munsif Court, Tenkasi, has been filed and the same was decreed on 1.6.2001 are not in dispute. Therefore, I am of the view that in the auction conducted by the 4th respondent on 19.6.1995 and sale deeds executed in favour of the 5th respondent and his nominees, stand cancelled by a competent civil forum. That was not challenged. Hence the effect of the auction has to be known only by filing a Civil suit before the competent civil forum and not before this Court.

15. While considering the submission made by the respective parties, it is seen that on 27.8.2002, permission has been granted to recognize the sale by the 1st respondent in G.O.No.195. Thereafter, a dismissal order dated 26.7.2006 was passed by the Special Commissioner and Secretary to Government in the Review Petition filed against the order passed in R.P.No.34/1999. In that order, the reason given for reviewing the order is not correct. It is also seen only at the time of trial before the competent civil forum.

16. From this, I am of the view that even though the properties have been sold in public auction, it has not been done so and the amount also has not been deposited and even though the deposit amount has been returned by the petitioner and decree has been obtained for cancelling of the sale, thereafter nothing has been produced to show that they have created right or interest over the property and they have got sale deed from the temple subsequent to the Government order. At this stage, it is pertinent to mention that after the order of the civil court only, the HR&CE Department executed the sale deeds in which so many third parties interest have been created. Therefore, it is for the petitioner to take proper



steps before the appropriate authority.

17. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous Petition is also closed.

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27. As against that order, W.A.No.1536 of 2014 came to be filed by K.G.Krishnan that came to be allowed on 23.03.2018, and that order was recalled on 17.06.2025 as two of the respondents had not been heard. The operative portion of order dated 23.03.2018 passed originally in Writ Appeal is as below:

'12. The Civil Court by its Judgment and Decree dated 1 June 2001, set aside the sale of temple land. The auction purchasers were parties to the suit. The decree has become final.

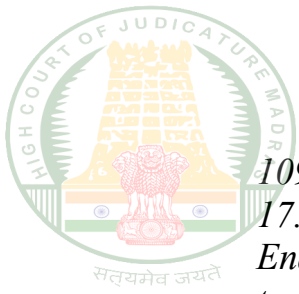
13. The auction purchasers after suffering a decree setting aside the sale in their favour, filed a petition before the Government on 21 November 2001 to direct the HR&CE department to execute the sale deed in their favour. This is evident from the counter affidavit filed by the Deputy Secretary to Government. There is nothing on record to show that the auction purchasers have disclosed to the Government the Civil Court decree dated 1 June 2001, setting aside the public auction and related sale.

14. The Government by issuing the order dated 27 August 2002, virtually acted as an appellate court. The decree passed by the civil court was ignored and a direction was issued to execute the sale deed.

15. The learned Single Judge clearly held that the sale was set aside by the civil court and the decree has become final. Even thereafter, the learned Single Judge rejected the prayer to quash the Government Order. We are therefore of the view that the order dated 26 November 2013 is liable to be set aside.

Disposition : -

16. The Government Order dated 27 August 2002 and the consequential order dated 19 April 2004 are set aside, in view of the decree dated 1 June 2001, in OS No. 252/2000 on the file of the District Munsif, Tenkasi. The sale deed executed on the strength of the legally unsustainable orders dated 27 August 2002 and 19 April 2002 are also set aside. The order dated 26 November 2013 in W.P.No. 10900 of 2007 is set aside. The writ petition in W.P.No.



10900 of 2007 is allowed.

17. *We direct the Commissioner, Hindu Religious and Charitable Endowments Department and the Trustee / Fit Person of the temple to take immediate action to resume the temple land.*

18. *In the upshot, we allow the intra court appeals, without liability to pay costs. Consequently M.P.No.1/2014 and CMP No. 17343/2017 are closed.'*

28. The appellant would draw attention to the order passed by the civil Court, emphasising that both the writ Court and Division Bench had found illegalities in the auction sale. Per contra, the private respondents would argue that the writ petition was itself not maintainable as (i) the appellant has no locus standi to have filed a Writ Petition as he has not established that he is a devotee, or as to how he is aggrieved by the impugned Government Order (ii) there was substantial and unwarranted delay in institution of the writ petition, that was itself wilful and vitiated for suppression of material facts.

29. On the first point, there is no real dispute on the position that the writ petition is a '*person interested*' as per Section 6(15) of the Act. He is, in fact, a member of the Sholiya Brahmin Community that administers the temple and, as Subramaniam himself points out, his name figures in the Resolutions passed by that Community relating to various temple matters. He is thus certainly a '*person interested*' in the welfare of the temple and protection of its properties.

30. Secondly, maintainability has also been assailed on the ground of delay of five between the passing of the Government Order and the institution of the Writ Petition. However, and as the Writ Petitioner has rightly explained, the Government order of the year 2002, might not have been readily available to



the residents of the village in public domain.

31. In fact, the sale deed executed in favour of Subramaniam had been cancelled by Vaidiyanathan himself in 1999, and then again by the civil Court decree in 2002. Subramaniam himself did not pursue the auction sale made in his favour and approached the authorities only in 2002 (post the passing of the G.O.), for execution of sale deeds, and that too, despite the adverse civil Court decree. The documentation was executed only thereafter. There is also nothing on record to show that Subramaniam had disclosed the civil Court decree to the authorities. The Commissioner sought a review of the 2002 G.O. and that petition was dismissed only in 2006. In light of this, we do not see anything untoward in the institution of the Writ Petition in 2007.

32. Over and above all, we are today, in 2025, considering the cause of action that arose by sale of temple lands in 1992. We are hence, of the considered opinion that the matter must be decided on merits rather than on technical considerations. The objections on maintainability are hence rejected.

33. The substantive argument on merit, pertains to the interpretation of Section 34 of the Act dealing with alienation of immovable trust property. The provision is intended wholly to protect temple property, and has in-built safeguards to guard against unauthorised and unchecked alienation.

34. The first argument raised by the appellant is that the auction was not conducted in the prescribed manner, and additionally, lacked transparency. No objections were called for prior to the conduct of auction as statutorily required.



The call for objections was only after the sale, and even those received had not been considered by the authority.

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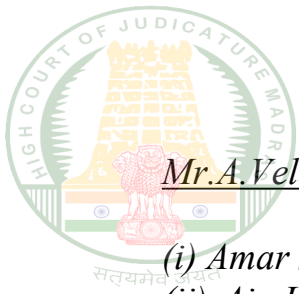
35. The private respondents also argue that the Commissioner could not have nullified an auction sanctioned by the TAB, and that the order of cancellation by the Commissioner was in violation of the principles of natural justice.

36. The next argument relates to Section 34(4-A) of the Act which vests power upon the Government to issue directions to the Commissioner as necessary, in respect of the alienation of immovable property belonging, given to, or endowed to the religious institution, further directing that the Commissioner shall give effect to such directions.

37. According to the private respondents, the directions issued to the Commissioner for confirming the alienation of the property were in terms of Section 34(4-A), and the Commissioner has no option but to give effect to the directions. Per contra the appellant argues that the scope of Section 34(4-A) is limited, and in any event cannot override the stipulations under Section 34(1) and the provisos thereunder.

38. Yet another argument of the private respondents is that Section 34(4) provides for a limitation of three months from date of receipt of the order of alienation, for its challenge by any person having an interest in the matter. The institution of the writ petition in 2007 was long past the period of limitation.

39. The parties have relied upon the following decisions:



Mr.A.Velan for Mr.SMA.Jinnah

(i) *Amar Singh v Union of India*²

(ii) *Air Line Pilots' Association of India v Director General of Civil Aviation & Others*³

(iii) *Suzuki Parasrampur Private Limited v Official Liquidator of Mahendra Petrochemicals Limited (In Liquidation) and others*⁴

(iv) *A.P.State Financial Corporation v Vaira Chemicals and others*⁵

(v) *K.Kumara Gupta v Sri Markendaya and Sri Omkareswara Swamy Temple and Others*⁶

(vi) *Ajay Ishwar Ghute and others v MeherK.Patel and others*⁷

(vii) *Bharat Singh and Others v State of Haryana and others*⁸

(viii) *M.Ramanatha Pillai v The State of Kerala and another*⁹

(ix) *The Bihar Eastern Gangetic Fishermen Cooperative Society Ltd v Sipahi Singh and others*¹⁰

(x) *Budhia Swain and others v Gopinath Deb and others*¹¹

(xi) *Casio India Company Private Limited v State of Haryana*¹²

(xii) *Union of India and others v Dileep Kumar Singh*¹³

(xiii) *J.R.Raghupathy and others v State of A.P. & Others*¹⁴

(xiv) *Mohd.Shahabuddin v State of Bihar & Others*¹⁵

(xv) *J.N. Real Estate v Shallendra Pradhan and others*¹⁶

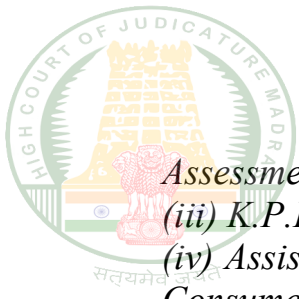
(xvi) *Prabodh Verma and others v State of Uttar Pradesh and others*¹⁷

Mr.M.Hariharan for Ms.RukmaniVenugopalan

(i) *Sozhia Maruthuva Mandagapadi Kattalai Trust v The Secretary to Government, Development Endowment and Information Department*¹⁸

