

(1980) 07 MAD CK 0007
In the Madras High Court

Chinna Andi Pandaram

APPELLANT

Vs

The Commissioner, Hindu Religious and Charitable
Endowments (Admn.) Department and Others

RESPONDENT

Date of Decision : 30-07-1980

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1951 —
Section 6(11)

Citation : (1981) 1 MLJ 206

Hon'ble Judges : S. Swamikkannu, J; S. Swamikannu, J

Bench : Division Bench

Judgement

S. Swamikkannu, J.—This is an appeal by the second plaintiff Chinna Andi Pandaram against the judgment and decree dated 13th day of

August, 1975 in O. S. No. 305 of 1970 on the file of the Court of the learned Principal Subordinate Judge of Salem, dismissing the suit filed by

him along with one Komara Pandaram alias Komarandi Pandaram for declaration that they are the hereditary trustees of the Vinayagar, Mari

Amman and Pidari Amman temples of Laddivadi village, after setting aside the order of the Commissioner, H R. and C. E. Board, in Appeal No.

63 of 1967 on his file and for a declaration that they are entitled to enjoy the suit properties hereditarily and for a permanent injunction restraining

the defendants 2 to 7, the trustees appointed by the H. R. and C. E. Board, from interfering with their possession and enjoyment of the suit

properties.

2. The case of the plaintiffs as put forward by them in the plaint is that Survey No. 111/2 of Laddivadi village was granted as devadayam to the

Vinayagar temple at Laddivadi under title deed No. 695, that S No. 240 of that

village was granted as devadayam land in favour of Mari Amman and Pidari Amman temples at Laddivadi village as per title deed No. 696 and that the plaintiffs and their ancestors were in possession and enjoyment of these properties as poojaries-trustees of the temple for over 150 years. It is further alleged in the plaint that even at the time of the Inam Commission enquiry in 1863, the ancestors of the plaintiffs were found to be the persons enjoying the lands on behalf of the deity, that the pattas granted in 1880 c receipts are also to the same effect, that the management of the temples and its day-to day administration were carried on by the plaintiffs as hereditary trustees and that the Area Committee, Salem, by its resolution dated 25th January, 1965 appointed defendants 2 to 6 as non-hereditary trustees of these temples. The plaintiffs preferred revision against the resolution of the Area Committee and also filed an application u/s 63(6) of Madras Act (XXII of 1959), to the Deputy Commissioner, H. R. and C. E. in O. S. No. 7 of 1966 for a declaration that they are the hereditary trustees of the above temples. The case of the plaintiffs that they are the hereditary trustees of those temples was upheld by the Deputy Commissioner and thereafter they did not press the revision petition before the Commissioner. The defendants 2 to 6 who were aggrieved by the order of the Deputy Commissioner preferred Appeal No. 63 of 1967 to the Commissioner and the Commissioner allowed this appeal by his order dated 3rd January. 1970. It is further alleged in the plaint that the plaintiffs and their ancestors were in uninterrupted enjoyment of the temples and the suit properties for over 150 years and their hereditary right to be not only poojaries but also trustees of the temples cannot be questioned by any one so long as they render service to the temple. The suit lands were taken over by the Government under the Minor Inams Abolition and Conversion into Ryotwari Act (XXX of 1963) in 1965. In that enquiry also, the Settlement Tahsildar recognised the plaintiffs as the hereditary poojaries and trustees. It is further stated in the plaint that the order of the Commissioner setting aside the order of the Deputy Commissioner is based on the ground that the villagers made some collections and payments in connection with some festivals and therefore they were in possession and management of the temple properties and that this finding is not correct. According to the plaintiffs, the temple being a

public temple, the poojari or trustee cannot prevent the public spending some money during festivals and this will have no bearing on the question

of hereditary trusteeship. According to the plaintiffs, as they were the hereditary poojaries and hence they were in possession and enjoyment of the

suit properties in lieu of their service to the temple. It is also stated in the plaint that the defendants 2 to 6 are intern upon entering the suit properties

after the order of the Commissioner and that they have no light to interfere with the possession and enjoyment of the properties by the plaintiffs.

