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**(1963) 10 MAD CK 0035**  
**In the Madras High Court**

Babu Gurukkal

APPELLANT

Vs

The Commissioner for Hindu Religious and Charitable  
Endowments Board

RESPONDENT

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**Date of Decision :** 01-10-1963

**Acts Referred:**

**Citation :** (1964) 1 MLJ 384

**Hon'ble Judges :** K. Veeraswami, J

**Bench :** Single Bench

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**Judgement**

K. Veeraswami, J.—This appeal by the plaintiff arises out of a suit to set aside an order of the Deputy Commissioner of the Hindu Religious and Charitable Endowments dated 19th April, 1956, as confirmed by the Commissioner on 27th July, 1956, on appeal. By that order, the Deputy Commissioner declined to recognise the plaintiff as the hereditary trustee of Tirumudi Vinayagar and Chelliamman Temples-at Tiruvanmiyur in Saidapet Taluk. The trial Judge agreed with the view of the Department and dismissed the suit. He was prepared to say that the oral evidence on behalf of the plaintiff showed that he and his ancestors were looking after the affairs of the Vinayagar Temple ; but, at the same time, he thought that there was documentary evidence to hold that the plaintiff's claim to hereditary trusteeship had not been proved.

2. This is a case of two small temples of which Chelliamman Temple has no endowments whatever. Tirumudi Vinayagar has been endowed with an extent of 1 acre 31 cents of wet land. Except for this, the Vinayagar Temple appears to own no other property. Even in respect of the land endowed for the support of the Vinayagar Temple, the question whether it is a service inam may arise, but it does not fall to be decided in this appeal. Often in this part of the country, small temples like these have only poojaris who, by long custom or usage, look after the affairs of the temples where they serve as gurukkals. They thus function in a dual capacity, namely, poojari cum trustee. Such a combination of offices is not necessarily opposed to public policy or contrary to law. The case of bigger

temples may be different. In such cases, it may be said that a servant of a temple cannot properly function as a trustee as well. But, in my view, it does not apply to small temples as in this case. Recently a Division Bench of this Court held in *Muthuswami Gurukkal v. Ayyaswami Thevar and Ors.* (1963) 77 L.W. 129. that in cases of such small temples there will be a presumption that the poojari himself is the hereditary trustee and there is nothing illegal in the hereditary trusteeship and poojariship being combined in the same person in small temples where there has been no interference or control by any of the villagers.

3. The presumption which the Division Bench refers to applies to this case. The poojari of Vinayagar Temple apparently functioned as a trustee as well. This is borne out by the documentary evidence. The earliest document is the extract from the Inam Fair Register in which while reference is made to the land endowed for the support of the Vinayagar Temple, in Col. 16 pertaining to "Particulars relating to the present owner" is found the recital "Tiruvanmiyur Tirumudi Vinayakar priest for the time being, Dalavai Subramania Gurukkal". No doubt, Dalavai Subramania Gurukkal was only shown in this document as a priest or poojari. But having regard to the small extent of land and the fact that the temple itself was a small one, it may be assumed that the poojari himself looked after the affairs of the temple and therefore acted as a trustee. The Commissioner thought that because Dalavai Subramania Gurukkal was mentioned only as a priest and not as a trustee, the extract from the Inam Fair Register would be of no assistance. This I think is a wrong view to take in the circumstances, quite apart from the presumption arising in such cases. The other evidence which will be referred to presently clearly points to the fact that the plaintiff, his brother Ramanatha Gurukkal, their father Vedagiri, and grandfather Ramalinga Gurukkal alias Babu, were functioning as poojaris of the Vinayagar Temple and also looking after its affairs. Exhibit A-12 was a patta granted to "Dharmakarthas Subramania Gurukkal" in 1896. He is said to be the grandfather of the plaintiff. Exhibit A-2 is a copy of the Inam B Register extract in which too reference is to be found to Babu Gurukkal as "Dharmakarthas of Tirumudi Vinayakar Koil". In Exhibit A-14, a communication sent by the Department the brother of the plaintiff was addressed as trustee of Tirumudi Vinayakar Temple. The cist receipts relating to the property endowed for the Vinayakar Temple and filed in the case also show that in 1916 the plaintiff's mother Murniammal paid the cist and in 1948 to 1953 it was paid by Ramanatha, the plaintiff's brother. Though there is a gap in the evidence between about 1896 and 1916, there is no doubt that at the Vinayakar Temple the plaintiff and his ancestors had been functioning as poojaris cum trustees.

4. Learned Counsel for the respondent argued that there was nothing to show that Dalavai Subramania Gurukkal mentioned in the extract from the Inam Fair Register was an ancestor of the plaintiff. But the trial Judge relying upon the evidence of the plaintiff himself observed that there was absolutely no doubt that Dalavai Subramania Gurukkal was an ancestor of the plaintiff. I see no reason to reject the evidence of the plaintiff on this matter. The documentary evidence

shows that for more than three generations the poojariship cum trusteeship in the Vinayakar Temple has been in the family of the plaintiff from father to son. My attention has not been drawn to any other documentary evidence to show that this was not or could not to be so. It may be that Ramanatha employed some one to function as a poojari and paid his remuneration. But that in itself will not militate against the plaintiff's claim that he is not only poojari but also a hereditary trustee of Vinayakar Temple.

5. So far as Chelliamman Temple is concerned, there appears to be very scanty evidence to establish the plaintiff's claim. I am therefore not disposed to interfere, with the finding of the trial Judge in regard to the plaintiff's claim of trusteeship of that temple.

6. The appeal is allowed in part and it is declared that the plaintiff is a hereditary trustee of Tirumudi Vinayakar Temple. In other respects the appeal is dismissed. The parties will bear their costs.