(ii) *Kesaav Ply N.Laminates v The Assistant Commissioner (ST) Choolai*

² (2011) 7 SCC 69
³ (2011) 5 SCC 435
⁴ (2018) 10 SCC 707
⁵ (1997) 7 SCC 76
⁶ (2022) 5 SCC 710
⁷ 2024 SCC OnLine SC 681
⁸ (1988) 4 SCC 534
⁹ (1973) 2 SCC 650
¹⁰ (1977) 4 SCC 145
¹¹ (1999) 4 SCC 396
¹² (2016) 6 SCC 209
¹³ (2015) 4 SCC 421
¹⁴ (1988) 4 SCC 364
¹⁵ (2010) 4 SCC 653
¹⁶ 2025 SCC OnLine SC 1015
¹⁷ (1984) 4 SCC 251
¹⁸ 2014 (6) CTC 47



Assessment Circle¹⁹

(iii) K.P.Rawal v The Commissioner, HR&CE, Chennai and others²⁰

(iv) Assistant Commissioner (CT) LTU, Kakinada and Ors v Glaxo Smith Kline Consumer Health Care Limited²¹

Ms.Surasika Parthasarathy

(i) A.A.Gopalakrishnan v Cochin Devaswom Board and others²²

(ii) S.Rangarajan v The District Registrar, Tiruchirappalli and others²³

(iii) Sri.Madhavaperumal Devasthanam, Mylapore v Tmt.Dhanalakshmi and others²⁴

Mr.Abhinav Parthasarathy

(i) Dr.Subramanian Swamy v State of Tamil Nadu and others²⁵

(ii) Poonam Verma and others v Delhi Development Authority²⁶

(iii) Sharma Transport Rep. by D.P.Sharma v Government of A.P. & Others²⁷

Mr.AL.Somayaji Senior Counsel for Mr.T.S.Baskaran

(i) S.Manohar Chettiar v. Principal Secretary, Hindu Religious and Charitable Endowment Department and Others²⁸

(ii) V.Velluswamy v. The Inspector-General of Police, Tamil Nadu²⁹

(iii) Bharat Singh and Others v. State of Haryana and Others³⁰

(iv) Allahabad University etc. v. Geetanjali Tiwari (Pandey) and Others³¹

(v)K.Kumara Gupta v. Sri Markendaya and Sri Omkareswara Swamy Temple and Others³²

(vi)Swarth Mahto and another v. DharmdeoNarain Singh³³

(vii)G.RajMallaiah and another v. State of A.P.³⁴

Mr.Sankaranarayanan

¹⁹ MANU/TN/2808/2021

²⁰ W.P.No.4093 of 2024 dated 04.03.2024 (MHC)

²¹ (2020) 19 SCC 681

²² (2007) 7 SCC 482

²³ 2008 – 4-L.W.411

²⁴ 1996-1-L.W.231

²⁵ (2014) 5 SCC 75

²⁶ (2007) 13 SCC 154

²⁷ (2002) 2 SCC 188

²⁸ (2020) SCC OnLine Mad 13212

²⁹ (1979) SCC OnLine Mad 53

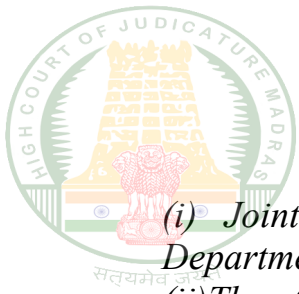
³⁰ (1988) 4 SCC 534

³¹ (2024) SCC OnLine SC 3776

³² (2022) 5 SCC 710

³³ (1972) 2 SCC 273

³⁴ (1998) 5 SCC 123



- (i) *Joint Commr. Hindu Religious and Charitable Endowments, Admn. Department v. Jayaraman and Others*³⁵
(ii) *The Commissioner of Hindu Religious and Charitable Endowments, Madras-34 v. Mary Isabal and another*³⁶
(iii) *The Chief Secretary, Government of Tamil Nadu, Secretariat, Fort St. George, Chennai-600 009 and others v. The Director, Archaeological Survey of India, Janpat, New Delhi-110 004 and others*³⁷

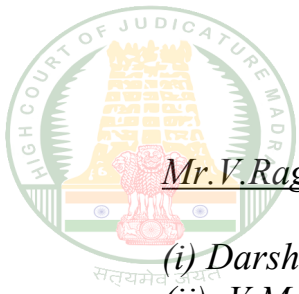
Mr. Parthasarathy

- (i) *The Executive Officer, Arulmighu Thiruvallieswarar Thirukkoil, Padi, Chennai-50 and another v. Jagathambigai Nagar Co-Operative House Site Society, rep. by its President, No.81-A, Thiruvalluvar Street, Padi, Chennai-50 and others*³⁸
(ii) *A.B.Govardhan v. P.Ragothaman*³⁹

Mr.C.V.Vijayakumar

- (i) *Ranipet Chemicals & Engineering Co. Pvt. Ltd. v. Swastik Stainless Steel Stores*⁴⁰
(ii) *Hari Kishan Periwal v. Somenath Ghosh & Ors.*⁴¹
(iii) *U.P. Coop Land Dev. Bank Ltd. v. Bhagwat Prasad and others*⁴²
(iv) *Asit Kumar Kar v. State of West Bengal and Others*⁴³
(v) *Urbanedge Hotels (P) Ltd., rep. by its Director, Kumar Sitaraman, No.9, CIR Colony, 1st Main Road, Mylapore, Chennai-600 004 v. Siraj & Renu, rep. by its Proprietor, Mr.Siraj Hasan, Having office at No.16, Rhenius Street, Richmond Town, Bangalore-560 025*⁴⁴
(vi) *Hindustan Multi State Co-operative Housing Society Ltd., Rep by its Chairman Mr.S.N.Adhavan v. Government of Tamil Nadu, Rep by Secretary to Government, Commercial Taxes and Registration Department and Another*⁴⁵
(vii) *B.Vivekanandan v. J.Janorious Fausta and others*⁴⁶

³⁵ (2006) 1 SCC 257
³⁶ (1989) 1 L.W. 68
³⁷ Rev. Application (Writ) Nos.169 & 170 of 2021 dated 02.06.2023
³⁸ (2007) 2 L.W. 1035
³⁹ (2024) 10 SCC 613
⁴⁰ (1985) SCC OnLine Cal 101
⁴¹ (2002) SCC OnLine Cal 461
⁴² SLP(C) No.17655 of 2003 dated 18.02.2005
⁴³ MANU/SC/0062/2009
⁴⁴ 2014 (3) MWN (Civil) 599
⁴⁵ (2019) SCC OnLine Mad 18682
⁴⁶ Rev.Appl.No.8 of 2020 dated 01.03.2023



Mr.V.Raghavachari Senior Counsel for Mr.R.S.Diwaagar

(i) *Darshan Singh v. State of Punjab*⁴⁷

(ii) *V.Madhav and another v. The Government of Tamil Nadu, rep. by its Secretary, Personnel & Administrative Reforms, Fort St. George, Chennai and others*⁴⁸

(iii) *State of Jharkhand and others v. Brahmputra Metalics Limited, Ranchi and another*⁴⁹

40. We have heard learned counsel and perused the material papers, records and cases cited. In order to appreciate the sequence of events and particularly bearing in mind the vintage of the matter, of more than four decades, we had called for the records from the Department. The records are illuminating, and the admitted sequence of events have been captured by us in the paragraphs supra.

41. Since the main ground of challenge is that the procedure under Section 34 has not been followed, we extract Section 34 below:

34. Alienation of immovable trust property.—(1) *Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution :*

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly consider by the Commissioner :

Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government

⁴⁷ (2007) 14 SCC 262

⁴⁸ (2012) 1 L.W. 673

⁴⁹ (2023) 10 SCC 634



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Explanation.—Any lease of the property above mentioned through for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.

(2) When according such sanction, the Commissioner may impose such conditions and give such direction, as he may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may, within three months from the date of his receipt of a copy of the order, and any person having interest may within three months from the date of the publication of the order appeal to the Court to modify the order or set it aside.

(4-A) The Government may issue such directions to the Commissioner as in their opinion are necessary, in respect of any exchange, sale, mortgage or lease of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution and the Commissioner shall give effect to all such directions.

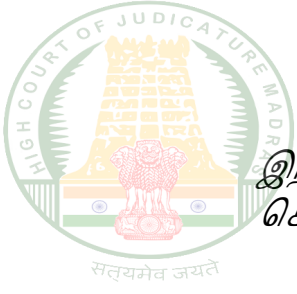
(5) Nothing contained in this section shall apply to the inams referred to in section 41.

42. As far as the procedure followed for alienation, it is true that a proposal had been emanated from V.Subramania Iyer for sale of subject lands.

Proposal dated 07.01.1993 reads as follows:

அனுப்புனர்
வி.கப்பிரமணிய அய்யர்,
டிரஸ்டி,
அருள்மிகு அண்ணாமலை நாதர் திருக்கோவில்,
கடையநல்லூர்
நெல்லை கட்டபொம்மன் மாவட்டம்

பெறுநர்
உயர்திரு. ஆணையர் அவர்கள்



இந்து சமய அற நலய ஆட்சி துறை
சென்னை

நாள் 7-1-93

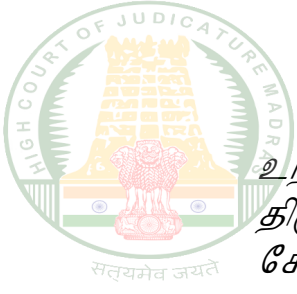
ஐயா,

பொருள்: அருள்மிகு அண்ணாமலை நாதர்
திருக்கோவிலுக்குக் கொடுத்தமான தரிசு நிலத்தை
விற்பனை செய்ய அனுமதிக்கோருவது -
சம்பந்தமாக.

