

(1994) 12 MAD CK 0004

In the Madras High Court

Case No : Writ Petition No. 6905 of 1993

Meyyappa Velar

APPELLANT

Vs

Tamil Nadu Temple Administration Board and Others

RESPONDENT

Date of Decision : 02-12-1994

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : (1994) 12 MAD CK 0004

Hon'ble Judges : S.M. Ali Mohammed, J

Bench : Single Bench

Advocate : E.M. Sudarsana Nachiappan, for the Appellant; P.M. Baskaran, Government Advocate for Respondents 1 to 3, Mr. S.V. Jayaraman for 4th Respondent and Mr. W.C. Thiruvengadam for Respondents 5 to 7, for the Respondent

Final Decision : Dismissed

Judgement

S.M. Ali Mohammed, J.—By consent of parties, the Writ Petition itself is taken up for final disposal. The following important questions of

law are involved in this Writ Petition.

1. Is a Hindu woman entitled to be appointed as a trustee to a Hindu Temple?
2. Is there any departure from the traditional Hindu Law in appointing a woman as a trustee of Hindu temple?

To use the activated terminology of Justice Krishna Iyer, has the Tamil Nadu Temple Administration Board, in appointing Rajalakshmi as one of

the trustees of Vettudaiyar Kaliyamman Temple at Ariyakuruchi, rendered gender justice, without many way violating the traditional Hindu Law ?

2. The Tamil Nadu Temple Administration Board, the first respondent herein appointed five trustees to administer the Vettudaiyar Kaliyamman

Temple by its resolution dated 17.3.1993. They are (1) T. Meyappan, (2) M. Veerapandian, (3) R. Rajalakshmi, (4) M.P. Kannappan, (5) K.

Karuppiah, the tenure of office of the trustee is for three years and it will take effect from the date of election of the Chairman. The 2nd respondent

has convened the meeting of the Board of Trustees for the election of the Chairman. At this stage, the petitioner herein has filed this writ of

certiorarified mandamus challenging the appointment of Tmt. Rajalakshmi on the ground that the same is not in conformity with the scheme framed

by this Court in Appeal No. 377 of 1927 dated 11-11-1930 and to quash the impugned order. It is the case of the writ petitioner that the said

scheme framed by the Court does not envisage the appointment of a Hindu female trustee to the temple and also that the said scheme mentions

only that the temple and its property shall be administered and managed by a body of three trustees appointed by the Ramnad District Temple

Committee from time to time. The writ petitioner has also filed W.M.P No. 10948 of 1993 for directing the respondents not to convene the

meeting of the board of trustees scheduled to be held on 13-4-1994 and also filed W.M.P. No. 10947 of 1993 for stay of all further proceedings

this Court by order dated 12-4-1993 granted interim stay and direction. The writ petitioner did not implead all the affected parties and therefore,

respondents 5 to 7 moved an application before this Court for impleading themselves and the same has been ordered by this Court. The petitioner

is challenging the appointment of Smt. Rajalakshmi apart from challenging the appointment of other four trustees.

3. It is pointed out by the Learned Counsel for the petitioner that the impugned order appointing five trustees is not in conformity with the scheme

framed by this Court u/s 92 of CPC in Appeal No. 377 of 1927 The Learned Counsel for the petitioner in particular drew the attention of this

Court to para-2 of the scheme which states that the temple and its property shall be administered and managed by a body of three trustees

appointed by Ramnad District Temple Committee from time to time one of whom however shall be a representative of Pujaris and from the male

members of then families and the remaining two trustees shall be appointed from among the persons professing the Hindu religion and above 25

years of age and residing permanently within a radius of 5 mile from the temple and not subject to any of disqualifications mentioned in Madras Act

II of 1927 Learned Counsel for the petitioner submitted that the appointment made by the first respondent Tamil Nadu Temple Administration

Board is in violation of the scheme and therefore, there is infirmity in the impugned order.

4. The Learned Counsel for the petitioner further submitted that a woman cannot be appointed as a trustee to the temple, Vettudaiyar Kaliyamman

Temple. In this connection, the Learned Counsel cited the ruling of the Supreme Court in *Raj Kali Kuer Vs. Ram Rattan Pandey*, at 497) wherein

various functions and duties of a pujari in a Hindu Temple are stated of which some at least are not qualified to be performed by Hindu female.