The seventh defendant was subsequently appointed as a trustee.

3. On the other hand, the case of the first defendant the Commissioner, Hindu Religious and Charitable Endowments, Madras, as contended in the

written statement is that his order is supported by oral and documentary evidence and is not liable to be set aside, that the Inam Commission did

not find that the ancestors of the plaintiffs were the owners of the suit lands, nor these lands were given to the deities through the poojaries and that

the plaintiffs or their ancestors are not found to be the hereditary trustees or managers of those temples. It is also contended that the Inam Fair

Register only shows that the ancestors of the plaintiffs were poojaries and nothing else, that poojaries are different from trustees, that the

possession and enjoyment of the suit lands by the ancestors of the plaintiffs was only as poojaries and that there is documentary evidence to prove

that the plaintiffs and their ancestors were not managing the day to-day-affairs of the temple. According to the first defendant, the order of the

Settlement Tahsildar recognising the plaintiffs as trustees was passed without notice to defendants 2 to 6 and he is not the competent authority to

decide this question. The order of the Deputy Commissioner, H. R. and C. E., according to the first defendant, having been set aside, cannot be

read as part of the plaint. According to the first defendant, there is sufficient documentary evidence to prove that the villagers were in complete

management and control of the temple, that the entry in column 7 of the Inam Statement shows that the lands were granted for the purpose of

pooja and for Sukrawara Kattalai and Somawara Kattalai and also as Pillayar Manyam and Pidari Amman Manyam. It is further contended by the

first defendant that the ancestors of the plaintiffs were never described as trustees and much less as hereditary trustees. According to the first

defendant, the documents produced by the villagers before him established that the temples were managed by the villagers who paid salaries to the

plaintiffs' ancestors on annual basis and that these accounts are 45 years old. According to the first defendant, the plaintiffs have signed these

entries. The classification of the land as devadayam shows that the grant was to the deities and that the plaintiffs and their ancestors were only

poojaries and were not managing the temples as hereditary trustee.

4. The case of the 5th defendant Velappan as put forward in his written statement which was adopted by the other defendants is that the deities

own the lands as per the Inam Title Deeds 695 and 696, that the Inam Title Deeds mention that Poojari Selli was in possession in Fasli 1209,

Poojari Sriranga in 1242 and Poojari Komara in 1257 and Komarandi and Arasalai at the time of the inam enquiry. According to the 5th

defendant, those persons are not the ancestors of the plaintiffs and the geneological tree filed along with the plaint is not true as it does not give the

year of death of various persons and the names of their heirs. The Inam Register, according to the 5th defendant, establishes that the grant was in

favour of the deity and that the persons mentioned therein were in possession on behalf of the deity. The pattas and kist receipts show this position.

According to the 5th defendant, the management and the day-to-day administration of the temples were always in the hands of the villagers and

that the plaintiffs, though poojaries, were not the hereditary trustees and that the plaintiffs were also not in continuous possession as poojaries.

According to the 5th defendant, the lands being Devadayam lands, the poojaries cannot be in undisturbed possession so long as they render

service to the temples. The lands were leased by the plaintiffs to one Chinna Goundar and the plaintiffs are not in actual physical possession. The

deity was granted patta in the settlement proceedings and it is untenable that the grant was to be enjoyed through the plaintiffs who were hereditary

trustees and poojaries. According to the 5th defendant, the order of the Tahsildar was passed in his absence and as such the observations therein

about the hereditary right of the plaintiffs to be trustees are not binding on these defendants. The defendants 2 to 6 are respectable persons owning

substantial properties and are the validly appointed trustees. Chinna Gounder, the lessee under the plaintiffs is a necessary party to the suit.

5. On the above pleadings the trial Court framed the following issues for trial:

1. Whether the plaintiffs are the hereditary trustees as alleged?
2. Whether the plaintiffs are the hereditary poojaries as alleged?
3. Whether the inam grant is in lieu of the service to the temple by the poojaries?
4. Whether Chinna Goundar is a proper and necessary party to the suit?
5. Whether the suit is bad for non-joinder of party of Chinna Gounder?
6. To what relief, if any are the plaintiffs entitled?