ஒன்று

இப்பவும் கடையநல்லூர் அருள்மிகு அண்ணாமலை நாதர்
கோவிலின் டிரஸ்டியாக சென்ற 40 வருடங்களாக
நான் இருந்து வருகிறேன். ஷை திருக்கோவில் இந்து
சமய அறநிலைய ஆட்சித்துறை ஆளகைக்குள் பட்ட
கடையநல்லூர் சோழியப் பிராமணர் சமுதாயத்தைச்
சேர்ந்ததாகும்.

ஷை திருக்கோவிலுக்கு சுமார் 34 ஏக்கர் நஞ்சை நிலமும்
சுமார் 85 ஏக்கர் புஞ்சை நிலமும் உள்ளன. ரூ. 9000/-
வரை குத்தகை கிடைக்கிறது. இவற்றிலிருந்து தற்போது
நிலங்களை உழுபவர்களிடமிருந்து முழுவதுமாக விளைச்சல்
கண்ட வருஷங்களிலேயே அரசாங்க சட்டங்களின்படி சுமார்
250 மூட்டைவரை தான் நெல் வசூல் செய்ய முடிகிறது.
ஷை கோவிலுக்கு அர்ச்சகர் 1 பரிசுகாரர் 1 (not
legible, கலக்கர் 1 முறைவேலை பலவேலைக்காரர்
1 இராக்காவல்காரர் 1 மேளம் 1 செட் தோப்பு, காவல்
1 இவ்வளவு நபர்களுக்கும் மாதம் ஒன்றுக்கு 17 மூட்டை
வீதம் வருஷத்துக்கு 204 மூட்டை நெல் சம்பளமாகக்
கொடுக்கிறோம். இதுதவிர சுவாமி நைவேதியம், வேலை
செய்யும் நபர்களுக்கு சோற்றுக்கட்டிகள் வகைக்கு
வருஷத்துக்கு 50 மூட்டை நெல்லை செலவாகிறது.
மேலும் புஷ்பம் சப்ளைக்கும், விசேஷகால
நைவேத்தியங்களுக்கும் வருடத்துக்கு சுமார் 30 மூட்டை
வரை கொடுக்க வேண்டியுள்ளது. இவை தவிர
திருக்கோவிலுக்கு வேண்டி எண்ணை, விபூதி சூடம்
போன்றவற்றிக்கும் மற்றும் சாமான்களுக்கும் கரண்ட் சார்ஜ்
வகைக்கும் பணம் செலவாகிறது. தவிர நவராத்திரி



உற்சவம், திருக்கல்யாண உற்சவம், மஹாராவஜ்டம் திருவாதிரை, தைப்பூசம் போன்ற உற்சவாதிகள் நடத்த வி/சேஷமாகக் செலவாகிறது.

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இவற்றிற்கெல்லாம் வருமானம் போதாமல் என் கையிருந்தும் போட்டும் நிதி பற்றாக்குறையாகவே இருக்கிறது. மேலும் சம்பளக்காரர்களுக்கு கொடுக்கும் மாதச் சம்பளம் அதிக காலமாக கட்டப்படாமல் இருப்பதால் பட்டர், பரிசுகாரர் போன்றவர்கள் தற்போது விலைவாசி உயர்வை உத்தேசித்து சம்பளம்கூடுதலாக தரவேண்டும் என்று வற்புறுத்துகிறார்கள். இவற்றையெல்லாம் உத்தேசித்து ஆலயத்தின் நிலையைப் பெருக்கி வருமானத்தை அதிகப்படுத்தினால் அல்லாது ஆலய நிர்வாகம் செவ்வனே நடத்த முடியாமல் இருக்கிறது. ஒவ்வொரு பசலியிலும் இந்து சமய அறநிலைய ஆட்சித்துறை அங்கீகாரம் பெற்றுவருகின்றது.

தை ஆலயத்துக்கு கீழ் கண்டபடி ஏக்கர் 3 செண்டு 93 தரிகநிலம் இருக்கிறது. இந்தநிலப்பகுதி மிகவும் மேடான/தாக இருப்பதால் எவ்விதமான பயிர் வகைகளும் பயிர் செய்யலாயக்கற்றதாக இருக்கிறது.

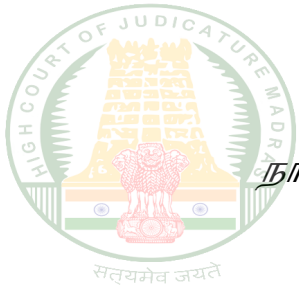
சர்வேஎண்	விஸ்தீர்ணம்
	ஏ - செ
ச.எண். 49/1	- 2.17
ச.எண். 49/3	- 0.22
ச.எண். 52/1	- 1.24
ச.எண். 52/3	- 0.07
ச.எண். 53/1	- 0.23
கூடுதல்	- 3.93

மூன்று ஏக்கர் தொண்ணுற்றி மூன்று செண்டு

தை மேட்டுப்பாங்கான தரிக நிலத்தை சப்ரிஜிஸ்டர் மதிப்பீட்டுக்கு குறையாமல் விற்பனை தொகையை பாங்குகளில் டெப்பாசிட் செய்து அந்த டெப்பாசிட் தொகை மீதுவரும் வட்டி வருமானத்தைக்கொண்டு ஆலய நிர்வாகத்தை செவ்வனே நடத்த இயலும். எனவே, தைமேட்டுப்பாங்கான தரிக நிலத்தை விற்பனை செய்ய அனுமதி தரவேண்டுகிறேன்.

இடம்: கடைய நல்லூர்

இங்ஙனம்



நாள்: 7-1-1993

XXXX

பரம்பரை தர்மகர்த்தா
ஸ்ரீ அண்ணாமலைநாதர் கோவில்
கடையநல்லூர், தென்காசிதாலுக்கா

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Copy to: திருஆணையர் அவர்கள், சென்னை
திருதுணைஆணையர் அவர்களதிலி
திருஆய்வர் அவர்கள் புளியங்குடி.

APPENDIX

Nature of Proposed Transaction : விற்பனை
Description of the Property : புஞ்சைநிலம்

Survey Number	:	49/1 - 2-17	ஏ-செ	புஞ்சை
		52/3 - 0-07	ஏ-செ	3-93. மொதம்
Extent	:	52/1 - 1-24		
		49/3 - 0-22		
		53/1 - 0-23		
Boundaries	:	-----		
		3-93		

கீழ்க்குளம் கரைக்கும் கிழக்கு,
சர்வே 54 to 55 மறுகால்
நிலத்திற்க்கும் தெற்கு, ஊறுணிக்கு
மேற்க்கும் அட்டகுளம் நஞ்சைகளுக்கு
வடக்கு

Ward No. : -
Door No. : -

Revenue Assessed	:			
		சர்வே	L.R	13% S.C
Land Revenue	:	49/1	1-76	0-22
		49/3	0-18	0-02
Case	:	52/3	0-06	0-01
		53/1	0-19	0-02
		52/1	1-00	0-02

Quitrent : -
Groundrent : -
Property Tax : -
Encumbrance : ஷை சர்வே நம்பரில் எந்தவிதமான



வில்லங்கம் இல்லை

If for mortgage the amount for which the properties are proposed to be mortgaged :

1. If for sale probable price: விற்பனை செய்யவதார்

2. If for lease, period of lease and rental : ஏக்கர் 1க்கு அரசமதிப்பீடுRs 36600/-

அருள்மிகு அண்ணாமலை நாதர் கோவில்
Purpose for which the amount கடையநல்லூர் தென்காசிவட்டம்
raised is to be utilised : திருநெல்வேலிமாவட்டம்
நிர்வாகத்திற்குட்பாசிச் செய்து
வரும் வட்டியைநிர்வாக
செலவு செய்யவேண்டும்

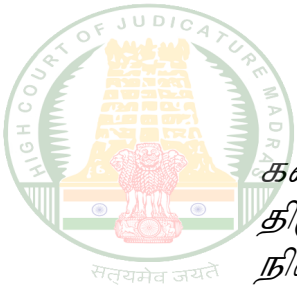
பரம்பரைதர்மகர்த்தா,
ஸ்ரீ அண்ணாமலை நாதர் கோவில்
கடையநல்லூர், தென்காசிதாலுக்கா

43. The approval by the TAB is dated 23.08.1994 and reads thus:

ஆணையர்- துணை ஆணையர் மூலம் ஏலம் விடுவதற்கு
ஆணை பிறப்பித்தல்
தமிழ்நாடு திருக்கோயில் நிர்வாகவாரியத்தின் செயல்முறைகள்
முன்னிலை: திரு.ஜி.ராமகிருஷ்ணன். இ.ஆ.ப. உறுப்பினர்/செயலர்
செ.மு.ந.க.364/93.வீ.1 நாள் 23.8.94