5. The Supreme Court in the above ruling mentions the following as the duties of a pujari in an ordinary Hindu temple.

Now for this purpose, it is desirable to have a clear idea of the duties of a "pujari" in an ordinary Hindu Temple. A "Pujari" has to perform the

prescribed daily worship of the image as well as the special worship of a periodical nature on particular occasions and for prescribed festivals

during the year. In *Rambrama Chatterjee Vs. Kedar Nath Banerjee and Others*, Justice Sir Asutosh Mookerjee indicated the daily routine of

worship in the following passage:

The normal type of continued worship of a consecrated image consists of sweeping of a temple, the process of smearing, the removal of the

previous day's offering of flowers, the presentation of fresh flowers and water, and other like practices. It is sufficient to state that the deity is, in

short, conceived as a living being and is treated in the same way as the master of the house would be treated by his humble servant. The daily

routine of life is gone through with minute accuracy; the vivified image is regaled with the necessities and luxuries of life in due succession, even to

the changing of clothes, the offering of cooked and uncooked food, and the retirement to rest.

In *Saraswathi's Hindu Law of Endowments* the nature of the daily worship of a consecrated idol in a temple is set out at pages 134 and 135 in

detail. It must be recognised that the daily worship differs according to the tenants and usages of the religious sect for which the temple is intended

and the idol is consecrated. But whatever may be the details of the worship and the variations therein, there can be no doubt that the ministrations of

various services involving personal touch of the idol, and often enough, the recitation of religious hymns inclusive of "Vedic" hymns are amongst the normal and essential features of a "Pujari's" duties, at any rate in temples where the worship is conducted according to the "Shastras". It is also undisputed that according to Hindu Shastras the functions of a "Pujari" can be performed only by certain limited classes and involves special qualifications and that these classes may vary with the nature of the institution. Now, whatever may have been the position early times, of which there is no clear historical evidence, it appears to have been well established in later times that a female, even of the recognised limited classes, cannot by herself perform, the duties of a "Pujari". Even at a time when the institution of temple worship had probably not come into general vogue, the incapacity of a woman to recite "Vedic" texts, to offer sacrificial fire, or to perform sacramental rites, is indicated in certain texts of Manu. (See Sacred Books of the East, Manu, Vol.25, pages 330 and 437, Chapter 9, Section 18 and Chapter 11, Section 36). Whether it is on the basis of these texts or for some other reason, her incapacity to discharge, in person, the duties of the "pujari" appears to have been well settled in later times as appears from the following text from Brihan-Naradiaya Purana quoted in Saraswathi's Hindu Law of Endowments at Page - 136 :

Women, those uninvested with the sacred thread, (i.e., the members of the Dvija class before the initiation ceremony has been performed for them), and Sudras are not competent to touch images of Vishnu or Siva. A Sudra, one uninvested with the sacred thread, a woman or an outcaste, having touched Vishnu or Siva, goes to hell.

This passage, in terms, refers to the images of Vishnu and Siva, but it may reasonably be assumed, in the absence of any evidence to the contrary, that in practice the incapacity of a female to discharge the duties of a "Pujari" by herself extended at, any rate, to all public temples where an image of whatever form had been consecrated and installed according to the "Shastras". Indeed, all the cases on the subject have assumed this incapacity of the female.

6. He also referred to the ruling of the Supreme Court reported in Seshammal and others etc. v. State of Tamil Nadu (1973 1 M.L.J. 58 at 63) wherein the Supreme Court observed as follows:-

