

(1969) 09 MAD CK 0003

In the Madras High Court

Case No : Appeal No. 610 of 1963

S.P. Thiruvambalam and Others

APPELLANT

Vs

The Commissioner, Hindu Religious and Charitable
Endowments (Administration) and Others

RESPONDENT

Date of Decision : 29-09-1969

Acts Referred:

Constitution of India, 1950 — Article 26
Madras Hindu Religious Endowments Act, 1926 — Section 84, 9(12)
Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1951 —
Section 6(17), 6(9)
Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 107, 51,
6(20)
Tamil Nadu Temple Entry Authorization Act, 1947 — Section 2(2)

Citation : (1969) 09 MAD CK 0003

Hon'ble Judges : Sadasivam, J;K.N. Mudaliyar, J

Bench : Division Bench

**Advocate : C.S. Swaminathan and T.K. Subba Rao, for the Appellant; G.
Ramaswami, Additional Government Pleader and N.S. Sharma, for the
Respondent**

Final Decision : Dismissed

Judgement

Sadasivam, J.—Appellants for themselves and as representatives of the Vaniya Vysia Samugham of Dharmapori, have preferred this appeal

against the dismissal of their suit to declare that the suit temple is a private denominational temple of the said Samugham, that the management of

the suit temple is the hereditary right of the said Samugham and regulated by usage and to set aside the order of the Commissioner, Hindu Religious

and Charitable Endowment, Madras, dated 6% March 1961, confirming the order of the Deputy Commissioner, dated 24th August 1960, and to

cancel the appointment of the second Defendant as trustee.

2. The origin of the suit temple is not known and there is no deed of dedication. Though it is pleaded in the written statement of the first Defendant,

who stone contested the suit, that the suit temple did not come into existence in 1897, as alleged in the plaint but was first founded in 1917 by

Jadayappa Chettiar, there can be no doubt in this case that the suit temple came into existence in 1897. A Pillayar idol which was lying on the

roadside was installed on a site given by one Sapabathy Chetty for the building of a temple. Subsequently, the Yania Vaisyas of the village in

Dharmapuri wanted to install Sri Ambika Parameswari idol in the place of the Pillayar idol and shift the Pillayar idol to another place in the same

site. This was objected to by some of the members of the community, and they filed Original Suit No. 1194 of 1898, on the file of the District

Munsif's Court, Tiruppathur, for a declaration that the temple, the mandapam and the ground within the compound of the temple belong to the idol

of Vinayakar and for an injunction restraining the Defendants from removing the Vinayakar idol and introducing other idols. The suit was dismissed

by the trial Court, the appellate Court and this Court.

3. A Bench of this Court has held in exhibit A-2 that the original dedication was not in favour of the Pillayar exclusively, that the property was

dedicated not for the benefit of the public at large, but only of the Vaniar Community of the locality, which community consists of the Plaintiffs and

the Defendants, that the vast majority of the community approve of that has been done and that

looking to the origin and values of the foundation, the will of the majority cannot be controlled in a matter like the present by the will of the minority.

it is admitted in paragraph 3 of the written statement of the first Defendant that Sri Ambiga Parameswari Amman Temple in Dharmapuri is the

Kuladeivam of Vaniya Vaisya Community in Dharmapuri.

4. Several endowments have been made in favour of the suit temple by the members of the Vaniyai Vaisya Community and they are exhibits A-5

to A-11. In respect of these specific endowments, the donors have provided for the management of the specific kattalais by the trustees belonging

to the Vaniya Vaisya Community as mentioned in the documents. It is clear from the recitals in these documents that the suit temple was intended