6. The second plaintiff, the appellant herein examined himself as P. W. 1 before the trial Court P. W. Chinnathambi Gounder was also examined

on behalf of the plaintiffs. On behalf of the plaintiffs, Exhibits A-1 to A-22 were filed before the trial Court. The 5th defendant Velappan examined

himself as D. W. No. 4. D. W. No. 1 Nallianna Gounder D. W. No. 2 Sengodan and D. W. 3 Palanisami were examined on behalf of the

defendants Exhibits D 1 to D 5 were filed on the defendants.

7. On a consideration of the evidence, the trial Court found under issue Nos. 1 and 2 that it cannot be held that the plaintiffs-hereditary poojaries

also acted as the trustees of the temples and that the plaintiffs are not the hereditary trustees, though they are the hereditary poojaries of the

temples. Under issue No. 3, the trial Court found that the Inam grant is only to do pooja service in the temple and not to the poojaries for services

to the temple. Under issue Nos. 4 and 5 the trial Court found that Chinna Gounder is not a necessary party to the suit nor is the suit bad for non-

joinder of that person. under issue No. 6, the trial Court found that the plaintiffs are not entitled to any permanent injunction against the deity or the

trustees appointed by the proper authority to manage the affairs of the deity from interfering with their possession and enjoyment of the suit

properties. In the result, the suit was dismissed. There was no order as to costs.

8. Aggrieved by the above decision of the trial Court, the second plaintiff has come forward with this appeal inter alia contending that the trial

Court failed to note that there is documentary evidence on the side of the plaintiffs to prove that they have been not only the hereditary poojaries

but also hereditary trustees even before the time of Inam Commission According to the appellant, the lower Court ought to have found that the

plaintiffs were hereditary trustees. It is also contended on behalf of the appellant

that Exhibits B-1 to B-5 will prove inter-meddling by the public in the affairs of the temple.

9. The main contention raised on behalf of the appellant in this appeal is that the plaintiffs are the hereditary trustees of Vinayakar, Mariamman and

Pidariamman temples of Laddivadi village and in that capacity, they are entitled to enjoy the suit properties.

10. It is common ground that the plaintiffs are the poojaries of the temples and that their ancestors were also doing service. Exhibit A-1

geneological tree filed on the side of the plaintiffs traces the ancestry of the plaintiffs upto Konarandi and Arasalai. It shows that the first plaintiff

Komarandi Pandaram and the second plaintiff Chinnandi Pandaram have one Kumarandi Pandaram as their common ancestor. It is also shown in

Exhibit A-1 that the said Kumarandi Pandaram and Arasalai Pandaram are brothers and that they are sons of one Seeranga Pandaram. Arasalai

Pandaram had no sons. Kumarandi Pandaram has three sons by name Seeranga Pandaram, Arumugha Pandaram and Karupandi Pandaram.

Sseranga Pandaram had a son by name Palaniandi Pandaram whose second son is the second plaintiff Chinnandi Pandaram. The first plaintiff is the

son of Karupandi Pandaram. Arumugha Pandaram had no issues. Exhibits A-2 and A-3 are the extracts of Inam register relating to T. D. Nos.

695 and 696. Kumarandi Pandaram and Arasalai Pandaram are mentioned as poojaries. Exhibit A-2 shows that the Inam is devadayam and it has

been given for the support of Pilliar at Laddivadi. Under the column particulars regarding owner, the names of Kumarandi and Arasalai find a

place, in Exhibit A-3 under the column description of Inam it is stated that the property has been given for the support of Mariamman and

Pidariamman temples at Laddivadi village Under the column particulars regarding the owner, the names of Kumarandi and Arasalai are mentioned.