It will be necessary to refer to certain concepts of Hindu religious faith and practices to understand and appreciate the position in law. The temples with which we are concerned are public religious institutions established in olden times. Some of them are Saivite temples and the others are Vaishnavite temples, God Shiva and Vishnu in their several manifestations are worshipped. The image of Siva is worshipped by his worshippers who are called Saivites and the image of Vishnu is worshipped by his worshippers who are known as Vaishnavites. The institution of temple worship has an ancient history and according to Dr. Kane, temples of deities had existed even in the 4th and 5th Century B.C. (See Kane's history of Dharmasastras Vol II, Part-II, page 710). With the construction of temples, the institution of Archakas also came into existence, the Archakas being professional men who made their livelihood by attending on the images. Just when the cult of worship of Shiva and Vishnu started and developed into two distinct cults is very difficult to say, but there can be no doubt that in times of the Mahabharata these cults were separately developed and there was keen rivalry between them to such an extent that the Mahabharat and some of the Puranas endeavored to inculcate a spirit of synthesis by impressing that there was no differences between the two deities (see page 725 supra). With the establishment of temples and the institution of Archakas, treatise on rituals were compiled and they are known as "Agamas". The authority of these Agamas is recognised in several decided cases and by this Court in Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others, Agamas are described in the last case as treatise of ceremonial law dealing with such matters as the construction of temples, installation of idols therein and conduct of the worship of the deity. There are 28 Agamas relating to the Saiva temples, the most important of them being the Kamikagama, the Karanagama and Spurbhedagama. The Vaishnavas also had their own Agamas. Their principal Agamas were the Vikhanas and the Pancharatra. The Agamas contain elaborate rules as to how the temple is to be constructed, where the principal deity is to be consecrated and where the other Devatas are to be installed and where the several classes of worshippers are to stand and worship. Where the temple was constructed as per directions of the Agamas the idol has to be consecrated in accordance with an elaboration of mantras and devotional songs appropriate to the deity. On the

consecration of the image in the temple the Hindu worshippers believe that the Divine Spirit has descended into the image and from then on the image of the deity is fit to be worshipped. Rules with regard to daily and periodical worship have been laid down for securing the continuance of the Divine Spirit. The rituals have a two-fold object. One is to attract the lay worshippers to participate in the worship carried on by the priest or Archaka. It is believed that when a congregation of worshippers participate in the worship particular attitude of aspiration and devotion is developed and confers great spiritual benefit. The second object is to preserve the image from pollution, defilement or desecration. It is part of the religious belief of a Hindu worshipper that when the image diminishes or even vanishes. That is a situation which every devotee or worshiper looks upon with horror. Pollution or defilement may take place in a variety of ways. According to the Agamas, an image becomes defiled if there is any departure from or violation of any of the rules relating to worship. In fact, purificatory ceremonies have to be performed for restoring the sanctity of the Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others, Worshippers lay great stress on the rituals and whatever other people not of the faith may think about these rituals and ceremonies, they are a part of the Hindu religious faith and cannot be dismissed as either irrational or superstitious. An illustration of the importance attached to minor details of a ritual is found in the case of His Holiness Peria Kovil Kelvi Appan Thiruvengkata Ramanuja Pedda Jiyankarlu Varlu v. Prathivathi Bhavankaram Venkatacharlu and others ((1945) 73 I.A. 156) which went up to the Privy Council. The contest was between two denominations of Vaishnava worshippers of South India, the Vadagalais and Tengelais. The temple was a Vaishnava temple and the controversy between them involved the question as to how the invocation was to begin at the time of worship and which should be the concluding benedictory verses This gives the measure of the importance attached by the worshippers to certain modes of worship. The idea most prominent in the mind of the worshiper is that a departure from the traditional rules would result in the pollution or defilement of the image which must be avoided at all costs. That is also the rationale for preserving the sanctity of the Garbhagruha or the sanctum sanctorum. In all these temples in which the images are consecrated, the Agama-insist that only the qualified Archaka or Pujan shall step

inside the sanctum sanctorum and that too after observing the daily disciplines which are imposed upon him by the Agamas. As an Archaka he has

to touch the image in the course of the worship and it is his sole right and duty to touch it. The touch of anybody else would defile it. Thus under the

(sic) nominal law pertaining to temples even the question as to who is to enter the Garbagraha or the sanctum sanctorium and who is not entitled to

enter it and who can worship and from which place in the temple are all matters of religion as shown in the above decision of mis Court.