பொருள்-நிலவிற்பனை - அருள்மிகு அண்ணாமலைநாதர்
திருக்கோயில்- கடையநல்லூர்- தென்காசிவட்டம்-
திருநெல்வேலி மாவட்டம்- துரிக நிலத்தை விற்பனை
செய்தல் தொடர்பாக உத்தரவு பிறப்பிக்கப்படுகிறது.
பார்வை: 1. அரசு நே.மு.க.59589/ப்பி.1/92,1 நாள் 30.12.92
2. துணை ஆணையர், திருநெல்வேலி ந.க.1734/93
இ3 நாள் 7.7.93
3. தமிழ்நாடு திருக்கோயில் நிர்வாக வாரிய தீர்மானம்
எண்.732நாள் 21.7.94

திருநெல்வேலி கட்டபொம்மன்மாவட்டம், தென்காசிவட்டம்,



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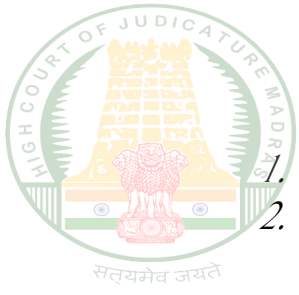
கடையாநல்லூர் அருள்மிகு அண்ணாமலைநாதர்
திருக்கோயிலுக்குச் சொந்தமாக 31.44 ஏக்கர் நஞ்சை
நிலமும் 94.11 ஏக்கர்புஞ்சை நிலமும் உள்ளது
எனவும், இவற்றிலிருந்து 250 முடை நெல் குத்தகை மற்றும்
ரூ.9000/- ரொக்கமாக வருகிறது எனவும்
தைக்குத்தகையிலிருந்து 204 முடை நெல் சிப்பந்திகளுக்கு
சம்பளமாகவும் நெய்வேத்தியம் மற்றும் இதர வகைக்கு 50 முடை
செலவாகிறது எனவும், விசேஷ நெய்வேத்தியத்திற்கு வருடத்திற்கு
30 முடை நெல் செலவாகிறது எனவும் மற்றும் உற்சவ
நவராத்திரி, திருக்கல்யாணம், தைப்பூசம் விசேஷங்கள்
நடத்தப்படுகிறது எனவும், தைவருமானம் திருக்கோயிலுக்கு
பற்றாக்குறையாக இருந்து வருகிறது எனவும்,
எனவே கடையாநல்லூர் கிராமத்திலுள்ள தைத்திருக்கோயிலுக்கு
சொந்தமாக கீழ்க்கண்ட விபரப்படியுள்ள 3.93 ஏக்கர் நிலத்தை
விற்பனை செய்து அந்தத் தொகையை வங்கியில்
முதலீடு செய்து அதன் மூலம் வரும் வட்டித் தொகையை கொண்டு
ஆலய நிர்வாகத்தை செவ்வனே நடத்த இயலும் என ஆலய
நிர்வாக தர்மகர்த்தா தன்னுடைய 28.12.92 தேதிய
அறிக்கையில் கூறியுள்ளார்

ச.எண். 49/1	- 2.17
ச.எண். 49/3	- 0.22
ச.எண். 52/1	- 1.24
ச.எண். 52/3	- 0.07
ச.எண். 53/1	- 0.23
கூடுதல்	- 3.93

தை பொருள் சம்பந்தமாக திருநெல்வேலி துணை
ஆணையரிடம் அறிக்கை கேட்கப்பட்டது. துணை ஆணையர்
ந.க.1734.93 இது நாள் 7.7.93 அறிக்கையில் தைக்கோயிலுக்குச்
சொந்தமான கடையாநல்லூர் கிராமத்திலுள்ள மேலேயுள்ள
சர்வே எண்ணில்தொரிவித்துள்ள 3.93 ஏக்கர் நிலத்தை
வட்டாட்சியர் நிர்ணயம் செய்த விலையான ரூ.3,10,000/-
ஆரம்பக்கேள்வியாக வைத்து பொது ஏலத்தில் விற்பனை
செய்ய திருக்கோயில் நிர்வாக வாரியத்தில் பரிசீலனையாக
வைக்கலாம் என பரிந்துரை செய்துள்ளார்.

மேலும் துணை ஆணையர் தன்னுடைய அறிக்கையில்
தை நிலம் கீழ்க்கண்ட நபர்களுக்குத்தகையில் இருந்து வருவதாக
தொரிவித்துள்ளார்.

வ.எண்.	பெயர்	விபரம்	தொகை	பாக்கி
	திருவாளர்கள்		ரூ	ரூ



1. ஏ.காஜாமைதீன் கீழ்பாகம் 150/- 300/-
2. கே.என்.எல்.உதுமான் மைதீன்மேல்பாகம் 150/- 300/-

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ஹைநிலம்சுத்தகையில் ' உள்ளதால்இந்த நிலத்தினை விற்பனைசெய்தால் ' நிலத்தைபொதுஏலத்தில் ' வாங்குவோர் நிலத்தின்சுவாதீனத்தைபெறும்பொறுப்பைதாம்

ஏற்றுக்கொள்ளவேண்டும்என்ற நிபந்தனையின்பேரில் ஹைநிலத்தை ஆரம்பக்கேள்வியாக ரூ.3,10,000/- என வைத்து பொது ஏலத்தில்விற்பனை செய்ய சட்டப்பிரிவு, 34-ன் கீழ் அனுமதி வழங்குவது சம்பந்தமாக தமிழ்நாடு திருக்கோயில் நிர்வாக வாரியத்தில் பரிசீலனை வைக்கப்பட்டது.

பார்வைக்குறிப்புில், ஹைநிலத்தை பொது ஏலத்தில் விற்பனை செய்யலாம்என தமிழ்நாடு திருக்கோயில் நிர்வாக வாரிய தீர்மான எண்.732 நாள்21.7.94ல் உத்தரவிடப்பட்டுள்ளது.

எனவே திருக்கோயில்நிர்வாக தீர்மானப்படி திருநெல்வேலி கட்டபொம்மன் மாவட்டம், தென்காசிவட்டம், கடையாநல்லூர்அருள்மிகு அண்ணாமலை நாதர் திருக்கோயிலுக்கு சொந்தமான

ச.எண். 49/1	- 2.17
ச.எண். 49/3	- 0.22
ச.எண். 52/1	- 1.24
ச.எண். 52/3	- 0.07
ச.எண். 53/1	- 0.23
கூடுதல்	- 3.93

3.93 ஏக்கர்மொத்தநிலத்தை ரூ.3,10,000/- ஆரம்பக் கேள்வியாக வைத்து பொதுஏலத்தில் விற்பனை செய்ய சட்டப்பிரிவு, 34-ன் கீழ் நடவடிக்கை தொடர துணை ஆணையர்அறிவுறுத்தப்படுகிறார். நிர்வாக

தர்மகர்த்தாவிடமிருந்து விளம்பரக்கட்டணமாக ரூ.750/- வசூலித்துவங்கி வரைவோலை அனுப்புமாறு கேட்டுக்கொள்ளப்படுகிறது.

(ஒப்பம்).ஜீ.ராமகிருஷ்ணன்

உறுப்பினர்/செயலர்

/உண்மைநகல்/உத்தரவுப்படி/அனுப்பப்படுகிறது/

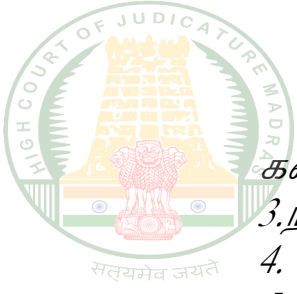
உறுப்பினர்/

செயலருக்காக

பெறுநர்

1.துணைஆணையர், இ.ச.அ.ஆ.துறை., திருநெல்வேலி

2.நிர்வாகதர்மகர்த்தா, அண்ணாமலைநாதர்கோயில்,



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கடையாநல்லூர் தென்காசிதாலுக்கா.

3.நகல். உதவிஆணையர், இ.ச.அ.ஆ.துறை., திருநெல்வேலி,

4. நகல்.ஆய்வர், இ.ச.அ.ஆ.துறை.புனியக்குடி.

5.திரு.ஏ.காஜாமைதீன், குத்தகைதாரர், கடையாநல்லூர், திருநெல்வேலிமாவட்டம்.

6.திரு.கே.என்.எல்.உதுமான் மைதீன், குத்தகைதாரர், 129, பெரியதெரு, கடையாநல்லூர், திருநெல்வேலிமாவட்டம்.

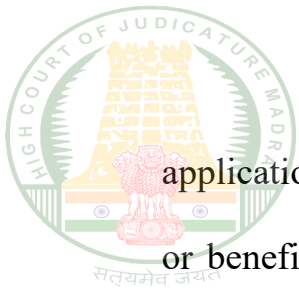
7-8.உபரி.

44. The scheme of the Act requires that any proposal for alienation of temple property must be scrutinised carefully, and accepted only if such alienation were established as *necessary or beneficial* to the temple. One of the arguments is that this condition has not been satisfied as the proposal for the sale does not make out either the necessity or benefit for the same.

45. We have carefully perused both the proposal and the approval for alienation of the subject land. The proposal for alienation contains the field ‘*purpose for which the amount raised is to be utilised*’. Therein the trustee says நிர்வாகத்திற்கு டெபாசிட் செய்து வரும் வட்டியை நிர்வாக செலவு செய்ய வேண்டும். Roughly translated, it means, that the interest from the deposits proposed will be utilised towards temple administration.

46. Hence, the trustee has also not made out any exigency or paucity to justify the proposed alienation. His statement is general and does not indicate an urgent need/necessity for the alienation. Certainly, no case is made out that the alienation would be beneficial to the temple. It is based on this proposal that the alienation has been approved.