In it, the name of the original grantee is found as Mariamman Pidari poojari Chelli. It is also an Inam mentioned as devadayam. Exhibit A 4 is the

title deed granted to the manager for the time being of the pagoda of Pilliar by the Inam Commissioner in the year 1864. Exhibit A-5 is also the

original title deed granted to the manager for the time being of the pagoda of Mariamman and Pidariamman temples in the village of Laddivadi in

the Taluk of Namakkal on 13th May, 1864 Exhibit A-6 is the patta granted in

favour of Shri Mariamman and Pidariamman temples under title

deed No. 696. Exhibit A-7 is the patta granted in favour of Shri Pilliar Temple under title deed No 695. Exhibits A-8 and A-9 are the pattas

issued for fasli 1289 in respect of these lands. They are in the name of poojari Kumarandi. Exhibits A-8 and A-9 are of the year 1880. Exhibit A-

10 is the statement made by Kumarandi and Arasalai before the Inam Commissioner in the year 1863. Exhibit A 11 is also a statement made by

Kumarandi and Arasalai before the Inam Commissioner in the year 1863. These statements show that the lands were granted for the purpose of

performing the poojas to the temples and poojas are being performed regularly Exhibit A-12 dated 6th March, 1923, is the mortgage deed

executed by Kumarandi and others in favour of one Nachi Goundar. Exhibit A-13 is the mortgage deed executed to Palaniandi Goundar by

Kumarandi in the year 1936. Exhibit A-14 is the lease deed executed by Kumarandi and Palaniandi on 7th November, 1925. Exhibit A-15 series

consist of kist receipts from fasli 1322 onwards.

11. The defendants have filed Exhibits B-1 to B-5, accounts relating to collections from villagers and from lease of the village fishery rights etc.,

and the expenses incurred from and out of these amounts in connection with the affairs of Mariamman and Pidariamman temples. Exhibit B-1 is the

chitta book maintained by Mariamman and Pidariamman koil Exhibit B-2 is the chitta relating to the collections made for the temple festivals.

Exhibit B-3 is the day book. Exhibit B-4 is the ledger. Exhibit B-5 is the book showing the accounts for the expenses incurred relating to

Kumbabishekam of Pidariamman temple in the year 1955 and also relating to the accounts of the temple till the year 1962. These account books,

Exhibits B-1 to B-5 contain entries which show that Palaniandi and Kumarandi Pandaram agreed to perform poojas for one year at Rs. 75 for

Mariamman and Pidariamman temples and also acknowledged the receipt of the same, that the amounts were spent for the purchase of deities to

these persons, that the amounts were given to them for lighting the temple "Nanda vilakku, and also for the expenses relating to the pooja

performed on Amavasai days and other festival days and Abishekam expenses. There are entries in these account books relating to the amounts

spent for making-charges of Utsava Vigraham as well as amounts spent towards

repairing the building and expenses for the erection of pandals and payment to drummer, tailor, devadasi and various other services rendered at the time of the festival These account books show the expenses relating to Mariamman and Pidariamman temple for a period of about 45 years. Exhibit B-1 contains entries relating to the expenses incurred for the Tamil year Prabhava. Exhibit B-2 contains entries relating to the Tamil year Ruthrothkhari, Rakthakshi and Kurothana. Exhibit B-3 contains entries of the Tamil year Thunthubi, Vibhava, Sukkila, Pramodhootha, Prajothpathi. Angirasa, Bhava, Uva, Eswara Vekuthanya and Srimukha. Exhibit B-4 contains entries relating to the Tamil year Thundhubi, Krothana, Rakthakshicet. Exhibit B-5 shows the entries of the year 1958 to 1962.

12. On behalf of the appellant, it is contended that the plaintiffs and their ancestors were managing the affairs of the temple and performing pooja services hereditarily for nearly a century and that the expenses in connection with the festivals, abishekam or the erection of the chariot incurred by the villagers will not show that they took part in the management of the affairs of the temple. It is further contended on behalf of the appellant that only on the ground that the hereditary poojaries allowed the villagers to spend for the temple on some occasions will not show that the affairs of the temple were managed by the villagers. In this regard, it is also pointed out that though the villagers spent money on certain occasions like festivals, yet the plaintiffs and their ancestors were not required to account for the income from the Devadayam land to the villagers which they were enjoying. In support of his contention, the learned Counsel for the appellant refers to the decision in Babu Gurukkal Vs. The Commissioner for Hindu Religious and Charitable Endowments Board, for the following proposition: Small temples in South India often have only poojaris who, by long custom or usage, look after the affairs of the temples where they serve as gurukkals; they 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. In the case of such small temples, there is a presumption that the pujari himself is hereditary trustee and there is nothing illegal in the hereditary trusteeship and poojariship being combined in the same person in such small temples. When the documentary evidence including the