The Agamas have also rules with regard to the Archakas. In Saivaite temples only a devotee of Siva and that too, one belonging to a particular

denomination or group or sub-group is entitled to be the Archaka. In a Vaishnavaita Agama temple to whatever caste he may belong and however

learned he may be. Similarly, a Vaishnavite Archaka has no place as an Archaka in a Saivite temple. Indeed there is no bar to Saivite worshipping

in a Vaishnavite temple as a lay worshiper or vice versa. What the Agamas prohibit is his appointment as an Archaka in a temple of a different

denomination. Dr. Kane has quoted the Brahmapurana on the topic of Punahpratistha (Reconstruction of Images in Temples) at page 904 of the

History Dharmasastras referred to above. The Brahmapurana says that "When an image is broken into two or is reduced to particles or is, burnt,

or is removed from its pedestal, or is insulted, or has ceased to be worshipped, or is touched by beasts like donkeys or falls on impure ground or

is worshipped with mantras of other deities or is rendered impure by the touch of outcastes and the like in these ten contingencies, God ceases to

indwell therein." The Agamas appear to be more severe in this respect. Shri R. Parthasarathy Battacharya, whose authority on Agama literature is

unquestioned, has filed his affidavit in Writ Petition No. 442 of 1971 and stated in his affidavit, with special reference to the Vaikhanasa Sutra to

which he belongs, that according to the texts of the Vaikhanasa Shastra (Agama), persons who are the followers of the four Rishi traditions of

Bhrigu, Atri, Marichi and Kasyapa and born of Vaikhanasa parents are alone competent to do puja in Vaikhanasa temples of Vaishnavites. They

only can touch the idols and perform the ceremonies and rituals. None other, however high placed, in society as pontiffs or Acharyas, can even

enter the Garbhagriha. Not even a person belonging to another Agama is competent to do Puja in Vaikhanasa temples. That is the general rule with

regard to all these secretarial denominational temples. It is, therefore, manifest that the Archaka of such a temple besides being proficient in the rituals appropriate to the worship of the particular deity, must also belong, according to the Agamas, to a particular denomination. An Archaka of a different denomination is supposed to defile the image by his touch and since it is of the essence of religious faith of all worshippers that there should be no pollution or defilement of the image under any circumstances, the Archaka undoubtedly occupies an important place in the matter of temple worship. Any State action which permits the defilement or pollution of the image by the touch of an Archaka not authorised by the Agamas would violently interfere with the religious faith and practices of the Hindu Worshiper in a vital respect, and would, therefore, be prima facie invalid under Article 25(1) of the Constitution.

this Court in *Sardar Syedna Taker Safiuddin Saheb v. The State of Bombay* (1962 2 S.C.R. 519) has summarised the position in law as follows

(pages 531 and 532):

The contents of Arts. 25 and 26 of the Constitutions came up for consideration before this Court in *The Commissioner, Hindu Religious*

Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954 S.C.R.335 = 67 L.W.1220), *Manapat Jagannath Ramanuj*

Das v. The State of Orissa (1954) S.C.R. 104) *Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others*, , *The Durgah*

Committee, Ajmer and Another Vs. Syed Hussain Ali and Others, and several other cases and the main principles underlying these provisions have

by these decisions been placed beyond controversy. The first that the protection of these Articles is not limited to matters of doctrine or belief; they

extend also to acts done in pursuance of religion and therefore contain a guarantee for rituals and observances, ceremonies and modes of worship

which are integral parts of religion. The second is that what constitutes an essential part of a religion or religious practice has to be decided by the

courts with reference to the doctrine of a particular religion and includes practices which are regarded by the community as a part of its religion.

The Learned Counsel for the petitioner, therefore, submitted that a woman is not entitled to be appointed as Pujari or trustee of a Hindu Temple as

she is disqualified from performing the above mentioned duties to idol under the

traditional Hindu Law.

7. On the other hand, the learned Government Advocate appearing on behalf of the Temple Administration submitted that there is no infirmity in

the impugned order. In particular, the Learned Counsel referred to Section 118(2) (b)(1) which reads as follows:-

If any provision contained in any scheme settled or deemed to have been settled under the Madras Hindu Religious Endowments Act, 1926

(Madras Act II of 1927), including a scheme settled u/s 92 of Civil Procedure Code, 1908 (Central Act V of 1908), and in force immediately

before the 30th September 1951 is repugnant to any provision contained in this Act or the rules made thereunder, the latter provisions shall prevail,

and the former provision shall, to the extent of the repugnancy be void.

and submitted that in view of the above section, the provisions of the Tamil Nadu Hindu Religious And Charitable Endowments Act, 1959 will

override the scheme framed u/s 92 of the Civil Procedure Code.