47. In our considered view, there is also nothing to indicate the

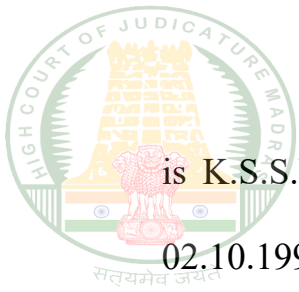


application of mind by the TAB as to whether the alienation is either necessary or beneficial to the temple. Even assuming that there was paucity of funds to meet recurring expenses, the Act makes it incumbent upon the authorities to explore all options, and to examine and analyse all revenue streams of the temple before approving sale of the immovable property.

48. In the present case, there is nothing to indicate such application of mind on the part of the authorities and the approval for sale has been given without examination of other options available to the temple. The sale of temple property is to be resorted to only as a final measure, if the authorities have examined threadbare all other avenues by which revenue may be generated. It is a last resort, and not the first. In this case, there is nothing on record to show that such an examination was even undertaken by the authorities.

49. Secondly, no objections have been called for, prior to the conduct of the auction sale. This an admitted position. Objections were called for, only after conduct of auction. This is a violation of the procedure under Section 34 and is fatal to the proceedings. Section 34 specifically requires objections to be called for prior to auction, expressly as a measure of protecting and preserving temple property, and to ensure that a fair valuation has been made. The requirement is mandatory and cannot be bypassed under any circumstances. Hence, the conduct of auction without calling for objections first, vitiates the auction in full.

50. In any event, objections were received from five parties, one of whom



is K.S.S.Uduman Mohideen, the review petitioner who filed an objection on 02.10.1994. He states therein that an extent of 3 acres and 93 cents of punja land had been leased to his ancestors and that they have been in possession and cultivation thereof for 60 years, as cultivating tenants, entitled to protection under the Madras Public Trust Act 1961.

51. The prayers in his objection petition are as follows:

. . . .

8) This objector, therefore, submits that

(i) in view of the provisions contained under section 3 of the Act 57/61 the land in possession of a cultivating tenant cannot be ordered to be sold at all:

(ii) that the proposal for sale had not emanated from the Trustee;

(iii) the whole exercise, so far is futile is that no notice was published and no enquiry thereafter had been conducted as laid down under Rule 2-A of the Rules framed under Section 116(2) read with Section 34(1) and (j) of the Act 22 of 1959 and

(iv) that, in any event the land, in the circumstances of the case, should have been offered to be sold to the tenant for the price fixed by the authorities by way of first option.

9) It is therefore prayed that the present proposal may please be ordered to be dropped and the land directed to be sold to the objector by Private Negotiation for the Price fixed by the District Collector and thus render justice.

52. Thus, the review petitioner sought the first right of offer for the lands by private negotiation. A reply was filed by V.Subramania Iyer to the objection of Uduman Mohideen, where he says that Uduman Mohideen is not a cultivating tenant under the Public Trust Act, but a reader/professor of Economics working in University of Madras, resident in Madras. He was not



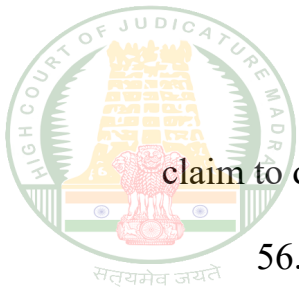
residing in Kadayanallur at all and was certainly not a cultivating tenant under the Public Trust Act, or under any other enactment for that matter.

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53. There could be no claim put forth by an absentee tenant and hence Uduman Mohideen could raise no valid or legal objection for the public auction. In any event, only a public sale would enure to the benefit of the temple and there can be no sale by private negotiation as the Act does not contemplate any such procedure.

54. On facts, he points out that the lands in question have been uncultivated for long which is, in fact, the reason why he had sought sale of the same. Hence, even if Uduman Mohideen had been holding lease the of the land, he had not cultivated the same, and had ceased to be a cultivating tenant by virtue of his inaction. In fact, Section 19 of the Public Trusts Act provides for action against a tenant who owns more than 14 acres of land in one village. He is hence liable to be evicted from the land and the land put up for public auction.

55. The objections of Uduman Mohideen were rejected as can be seen from an appeal filed by him under Section 34(4) of the Act challenging the proceedings of the Board dated 23.08.1994 for sale of the land. The order of rejection is however, not available. Before us, learned Counsel for the review petitioner would reiterate his objections to the sale by auction. Thus, while on the one hand, the review petitioner is seen to have assailed the sale by auction pleading for a sale by private negotiation, the private respondents who derive



claim to derive title from the auction purchaser, argue in support of the auction.

56. We reiterate that alienation of temple property can only be by strictly following the procedure set out under Section 34 of the Act. The question of a private negotiation is not contemplated, and simply does not arise. The claim of Uduman Mohideen for priority on the strength of his tenancy is thus misconceived. He could very well have participated in the auction, and put forth a bid, and having chosen not to, cannot stake a claim upon the property in any other manner.

57. As for the lease, Section 34 stipulates that no lease of temple land shall be for a period in excess of five years. Thus, mere length of occupancy will not confer upon the lessee, any right or title over temple land. For the aforesaid reasons, his objections have been rightly rejected.

58. Interestingly, the records contain an exchange of correspondence between the then Commissioner, HR & CE and the then Special Government Pleader in regard to the subject sale. In 1996, when the Commissioner, on the basis of complaints received, went into the records and detected irregularities in the subject sale, he sought an opinion from the Special Government Pleader on 16.04.1996 as to whether sale of the subject land had been done in proper manner.

59. In view of the importance of these communications, the entirety of the brief for opinion from Thiru.B.Savarkkar, I.A.S. to Thiru.G.Sugumaran, Special Government Pleader, High Court, Madras is extracted below:



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HR&CE Admn. Department

From

*Thiru.S.Savarkkar, I.A.S.,
Commissioner
Madras-34.*

To

*ThiruG.Sugumaran
Special Govt.Pleader,
High Court,
Madras.*

Ap.No.7/95/V1 dated 15.4.96

Sir,

*Sub: Sale of land – Under Section 34 of the Tamilnadu
HR&CE Act 1959 ArulmiguAnnamalainathar Tem-
ple, Kadayanallur – Tenkasi Taluk – Tirunelveli Kat-
tabomman District – Regarding.*

*Ref: 1.From the TAB Member/Secretary Ref.No.364/93 V1
dated 23-9-94*

*2.Deputy Commissioner, Tirunelveli,
Rc.No.1734/93/03 dated 23-6-95*

3.This office A.No.7/95 V1 dated 28.7.95

4.Thiru Ramanathan, Application dated 28-3-95

5.TAB Circulation Resolution No.147 dated 20-1-96

...

I enclose the file in A.No.7/95 relating to the sale of land relating to ArulmiguAnnamalainathar Temple, Kadayanallur, Tenkasi Taluk, Tirunelveli Kattabomman District for perusal to enable you to offer your considered opinion as to whether the sale can be confirmed. The short facts are these: The Tamilnadu Temple Administration Board in its Resolution dated 21-7-94 permitted to call the land in S.lb.49/1-2-17 acres S.No.49/3 – 0.22 acres, S.No.52/1 1.24 Acres, S.no.52/3 0-07 Acres and S.lb.53/1 0.23 Acres totalling an extent of 3.93 acres through public auction. The upset price mentioned in the Resolution is Rs.3,10,000/-. In this office proceedings dated 23-9-94, the Deputy Commissioner, Tirunelveli, was instructed to take necessary action for the sale of 3.93 acres by following the procedures under Section 34 of the H.R. & C.E. Act. The Deputy Commissioner, Tirunelveli, after making a publication in Dinamalar dated 6-6-93, held the auction on 19-6-95. And he has submitted proposals for confirmation of the sale for the highest bid amount of Rs.10,17,000/- in favour of Thiru Subramanian s/o Thiru.Ramakrishnan.

In this connection, it is stated that according to section 34 of HR & CE Act before sanctioning the sale the particulars relating to the proposed transaction shall be put in such a manner as may be prescribed inviting objections and suggestions with respect thereto



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and all objections and suggestions received from the Trustee or other persons having interest shall be duly considered by the Commissioner. Before conducting the auction in this case, the above notification has not been published in the newspaper. In as much as the Deputy Commissioner had already conducted the auction and submitted proposals for confirmation of sale. Publication in the Local daily was not made, publication in the newspaper intimating of the highest bid amount of Rs. 10,17,000/ offered by Thiru-Subramanian for the sale of the above land, calling for objections and suggestions if any, from the persons having interest was made after the auction. The objections received were considered and it decided to overrule the objections as devoid of merit.

As per Section 34, sanction of the sale may be accorded by the TAB and the particulars relating to the proposed transactions shall be published in such manner as may be prescribed. Section 34 further lies that before such sanction is accorded the particulars relating to the proposed transaction shall be published in such manner as may be prescribed inviting objections and suggestions with respect thereto and all objections and suggestions received from the Trustee or other persons having interest shall be duly considered by the Temple Administration Board.

In this case publication was made proper after the sale and not before it was put to sale by public auction. Kindly let me know whether this will satisfy the requirements of Section 34 and rules under Section 34 (1) & (3), to confirm the sale.