Inam Register shows that for more than three generations, the poojariship-cum-trustee-ship in a temple was in the same family and descended from

father to son and there is no evidence to show that this was not so or could not be so, the presumption is all the greater, and it must be held that the

members of the family are hereditary trustees of the temple.

The decision in *The State of Madras Vs. Krishnaswami and Another* (Minors represented by their Mother and next Friend, Kaliammal), is relied

on for the following proposition:

From the mere fact of trusteeship of a temple being held by a family hereditarily for three or four generations, an inference that the trusteeship was

hereditary in character cannot be drawn as an invariable conclusion. Where in the case of a temple the management is found to have passed from

one poojari to another for a long time and subsequently a well-wisher of the temple (abhimani) acquired the temple lands by purchase from the last

poojari along with the poojariship, and the purchaser and his successors take over the trusteeship, that would not establish the ingredients of a

hereditary right to the trusteeship.

In the case of small temples it often happens that the poojari who is mentioned in the Inam Register as the person in enjoyment, also looks after the

affairs of the temple and acts as the trustee as well and the members of the same family happen to be the poojari and trustee for several

generations; and when taking advantage of that position the poojari sells the lands to a stranger who thereafter looks after the lands and performs

the pooja and festivals for several years, that would only show that the poojari has been to all intents and purposes the trustee as well. But that

would not be sufficient to infer that the purchaser and his descendants who subsequently manage the temple for several generations are entitled to

be hereditary trustees of the temple. Nor would the fact that contributions were levied by the Board at the rate leviable in the case of excepted

temples which have hereditary trustees, lead to the conclusion that the trusteeship is hereditary in character or prevent the Board from raising an

issue about the hereditary nature of the trusteeship, when there is a contest about it later on.

The devolution of office for generations from son to grandson is no doubt prima facie evidence that the office devolves by succession according to

the laws of inheritance. So also the fact that members of a particular family held the office of Dharmakartha continuously for more than a century

and there was assertion by them that it was hereditary would be good evidence that the office is hereditary. But any such prima facie inference will

be negated by evidence to the contrary.

The learned Counsel for the appellant also refers to the decision in *Chinnian v. Deputy Commissioner, H. R. and C. E., Thanjavur and Ors.* (1965)

1 MLJ144 for the following proposition:

Where a particular temple is owned by the State or the founder it would negative the contention that the trusteeship thereof vested in an outside

agency unless it be proved that the State or the founder have vested the trusteeship in such agency. The mere fact that the poojaris of a temple,

though hereditary poojaris have been in custody of the temple jewels or in charge of its day-to-day management or collected subscriptions and

celebrated certain festivals, would not make any difference and cannot show that the poojaris were also functioning as trustee.

Though grants of lands by the State in favour of the poojaris for the performance of daily worship and festivals, etc., in the temple taken by itself

might lend support to the contention that the poojaris were also in a sense trustees of the temple as well, still where there is clear evidence to show

that the State never intended to part with its right, such grants can at least be regarded as creating a special trusteeship for a limited purpose

mentioned therein. In regard to other matters of management it is the State that will be the superior or general trustee as it was in the position of the

founder-owner of the institution.

The decision in *Muthuswami Gulukkal v. Aiyaswami Thevar and sixteen Ors.* (1964) 2 MLJ 560 is referred to for the following proposition:

There is nothing illegal in hereditary trusteeship and pujariship being combined in the same person, especially in the case of small temples where

there has been no interference or control by any of the villagers of the place. In the case of small village temples, where the temple property is of

insignificant value and the income is hardly sufficient even to meet the routine expenses of the temple, if the archaka or the poojari is left in

management of the temple lands and the affairs of the temple without any interference by any of the villagers for a long number of years, it has to be

presumed that with the consent and acquiescence of the worshippers of the village the pujari is the trustee as well. In such a case, it must be held

that the poojari managing the lands and affairs has made out his right to hereditary trusteeship and the interests of the temple are not likely to offer,

when the person concerned admits that the lands, are temple lands and has never set up any rights to them as his own property. (Ramaswami v.