8. The learned Government Advocate also referred to the ruling in Area Committee, Hindu Religious and Charitable Endowments (Administration

Dept.), Nagapattinam Vs. K. Kasinathan Padayachi and Others, wherein a Division Bench of this Court while dealing with repugnancy between

any provision in any scheme u/s 92 of Civil Procedure Code, 1908 and section 118 of the Tamil Nadu Hindu Religious and Charitable

Endowments Act, 1959, observed as follows:-

In such an event, clause (i) of Section 118(2)(b) declares that the provision in the scheme shall be void to the extent of repugnancy and pro tanto

the corresponding provision in the Act will prevail. Clause (ii) is the consequential provision.

9. On the Other hand, Mr. W.C. Thiruvengadam, Learned Counsel appearing on behalf of the fourth respondent Rajalakshmi, vehemently

contended that there is no infirmity in the appointment of a female Hindu to the post of trustee of a Hindu temple, Vettudaiyar Kalamman temple

and contended that in appointing a female Hindu. as a trustee to a Hindu temple, there is no violation of traditional Hindu Law.

10. He referred to Mukherjee's Lectures of Hindu Law of Religious and Charitable Trusts, which is as follows:-

In Southern India, Sudras are managers of several public temples and it seems

that there is no restriction regarding the appointment of a female.

The question whether a person is competent to succeed to shebaitship by reason of sex, age or any other qualification has come up for

consideration before our courts on more occasion than one. So long as shebaitship was regarded as an office pure and simple, divergent opinions

seem to have been expressed by the courts on these points. Now that shebaitship has been definitely held to be property, much of these

discussions would have no more than academic value at present; and barring exceptional cases arising out of special customs or usages, we may

take it that the right of management of an idol follows the same line of succession as any other private property.

As succession to shebaitship is governed by the ordinary law of inheritance, it scarcely admits of any doubt that a woman can succeed to

shebaitship. The Supreme Court of India has held very recently that shebaitship is "property" within the meaning of the Hindu Women's Rights to

Property Act; consequently in a case to which the Act applies the widow and son of the last Shebait would succeed jointly to the shebaiti rights

held by the latter.

It has been held further that even if the expression, "property" in the Hindu Women's Rights to Property Act is to be interpreted as meaning

property in its common or accepted sense and is not to be extended to any special type of property which "shebaitship" admittedly is, as

succession to shebaitship follows succession to ordinary secular property, the general law of succession under Hindu Law to the extent, that it has

been modified by the Hindu Women's Rights to Property Act would also be attracted to devolution of shebaiti rights.

In one of the very early cases on the point which went up to the Privy Council the right of a female heir to succeed to shebaitship of an idol was

disputed. The endowment in that case was a private one, and their Lordships of the Judicial Committee quoted the following passages from the

judgment of the trial Judge with which they apparently agreed. "The properties in question do not admit of any partition among the co-sharers is a

fact which must be admitted by me; but I do not see any reason why a widow of the family should be incapacitated from superintending the

service of the gods. It is not urged by the defendants that any such rule has

been laid down in the family and that under it the widows, have been excluded from the above superintendence; on the other hand, among the Hindus, persons, belonging to no other caste except that of Brahmins can perform the service of a god, with his own hands, that is, worship the idol by touching its person. Men of other castes simply superintend the service of the gods and goddesses established by themselves, while they cause their actual worship to be performed by Brahmins. Thus, when persons of the above description can conduct the service of idols in the above mentioned manner, why should not the widows of their family be able to carry on worship in a similar way ? . . .

He also referred to Tamil Nadu Act 2 of 1971 under which the hereditary succession to the office of Archakas and Pujaris were abolished.