60. The opinion of the Special Government Pleader is as follows:

*The Commissioner,
H.R. & C.E Admn. Department,
Madras -34.*

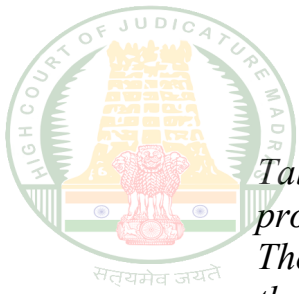
Dated:10.5.96

Sir,

Sub:- Sale of land Under Section 34 of the Tamilnadu HR&CE Act 1959-A/M. Annamalainathar Temple, Kadayanallur – Tenkasi Taluk - Tirunelveli KattabommanDist – Rendering Legal Opinion - Reg.

Ref:- Commissioner's A. P.No.7/95/VI/dt.15.4.'96.

I have perused the file referred to above relating to the sale of land of A/M. Annamalainathar Temple, Kadayanallur, Tenkasi



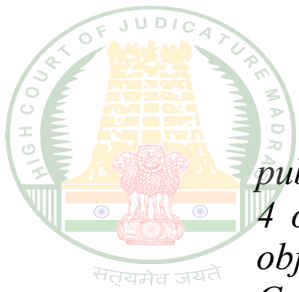
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Taluk, Tirunelveli Kattabomman District. The temple owns property about 34 acres of Nanja land and 85 acres of Punja land. The hereditary trustee of the temple sought for permission to sell the wet land in the following survey numbers.

S.No.	Extent
49/1	2.17
49/3	0.22
52/1	1.24
52/3	0.07
53/1	0.27

Total 3.93 Acres	

The proposal of sale was placed before the Temple Administration Board and on 28.3.94 the Board resolved to sell the land in public auction u/s.34 of H.R.& C.E. Act by fixing upset price of Rs.3,10,000/- as per the rate fixed by the Tahsildar with the condition that the bidder should take responsibility to get the land from the tenants. The Hereditary trustee of the temple has initiated action u/s.34' of the Act to sell the land by public auction. It is seen from the letter of Deputy Commissioner, dated 23.6.95 that Public auction was finally fixed on 19.6.95. Before the date of public auction, the hereditary trustee of the temple published the auction notice in Tamil Daily, namely, "Dhinamalar" on 6.6.95. On perusal of Tamil Daily it indicates that the auction would be held on 19.6.95 at 11.A.M. in the presence of Deputy Commissioner, HR&CE, Tirunelveli and also indicates that persons participating in the auction should furnish solvency. The publication in "Dhinamalar" dated 6.6.95 does not indicate the requirement as contemplated under section 34 of H.R.& C.E. Act. Based on the publication in "Dhinamalar" dated 6.6.95 public auction was conducted by the hereditary trustee on 19.6.95 in the temple premises in the presence of Deputy Commissioner, Tirunelveli, Temple Inspector, Pulliyangudi. Thiru R. Subramanyam was the highest bidder and he bid at Rs.10,17,000/-. It is also seen that the auction notice in respect of the sale of the land was affixed in the office of the Deputy Commissioner, Tirunelveli on 6.6.95 for the auction dated 19.6.95. The letter of the Commissioner dated 28.7.95 reveals that objections or suggestions in respect of the sale of land held on 19.6.95 would be enquired on 28.8.95 and also reveals that objection or suggestions if any should be send to this office on or before 22.8.95. Pursuant to the letter of the Commissioner



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publication was made in "Dailythanthi" dated 6.8.95 and in Clause 4 of the publication it is noticed that the public should send the objections or suggestions on or before 22.8.'95 to the office of the Commissioner. It is also seen that any objections or suggestions are not received before that date final orders will be passed with the available records. One Ramanathan has sent a written objection on 28.8.95 to the office of the Commissioner, H.R.& C. E. objecting the sale of land and the Commissioner overruled the objection on 31.8.'95 sufficient notice and sub rule 2(a) to (c) also deals with the mode of publication. In this case though the proper publication was not made before the sale as per Sec. 34 of the Act and even after the sale, publication was not made in accordance with the rules as stated above, because the publication was made in "Dailythanthi" on 5.8.'95 and the Commissioner in Clause 4 of the publication fixed the date as 22.8.95 as the last date for receiving the objections or suggestions from the Public and the Commissioner also passed an order on 31.8.'95 on the objection petition submitted by One M. Ramanathan. So the publication in "Dhinathanthi" was made contrary to the rule 2(1) of alienation of immovable trust property rules.

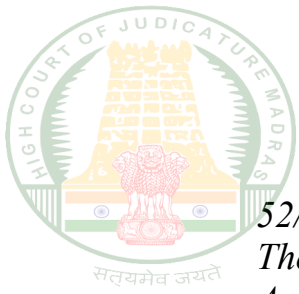
Therefore I am of the view that publication was not made in accordance with the provisions of Section 34 of the H.R.&C.E. Act and also the rules made thereunder and the publication made in "Dhinamalar" dated 6.6.'95 and publication made in "Dhinathanthi" on 9.8.95 are Contrary to the provisions of the Act and rules and therefore the transactions in question is not satisfied with the requirements of Sec.34 of the Act. Your Office file is returned herewith.

61. We also find as part of the records, a second opinion from another learned Government Pleader, to similar effect, and extract the same also below:

R.Subramanian
Government Pleader
High Court
Madras - 600 104
Dated 1-2-1997

Legal Opinion

In the matter of ArulmiguAnnamalainathar Temple,
Kadayanallur, Thenkasi Taluk, Tirunelveli Kattabomman District.
AND



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In the matter of sale of the lands in S. Nos. 49/1, 49/3, 52/1, 52/3 and 53/1 of total extent 3.93 acres in Kadayanallur Village, Thenkasi Taluk, ThirunelveliKattabomman District, belonging to ArulmiguAnnamalainatharThirukoil.

The lands in S.Nos. 49/1, 49/3, 52/1, 52/3 and 53/1 of total extent 3.93 acres in Kadayanallur Village, Thenkasi Taluk, ThirunelveliKattabomman District belong to ArulmiguAnnamalainathar Temple, Kadayanallur. The Hereditary Trustee of the above said Temple sent Petition dated 28-12-92 to the Hon'ble Revenue Minister and sought permission to sell the same and to utilise the sale proceeds in a better manner and for the benefit of the temple. He quoted the market rate at Rs.36,600/- per acre.

Subsequently the Hereditary Trustee sent petition dated 7-1-1993 to Commissioner, H.R.&C.E.Administration Department, Madras-34. The Deputy Commissioner, Thirunelveli, ThirunelveliKattabomman District, submitted his Report in Rc.No.364/93/VI dated 29-1-93 and subsequently he also placed the Valuation Certificate of the above lands issued by the Tahsildar, Tirunelveli Kattabomman District, dated 14-5-1993. As per the Valuation Certificate issued by the Tahsildar, the market value of the subject lands is Rs.3,09,908/- (Rupees Three Lakhs Nine Thousand Nine Hundred and Eight Only).

The subject matter was placed before the then Tamil Nadu Temple Administration Board and it was resolved to sell the lands by Public auction as per Resolution No.732 dated 21-7-94, The upset price was fixed at Rs. 3,10,000/-(Rupees Three Lakhs Ten Thousand Only). Accordingly the Deputy Commissioner, Tirunelveli, took up necessary action for sale of the subject lands following the procedure under Section 34 of the Hindu Religious and Charitable Endowments Act and the Rules made thereunder.

In the meantime a complaint was written by one Mr. Kitturaja on 23-4-93 to the Hon'ble Chief Minister of Tamil Nadu wherein the market value of the subject property was quoted as Rs.2.5 Crores. Similarly on 14-7-94 K.S.S.UdumanMaideen, 129, Big Street, Kadayanallur, sent petition to Commissioner, H.R. & C.E. Administration Department, Madras-34 and claimed tenancy rights and also offered to purchase the subject lands as per the rate to be fixed by the Government.

It is found from the records that on 25-5-95 there was publication in Dailythanthi fixing the date of publication to 9-6-95. It is also found



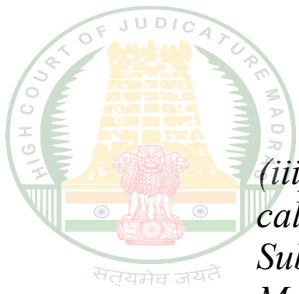
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that the tenant of the land caused publication dated 2-6-95 in Daily Thanthi informing about his interest in the subject lands. Again on 3-6-95 the Hereditary Trustee caused another publication in Dailythanthi cancelling the public auction which was announced to be held on 9-6-95. However all the 3 notifications referred above published in Daily Thanthi are not available for perusal. Subsequently on 6-6-95 publication was effected in Dinamalar fixing the date of public action to 19-6-95. It is found that in the auction held on 19-6-95 at 11.00 a.m. One Mr.R.Subramanian bid the auction for the total sum of Rs. 10,17,000/- (Rupees Ten Lakhs Seventeen Thousand Only). The Deputy Commissioner, Tirunelveli submitted a Report regarding the auction conducted by him and has sought for conformation of sale for the highest bid amount of Rs. 10,17,000/-. Now opinion has been sought for, for according sanction for sale of the subject property in favour of Mr.Subramanian, for the total sale consideration of Rs. 10,17,000/- (Rupees Ten Lakhs Seventeen Thousand Only).