Ramaswami 1892 2 MLJ 451, Andavar and Others Vs. Periathambi Padayachi and Others, relied on.)

The learned Counsel for the appellant also refers to the decision in Andavar and Others Vs. Periathambi Padayachi and Others, for the following

proposition:

Where the immovable properties owned by certain deities were of inconsiderable value and the only act of management which could be exercised

in relation to them, namely, the payment of kist was being done by the poojari, where all the movable properties which were of considerable value

had been in the custody of the poojari and there is nothing to show that any control was exercised over him as regards the manner in which he

disposed of the collections and contributions made for the annual festival by the worshippers, the proper inference to be drawn is that the poojari

continued the office of trustee also in himself.

13. In the instant case, the plaintiffs have not produced any account book to show that they had acted as trustees and were meeting the expensor

for pooja and other expenses for the temple. As already seen, the title deeds only show that their ancestors were the managers for the time being

and that they also served as poojaries. It is also relevant in this connection to note that the relationship of the plaintiffs to the original grantee,

poojari Selli, has not been properly explained. It is also seen that the grant was for the performance of the pooja and doing "Sukrawara and

Somawara kattalais" The property is described as "Pillayar Manyam" and "Pidari Amman Manyam" Thus, we find that there is no evidence on

record to show that the ancestors of the plaintiffs were acting as trustees in addition to their performing the duties as poojaries The entry in the

account book Exhibit B-3 at page 14 shows that from 31st "Aani" to the next year Raktakshi 31st "Aani" Kumarandi and Palaniandi were to be

given Rs. 75 and for that they have been given Rs. 30. This entry has been

signed by both of them The said entry read as follows:

Pages 94 and 95 of Exhibit B-3 shows that Andikumaran and Palaniandi were given a pair of dhoties. This shows that they were treated only as

poojaries. Page 14 of Exhibit P-3 contains the signatures of Komarandi and Palaniandi Exhibits B-3 also contains entries relating to the

remuneration paid to Andi Kumaran for performing poojas. Entries relating to expenditure for welding the hall of the Mariamman Temple, purchase

of locks, purchase of pooja samans such as Thiruvachi, Thambalam, Sulavutham Sarivan etc., also find a place in Exhibit P-3. At page 13 of

Exhibit D-3, there is an entry dated 30th of Purattasi, Ruthrothkari showing that remuneration was paid for levelling the floor of the temple on its

western side. There are also entries in Exhibit P-3 which show that the villagers have been managing the temple by making local collections. Thus

Exhibit P-3 proves that the villagers were managing the temple and that the ancestors of the plaintiffs were acting only as poojaries. Nowhere in

these account books the ancestors of the plaintiffs are mentioned as trustees, much less as hereditary trustees. The plaintiffs have not produced any

record to show that their ancestors were managing the temple.

14. The evidence of P. W. 1 shows that the income from the lands was not sufficient to perform the day to day poojas and that the income from

the lands was supplemented by the collections made by the villagers as spoken to by the witnesses examined on behalf of the defendants P. W. 1

states in his evidence that the income from the land is only Rs. 3-0/ per annum and that the same is shared between the four families of the

poojaries, that for daily pooja in the temples $\frac{3}{4}$ measure of rice was required and the expenses will come to Rs. 10/ or Rs. 12/ per day.

15. Exhibits A-10 and A-11 are statements made by Kumarandi and Arasalai before the inam Commissioner in the year 1863. It is stated therein

that the income from the properties was utilised for pooja services. From this, it cannot be held that the property was not endowed to the deity but

the grant was only for the poojari service. In the instant case, the grant was in favour of the deity and as such, it cannot be held that because of the

long service rendered by the plaintiffs and their ancestors, who were in possession of the property, the same was granted for poojari services

alone. The Inam register also shows that the property is registered in the name

of the deity. Therefore, it is clear that the Inam grant is only to Pooja service in the temple and not to the Poojaries for their service to the temple.