11. The Learned Counsel further submitted that as per Section 47(1)(C), every Board of Trustees constituted under clauses (a) and (b) shall

consist of not less than three and not more than five persons of whom one shall be a member of Scheduled Caste and Scheduled Tribe. He further

referred to the definition of a trustee given u/s 6(22) of the Act which reads as follows:-

Trustee means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and

includes any person or body who or which is liable as if such person or body who or which is liable as if such person or body were a trustee.

The Learned Counsel further contended that the definition of trustee is to mean a person or body by whatever designation known in whom or in

which the administration of a religious institution is vested, and included any person or body who or which is liable as if such person or body were

a trustee. He also relies on the definition of the word "Gender" given in Section 3(34) of the Tamil Nadu General Clauses Act, 1891 which reads

as follows:-

Words importing the masculine gender shall include females.

He, therefore contended that the term "trustee" will include both male and female trustees and therefore, there is no infirmity in the order.

12. On the other hand, Learned Counsel for the petitioner vehemently urged that the letter and spirit of the Scheme framed by this Court in Appeal

No. 377/1927 dated 11-11-1930 should be observed by an appropriate petition

before this Court, (sic) the impugned order is not sustainable.

13. I have carefully considered the contentions of the Learned Counsel for the parties. In the instant case, no doubt, a Scheme has been framed by

the trial Court u/s 92, C.P.C. and this Court in Appeal No. 377/27, dated 11-11-1930 modified the Scheme when the present Act, Tamil Nadu

Hindu Religious and Charitable Endowments Act, 1959 was not on the Statute Book but only the T.N. Act 2 of 1927 was in force. This Act was

subsequently replaced by a number of Acts and ultimately by the present Act T.N. Act 22/1959 hereinafter referred to as "the Act". Section 118

of the Act, which deals with the Repeals and Savings provisions and in particular Section 118(2)(2)(b)(i) of the Act reads as follows :-

If any provision contained in any scheme settled or deemed to have been settled under the Madras Hindu Religious Endowments Act, 1926

(Madras Act II of 1927), including a scheme settled u/s 92 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and in force

immediately before the 30th September 1951 is repugnant to any provision contained in this Act or the Rules made thereunder, the latter

provisions shall prevail, and the former provision shall, to the extent of the repugnancy, be void.

In view of the said provisions contained u/s 118(2)(1)(b)(i), it is clear that the provisions of the present Act 22/59 will alone prevail notwithstanding

any inconsistencies with the scheme framed by the Court u/s 92, C.P.C. The above view is supported by a Division Bench of this Court in Area

Committee, Hindu Religious and Charitable Endowments (Administration Dept.), Nagapattinam Vs. K. Kasinathan Padayachi and Others, .

Therefore, the contention of the Learned Counsel for the petitioner that the impugned order is not in conformity with the scheme framed by this

Court, is not sustainable. There is force in the contention of the Learned Counsel appearing on behalf of the fourth respondent that the term

"trustee" has been defined u/s 6(22) of the Act to mean any person or body I by whatever designation known in whom or in which the

administration of a religious institution is vested and the word, "person" used therein will mean both the genders based on the definition given to the

word, "gender" u/s 3(34) of the Tamil Nadu General Clauses Act, 1891. Therefore, I am of the view that there is no prohibition under the Tamil

Nadu Hindu Religious and Charitable Endowments Act for appointing a female as a member to the Board of Trustees to administer and manage

the temple, and there is force in the contentions of the Learned Counsel for the respondents;

14. I reject the contentions of the Learned Counsel for the petitioner to the effect that a female Hindu is not qualified to be appointed as a trustee

of a Hindu temple under the traditional Hindu Law. The Supreme Court in *Seshammal v. State of Tamil Nadu* (1973 1 M.L.J.58 at 64) has

observed as follows:-

Where the temple was constructed as per directions of the Agamas, the idol had to be consecrated in accordance with an elaboration of mantras

and devotional songs appropriate to the deity. On the consecration of the image in the temple, the Hindu worshippers believe that the Divine Spirit

has descended into the image and from then on the image of the deity is fit to be worshipped. Rules with regard to daily and periodical worship

have been laid down for securing the continuance of the Divine Spirit. The rituals have a two-fold object. One is to attract the lay worshiper to

participate in the worship carried on by the priest or Archaka. It is believed that when a congregation of worshippers participate in the worship a

particular attitude of aspiration and devotion is developed and confers great spiritual benefit. The second object is to preserve the image from

pollution, defilement or desecration. It is part of the religious belief of a Hindu worshipper that when the image is polluted or defiled the Divine

Spirit in the image diminishes or even vanishes. That is a situation which every devotee or worshipper looks upon with horror. Pollution or

defilement may take place in a variety of ways. According to the Agamas, an image becomes defiled if there is any departure from or violation of

any of the rules relating to worship.