In this connection I give the following opinion:

(i) The Commissioner is the Competent Authority to accord sanction for sale of the subject properties as per Section 34(1) of the Hindu Religious and Charitable Endowments Act, hereinafter referred to as the Act. As per proviso to Section 34(1) before sanction is accorded, objections and suggestions have to be called for, by publishing in such manner as may be prescribed. As per the said proviso the Commissioner has to decide the necessity for sale of the property and other aspects like bonafide, genuineness etc., However there is nothing on record for having invited objections and suggestions by proper publication before taking decision for sale of the property. In the circumstances the Resolution passed by the Tamil Nadu Temple Administration Board is immaterial. On the other hand it was decided only to sell the subject property by public auction. Therefore I am opinion that the provisions of Section 34(1) have not been complied with.

(ii) After decision was taken for sale of the subject property the General procedure has been adopted by publication of sale in Newspaper. Originally the publication was effected on 25-5-95 in Daily Thanthi. The tenant caused publication of objections in Daily Thanthi on 2-6-95. Again the Hereditary Trustee caused publication in Daily Thanthi dated 3-6-95 cancelling the auction date. So naturally the publication fixing the date of sale as 19-6-95 should have been given in Daily Thanthi. What made the Hereditary Trustee to select the Dinamalar paper to cause the publication on 6-6-95 is not known. This is one of the suspicious circumstances.



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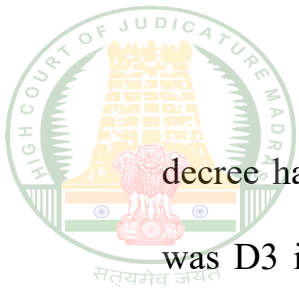
(iii) By publication in Daily Thanthi dated 5-8-95 objections were called for regarding sale of the property in favour of R. Subramanian for the total sale consideration of Rs.10,17,000/-. One Mr.M.Ramanathan has offered Rs.15,00,000/-(Rupees Fifteen Lakhs Only). There is also allegation that there was no auction conducted on 19-6-95. However this objections have been rejected by Order dated 31-8-95. Having called for objections, and objection having been received there should have been an Enquiry. Since the Objector has offered Rs. 15 lakhs he could have been directed to deposit the said amount within a reasonable time to find out his bonafide and genuineness. There are 2 more complaints, one from Secretary Elaignar Ani dated 15-9-95 who has quoted value of the property is Rs.1,20,00,000/-(Rupees One Crore Twenty lakhs Only) and another complaint dated 1-6-96 from a Worshipper, alleging that there was no auction conducted on 19-6-95. In this case the publication as contemplated under Section 34(1) of the Act was not at all done.

The publications made were relating to sale of the subject property by public auction are contemplated under common law. But the procedure adopted gives suspicion. In the circumstances the question of according sanction by Commissioner, H.R.& C.E. does not arise.

The Commissioner has to follow the procedure under Section 34(1) of the Act R/w. Rule 2 of the Rules framed under Section 34(1) and (3) relating to alienation of Trust property in G.O. Ms. No.866, Revenue dated 15-6-1960, and has to accord sanction after satisfying himself about the necessity and genuineness of the transaction.

Opinion given accordingly.

62. Both opinions chronicle the sequence of events that have taken place, concluding that statutory, mandatory procedure has not been followed. We have also perused the records, finding that (i) the TAB has not established that the sale of the subject property was necessary or beneficial to the temple and (ii) no objections were called for by the TAB prior to the sale of the land by auction. In fact, the auction sale to R.Subramanian has been set aside by the District Munsif, Tenkasi vide decree dated 01.06.2001 in O.S.No.252 of 2000 and this



decree has attained finality and has not been challenged by Subramanian who was D3 in that suit. With that, the auction sale by the TAB stands effaced in law.

63. The records reveal that the Commissioner HR & CE, had himself objected to the sale of the property, on the ground that the statutory procedure had not been followed, overriding which the sale had been confirmed. This fact, in our view, supports the conclusion that all was not well in the manner in which the auction sale had transpired.

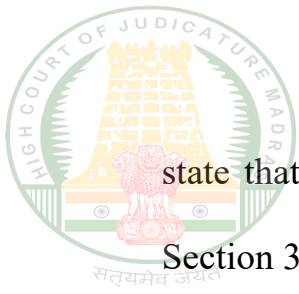
64. The objection of the Commissioner is duly supported by records including opinions from the then Special Government Pleader and Government Pleader who state that the auction had been conducted in violation of statutory conditions and was not in the interests of the temple. These facts cannot be brushed aside and must be given the credence they deserve.

65. The private respondents have relied upon Section 34(4A) to state that the Government has wide powers in disposing temple property, and in such an event, where Section 34(4A) is invoked, there is no necessity to follow the rigour of Section 34(1) and the provisos thereunder. Relying on the judgments in *Mohd. Shahabuddin*⁵⁰, *Dileep Kumar Singh*⁵¹ and *Dwarka Prasad vs Dwarka Das Saraf*⁵² they submit that the provisos under Section 34(1) will apply only to that sub-Section and not to the entirety of the provision. Thus, the attempt is to

⁵⁰Foot Note Supra (15)

⁵¹ Foot Note Supra (13)

⁵² 1976(1) SCC 128



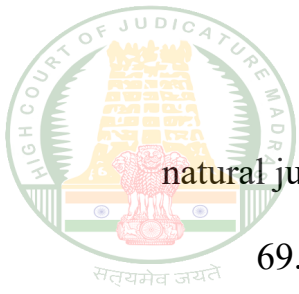
state that the Government has unfettered discretion to alienate property under Section 34(4-A).

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66. There is no doubt in our mind that the two provisos under Section 34(1) relate to that sub-section only. However, Section 34(4-A), inserted vide Tamil Nadu Act 38 of 1998, w.e.f. 22.01.1999, is not a stand-alone provision, but must be read with Section 34(2), solely as an adjunct to those situations where the procedure under Section 34(1) and the provisos, have been diligently followed. Thus, the only modus to be followed by the authorities in alienation of trust property is that set out under Section 34(1) and the provisos thereunder.

67. Both Mr.Hariharan and Mr.Velan have argued that the withdrawal of the order by the Commissioner was without notice to the auction purchaser leading to gross violation of the principles of natural justice. While there is nothing to indicate that the auction purchaser was given notice at that time, much water has flown under the bridge after the order of the Commissioner. The impugned Government Order has come to be passed, the request of the Commissioner for re-consideration of the sale has been rejected and importantly, the order passed in the writ appeal has been recalled and the writ appeal re-heard in full.

68. The private respondents have been heard in detail. They have circulated a compilation of judgements with a note on the propositions and have also filed pleadings setting out various objections to the writ petition. In light of the exhaustive hearings, their grievance in relation to violation of principles of



natural justice does not survive any more.

69. Coming to the judgments, Mr.Hariharan has cited the judgements in *Glaxo Smith Kline Consumer Health Care Limited*⁵³ and *Kessav Ply N.Laminates*⁵⁴ on the maintainability of a writ petition filed beyond the statutory period of limitation provided under Section 34(4).

70. Those decisions, in our considered view, will have no application to the present matter, as the remedy under Section 34(4) does not oust the remedy of Article 226, particularly in a matter such as the present involving the rights of temples. The Court, in such matters assumes Parens Patriae jurisdiction, that cannot be overridden by technical considerations.

71. That apart, the above decisions have been rendered in the context of fiscal enactments and hence those conclusion will have to be viewed from a different perspective. The private respondents have argued that a legitimate expectation has been created in favour of the auction purchaser and subsequent purchasers.

72. Having considered the rival contentions and carefully perused the judgments cited, we do not believe that these arguments are available to the private respondents. We have held that the very substratum of the auction sale has been obviated for several reasons, the gross illegality in procedure, the binding decree of the civil Court and thirdly, the overarching priority that must be accorded to protection of temple properties.

⁵³Foot Note Supra (21)

⁵⁴ Foot Note Supra (19)



73. The interests of individuals, that too, interests improperly acquired, must yield in favour of public purpose. Arguments relating to legitimate expectations or promissory estoppel thus have no play whatsoever in a matter such as the present.

74. Under order dated 01.04.2025, the officials of the HR & CE Department have been directed to evict the private respondents and other encroachers from the subject property, and, where possible, treat them as tenants under the Act. Learned Counsel for the HR & CE Department confirms that notices under Section 78 have been issued to all the unauthorised occupants and the majority have agreed to execute lease deeds for the properties they now occupy. The process is on-going.

75. The status report filed by the Commissioner, HR & CE on 21.04.2025 reads thus:

2. I humbly submit that when this case was listed on 01.04.2005, after hearing, this Hon'ble Court was pleased to pass an order as follows:

Therefore, for the time being and to proceed further as indicated in the status report by HR&CE Department, we are inclined to pass the following orders:

(i) that it is open to HR&CE Department to treat the encroachers as tenants whoever come forward for such an arrangement to become tenants and in respect of those tenants, fair rent can immediately be fixed and the fair rent arrears for all these period from the date of their initial occupation or encroachment shall be calculated and be recovered from them.

(ii) So far as the remaining encroachers are concerned as proposed by HR&CE Department, notice can be served and if they are not willing to receive the notice or evading the notice as fixed by HR&CE Department on or before 17.04.2025, necessary action can be taken to evict them.



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(iii) For such process of evicting those unwilling encroachers to become tenants, necessary Police protection sought for by HR&CE Department be extended by the Superintendent of Police, Tenkasi District without fail and the process of encroachment removal shall be completed by 17.04.2025 and a status report to that effect shall be filed by the Commissioner of HR&CE Department before this Court on the next hearing date, i.e., on 21.04.2025.