16. P. W. 1 Chinnandi Pandaram has stated in his evidence that the annual income from the land is about Rs. 300 and with this income, the

members of the four families are maintained. He also states in his cross-examination that there is no account maintained for the amounts spent

towards purchasing paddy. He also admits that the temple was not repaired by them. P. W. 2, Chinnathambi Goundar has stated in his evidence

that he is acquainted with the plaintiffs and that they were performing poojas in Mariarmman, Pidari-amman and Pilliar temples. P W. 1 Nallianna

Gounder who is aged about 75 years states in his evidence that for administration of the temples, the inhabitants of the five villages are contributing

and that four persons from each of the five villages are administering the affairs of the temples. According to him, the daily expenses towards

Neivethiam and pooja are met by the villagers. He specifically states that the affairs of the temple are not administered by the plaintiffs. He also

states that the members of the four families of the plaintiffs are living out of the income from the land He further states that the plaintiffs were

performing poojas in the temples at the time of the suit. Prior to them, it was their ancestors who were performing the poojas in the temples

According to him, as and when Abishekham and Pongal ceremonies are performed, remuneration was given to the poojari by the villagers.

According to him, it is only the villagers who had contributed for the extensive repairs that were carried on in the temple such as providing

verandah, constructing gopuram as well as compound walls. D. W. 2 Chengodan who is aged about 65 years has also stated in his evidence that

the repairs of the temples were effected by the people belonging to the five villages and that the festivals were also celebrated by them. According

to him, the plaintiffs were enjoying the income from the temples. He has denied the suggestion that the plaintiffs were spending money for

whitewashing the walls of the temples. D. W. 3 Palanisami has stated in his evidence that the villagers belonging to the four villages in Laddivadi

have been collecting money and celebrating the annual festivals in the temples. He further states that the expenses of the temples were incurred out

of the said collections made by the villagers. D. W. 4 Velappan also states in his

evidence that the affairs of the temples have been administered

only by the villagers and that it is the villagers who have been incurring expenses towards festivals as well as effecting repairs in the temple and this

they did by collecting money from the people residing in the four villages. D. W. 4 had produced Exhibits B-1 to B-5 before the Deputy

Commissioner, H. R. and C. E. They were given to him by Chengoda Goundar. The entries in these account books were written by one

Ramachandra Iyer. The said Ramachandra Iyer is not alive. In the account books relating to the years 1958 to 1962, D. W. 4 has made

endorsements. D. W. 4 further states that the plaintiffs have been leasing the lands and enjoying the same. They are getting about Rs. 300 per

annum. With the said income, four families are maintained. He has denied the suggestion that out of the income from the lands, some portion of the

same is spent for the temples. According to him, during festival seasons Pandarams were given dhoties and clothes, rice and money. In his cross-

examination, D. W. 4 has stated that it is only the villagers who give money for performing poojas in the temples. D. W. 4 is aged 57 years. D. W.

4 also states that the vigraham in the temples as well as the pooja samans are all in the custody of the villagers.

17. In the Madras Hindu Religious and Charitable Endowments Act, 1960(Madras Act XII of 1959) the office of "hereditary trustee", defined u/s

6(11) is as follows:

"hereditary trustee" means the trustee of a religious institution, the succession to whose office devolves by hereditary right or is regulated by usage

or is specifically provided for by the founder, so long as such scheme of succession is in force:

In this appeal, it is not in dispute that the plaintiffs are the hereditary poojaries of the temple. The property in the instant case were given to the deity

for pooja service and was not a personal grant to the ancestors of the plaintiffs burdened with pooja service to the deity. On a careful

consideration of the entire evidence in this case, I find that the plaintiffs have not established their case by acceptable evidence that they are the

hereditary trustees of the temple, I hold that the plaintiffs are not hereditary trustees of the temple, though they are hereditary poojaries of the

temple. There is no merit in the appeal. The appeal is dismissed. But there will

be no order as to costs.