The Supreme Court in *Raj Kali Kuer Vs. Ram Rattan Pandey*, has elaborately considered, the duties of a pujari of a Hindu temple. In this

connection, the Supreme Court has observed as follows:-

It must be recognized that the daily worship differs according to the tenets and usages of the religious sect for which the temple is intended and the

idol is consecrated. But whatever may be the details of the worship and the variations therein, there can be no doubt that the ministration of various

services involving personal touch of the idol, and often enough, the recitation of religious hymns inclusive of "Vedic" hymns are amongst the normal

and essential features of a "Pujari's" duties, at any rate, in temples where the worship is conducted according to the ""Shastras"". It is also

undisputed that according to Hindu Shastras, the functions of a "Pujari" can be performed only by certain limited classes and involves special

qualifications and that these classes may vary with the nature of the institution. Now, whatever may have been the position in early times, of which

there is no clear historical evidence, it appears to have been well established in later times that a female, even of the recognized limited classes,

cannot by herself perform the duties of a "Pujari". Even at a time when the institution of temple worship had probably not come into general vogue,

the incapacity of a woman to recite, "vedic" texts, to offer sacrificial fire, or to perform sacramental rites, is indicated in certain texts of Manu (See

Sacred Books of the East, Manu, vol.25, pages 330 and 437, Chapter 9, Section 18 and Chapter 11, Section 36). Whether it is on the basis of

these texts or for some other reason, her incapacity to discharge, in person, the duties of the "Pujari" appears to have been well settled in later

times as appears from the following text from Brihan-Naradiya Purana quoted in Saraswathi's Hindu Law of Endowments at Page 136:

Women, those uninvested with the sacred thread, (i.e., the members of the Dvija class before the initiation ceremony has been performed for

them), and Sudras are not competent to touch images of Vishnu or Siva. A Sudra, one uninvested with the sacred thread, a woman or an outcaste,

having touched Vishnu or Siva, goes to hell.

This passage, in terms, refers to the images of Vishnu and Siva, but it may reasonably be assumed, in the absence of any evidence to the contrary,

that in practice, the incapacity of a female to discharge the duties of a "Pujari" by herself extended at any rate, to all public temples where an image

of whatever form had been consecrated and installed according to the "Shastras". Indeed, all the cases on the subject have assumed this incapacity

of the female"". However, in the case ruling, the Supreme Court has observed as follows:-

A careful review, therefore of the reported cases on this matter shows that the usage of a female succeeding to a priestly office and getting the

same performed through a competent deputy is one mat has been fairly well recognised. There is nothing in the textual Hindu law to the contrary.

Nor can it be said that the recognition of such a usage is opposed to public policy, in the Hindu law sense.

15. In view of the above rulings of Supreme Court, there is no substance in the contention of the Learned Counsel for the petitioner that a female

Hindu is disqualified under the traditional Hindu law for appointment as a priest or a trustee of a Hindu temple and the disqualification is only with

regard to performance of certain duties and to touch the image of idol which duties she can always delegate and depute to competent Pujari or

Archaka to perform the same in accordance with "Shastras" and Agamas of the religious faith and practices of the Hindu worshippers of a

particular Hindu temple. Hence, I reject the contention of the Learned Counsel for the petitioner that a female Hindu is not entitled to be appointed

as a trustee to the Board of Trustees to administer and manage the temple. I am of the view that a Hindu female is also entitled to be appointed as

a trustee to the Board of Trustees to administer the temple. In view of the above, the Writ Petition is dismissed. Upon the facts and circumstances

of the case, there shall be no orders as to costs.