3. I humbly submit that pursuant to the order of this Hon'ble Court and in compliance of the same necessary steps have been taken by the Department.

4. I humbly submit that out of the 83 encroachers, eviction orders have been passed under Section 78 of the Act by the Joint Commissioner, Thoothukudi against 81 encroachers. And recently eviction orders have been passed in the Miscellaneous Petitions against two more encroachers.

5. I humbly submit that out of 83 encroachers, on 12.04.2025, Eviction orders have been served on 69 persons and also notice was also served on them to in person to give their written consent to become as tenants to the temple on or before 17.04.2025 otherwise to hand over vacant possession to the temple authorities. The order was affixed in the door of the house of 1 person who refused to receive the order. Subsequently on 13.04.2025, the order and notice was served in person to 9 persons. Further on 15.04.2025 the order and notice was served in person to 1 person. On 16.04.2025 the order was affixed in the door of one person as he was not in station. Therefore totally order and notice were served on 81 persons out of 83 persons. The Village Administrative Officer requested two days time to find out the present address of the remaining two persons.

6. I humbly submit that in the meanwhile, challenging the order dated 01.04.2025 of this Hon'ble Court passed in the above CMP, the encroachers preferred an appeal before the Apex Court in SLP (Civil) Dairy No. 1928 of 2025, and the same was dismissed by the Apex Court by its order dated 16.04.2025. Even after dismissal of the SLP, the said persons failed to come forward to regularize them as tenants to the Temple or to hand over the possession of property. Hence on 17.04.2025, the Deputy Commissioner / Executive officer of the Arulmigu Sankaranarayana Swami Thirukoil, Sankarankovil, the Assistant Commissioner, HR&CE, Tenkasi, the Special Tashildar (Temple land) Tenkasi District, Puliankudi Division HR&CE Inspector, Hereditary Trustee of the above said temple, Surveyors, all Executive Officers and Inspectors of the Thoothukudi, Joint Commissioner Region, temple staff with the support of Revenue and Police Department authorities went to the



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property to get possession of the said property and banner has been placed as 3.93 Acre lands were taken possession.

7. I humbly submit that thereafter on 17.04.2025, 81 encroachers gave consent to treat them as Tenants to the temple and submitted their applications to the Hereditary Trustee of the temple. Based on their Applications, the HR&CE Department is taking has been taken steps to regularize the said encroachers as tenants to the temple by fixing rent under Section 34(A) of the Act. The process for fixing rent has been initiated and it will be completed within 30 days.

8. I humbly submit that in view of the applications submitted by the said Encroachers requesting them to be treated as tenants to the temple, necessary steps have been taken by the department as per Section 34(A) of the Act for fixation of rent to their respective occupation. To find out the exact extent of occupation of the respective occupiers, necessary survey will be conducted on 25.04.2025 by the Department. As such necessary steps have been taken by the HR&CE Department and temple authorities to comply with the orders of this Hon'ble Court.

9. I humbly submit that to regularize them as tenants, the HR&CE Department and the temple have been taking effective steps by following the procedures and Rules and as per the orders of this Hon'ble Court.

Therefore it is humbly prayed that this Hon'ble Court may graciously be pleased to accept this Status Report and pass further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

76. The private respondents claim to be seriously aggrieved by the conflicting stands taken by the HR&CE Department in this case seeing as, in the counter filed to the writ petition, they have supported the impugned Government Order, but they now, they vehemently sail with the writ petitioner.

77. The private respondents rely upon the judgements in *Allahabad University*⁵⁵, *Amar Singh*⁵⁶, *Airline Pilots Association of India*⁵⁷, *Suzuki*

⁵⁵ Foot Note Supra (31)

⁵⁶ Foot Note Supra (2)

⁵⁷ Foot Note Supra (3)



*Parasurampuria Suitings Private Limited*⁵⁸ and *A.P. State Financial Corporation*⁵⁹ to argue that the State is estopped from taking contradictory

stands at different stages in the same litigation. They draw our attention to the observations of the Court in *Amar Singh's* case that an action at law is not a game of chess and that a litigant who comes to Court must do so with clean hands.

78. We agree with the private respondents that the HR&CE Department must be more responsible in the stands that it takes. However, the saving grace are the records of the Department that have been produced before us. The records categorically establish the version of events argued by the Department now, to establish the gross illegalities in the conduct of auction. One of the objections related to the valuation of the land, that has simply been brushed aside. The TAB has not even examined the aspect of valuation and whether the upset price had been determined properly.

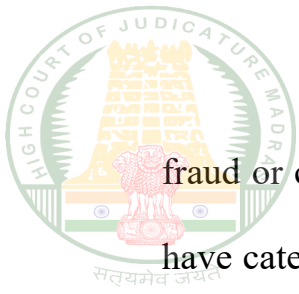
79. Hence, weighing the contradictory stands of the HR&CE Department, as against the serious damage and prejudice caused to protection of temple property, a public cause, we conclude that this argument has only limited value. The conflict in the pleadings does not remove the gross illegality in procedure.

80. Mr.Somayaji has referred to the judgment in *K.Kumara Gupta*⁶⁰ arguing that a public auction cannot be so easily disavowed unless vitiated by

⁵⁸ Foot Note Supra (4)

⁵⁹ Foot Note Supra (5)

⁶⁰ Foot Note Supra (6)



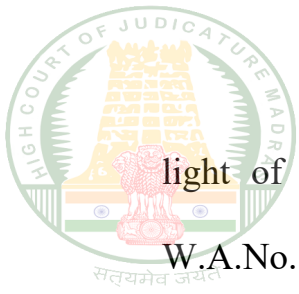
fraud or collusion. The answer is contained in that very submission, in that, we have categorically found that the auction in this case was vitiated by gross non-compliance with statutory provisions and possible collusion at the hands of the then trustee. Hence, and since temple/deity interest would override private interest, the mere fact that the sale was by auction, albeit an irregularly conducted one, would be of no assistance to the auction purchaser.

81. The fact that the writ petitioner was not a participant in the auction also, hence has no relevance to the matter, as such yardsticks, that are normally invoked in regular commercial tender/auction matters, would not be applicable in cases of temple property alienation, conducted contrary to law.

82. We reiterate that the role of the Court in a matter such as the present is that of a guardian and the judgments cited by Ms.Surasika emphasize this aspect. Three Hon'ble Judges of the Supreme Court in *A.A.Gopalakrishnan*⁶¹ have, in the context of safeguarding of temple properties, caution against the phenomenon of '*the fence eating the crops*', meaning a breach of trust by either the authorities or persons entrusted with the duty of managing temple properties. As a result, such properties are unabashedly and unjustly alienated and we cannot shirk this responsibility.

83. The Writ Appeal stands allowed. C.M.P.Nos.149 of 2024, 10671 of 2025, 13568 of 2025, filed seeking to grant leave to the petitioners to file a review application to review/ recall order dated 23.03.2018, are unnecessary, in

⁶¹ Foot Note Supra (22)



light of order dated 17.06.2025 recalling order dated 23.03.2018 allowing W.A.No.1536 of 2014 and subsequent hearing, and hence the same, as well as the Review Applications in SR stage are closed. CMP.Nos.15993, 15203 of 2025 and 17343 of 2017 seeking impleadment have been ordered.

84. As far as CMP. No.15876 of 2025 is concerned, the prayer is for granting leave to the petitioners to implead themselves as party respondents in W.A.No.1536 of 2014. The reasoning on which they seek impleadment is identical to other persons who we have impleaded. We have heard Mr.Velan, in detail on their submissions, and have taken note of the same in passing the present order. Hence, CMP No.15876 of 2025 is closed. There shall be no order as to costs.

[A.S.M., J] [N.S., J]
15.12.2025

Index:Yes/No

Speaking Order/ Non-speaking Order

Neutral Citation:Yes/No

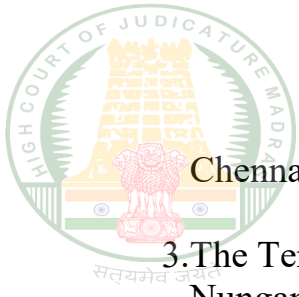
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Note: Registry is directed to make necessary amendments in the cause title.

To

1.The Commissioner and Secretary to Government,
Commercial Taxes and Religious Endowment,
Fort St.George,
Chennai – 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam High Road,



Chennai – 600 034.

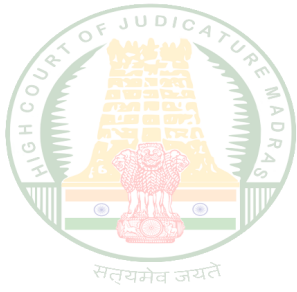
3.The Temple Administration Board,
Nungambakkam High Road,
Chennai – 600 034.

4.The Deputy Commissioner,
Hindu Religious and Charitable Endowment,
Tirunelveli.

5.The District Collector,
Tenkasi.

6.The Superintendent of Police,
Tenkasi.

7.The Managing Trustee,
Sri Annamalainathar Temple,
Kadayanallur Village,
No.6, Kariamanikkanperumal temple,
East Street, Kadayanallur Taluk,
Tenkasi District.



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W.A.No. 1536 of 2014 etc. b



DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

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C.M.P.No. 149 of 2024
In Rev.Appl.Sr.No. 124199 of 2023
And
W.A.No. 1536 of 2014
&
C.M.P.Nos. 13568 & 10671, 15993,
15203, 15876 of 2025, 17373 of 2017

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