for the worship of Vania Vaisya Community people of Dharmapuri. Thus exhibits

A-5, A-6, exhibit A-9 and exhibit A-11 are registration copies of gift deeds executed by Jadaya Chetty on 27th February 1917, 15th December 1918, 20th April 1926 and 14th December 1925 respectively for the purpose of carrying out certain religious and charitable trust. In exhibit A-5 it is stated that the gift deed was executed for the purpose of performing charities like Deeparathanai (waving lamps before an idol), etc., to the Anbupriyal Amman, the Kuladeivam (family goddess) of the Vaniya Vaisya Community, installed in the temple built in common and belonging to the Vaniya Vysia Community residing in the western row of Adiyapatham Street, Dharmapuri. Under exhibit A-6 the gift of properties has been made to perform the pooja and aradhanai and to offer Kuladeivam to the Goddess Ambiga Parameswari Amman, which is the Kuladeivam (family goddess of the Vaniya Vaisya Community. Exhibit A-9 is a gift deed for the performance of charities like Deeparathanai (waving of lamps before an idol), etc., to the Goddess Anbupriyal, the Kuladeivam (family goddess) of the Vania Vaisya Community. It is clear from the document that the deity of Anbupriyal was installed in the temple built in common and belonging to Vania Vaisya residing in the western row of Adiapatham Street, Dharmapuri. Exhibit A-11 is also a gift deed executed by Jadaya Chetty to meet the expenses of certain festivals and payment of salary to the poojaris of the suit temple. Exhibit A-10 is a sale deed executed by Rukmani Ammal and another in favour of Ayyavu Chettiar alias Subbaraya Chettiar, the then trustee of Sri Ambikaparameswari Amman Temple.

5. Exhibit A-7 is a gift deed, dated 2nd February 1928 executed by Ramaswami Chetti and his son Kandaswami Chetty to provide for the payment of salary, etc., to the Gurukkal (temple priest) in Sri Ambigai Parameswari Amman Temple as the income of the temple was not sufficient to meet the said expenses. It is stated in the document that the suit temple belongs absolutely to the Vaniya Vysia Community and. that it was built with the funds of the ancestors of the donors. Exhibit A-8 is a registration copy of a gift deed executed by Ammakannu Ammal on 18th March 1926 and the purpose of the gift is for performing charity like Deeparathanai waving of lamps before an idol to the Goddess Anbupriyal Amman, the Kuladeivam (family Goddess) of the Vaniya Vaisya Community. It is clear

from the recitals in the document that the temple was built in common by the Vania Vaisya Community residing in the western row of Adiapatham Street, Dharmapuri.

6. In respect of specific endowments made by one Muthammal there was a scheme as evidenced by exhibit B-5. Several persons applied for being appointed as trustee in respect of Muthammal's specific endowments and the Hindu Religious and Charitable Endowments Board appointed trustees for the specific endowments of Muthammal in the exercise of its, powers under the scheme. It is stated by the learned Advocate for the Appellants that all these specific endowments in favour of the suit temple were made by members of the Vania Vysia community and not by strangers.

7. After the Madras Hindu Religious Endowments Act II of 1927, came into force, there were proceedings in respect of the suit temple. The Board passed an ex parte order, exhibit B-1, on 27th April 1933, u/s 84 of Act II of 1927 that the temple of Sri Ambikeswararia Amman Temple is a public and non-excepted temple. It appears from the order that Perianna Chetty was the de facto trustee at the time. But this fact is disputed by the Appellants Plaintiffs. No attempts appear to have been made in pursuance of the order exhibit B-1 to collect contributions under the Act of 1927. It is only after the Hindu Religious and Charitable Endowments Act of 1951 came into force that the Board has purported to exercise its power over the suit temple by appointing trustees and demanding contributions.

8. P.W. 3 Thangavelu Chetty, the third Defendant in the suit, claims to be a trustee of the suit temple from 1937 after the death of the prior trustee N.V. Subbraya Chetty. Exhibit B-11 and B-12 are, applications filed by him for being appointed as trustee to Muthammal's endowments and they are not of much importance. But in 1953, the thud Defendant as trustee has submitted a budget estimate, exhibit B-10 to the Board for fasli 1363.

Exhibit B-3 is the order of the Assistant Commissioner, Hindu Religious and Charitable Endowment Board re-appointing the third Defendant, the de facto trustee of the suit temple, as trustee of the suit temple. P.W. 3 Thangavelu Chetty admitted that he paid contribution for five or six years from 1953. It is only thereafter he and others filed the petition exhibit A-13 to the Board stating that the suit temple is not bound to pay

contributions. But in 1958 several members of the Vania Vysia Community applied for being appointed as trustees in the vacancy caused on the

expiry of the term of the trusteeship of the third Defendant. Exhibit B-23 is an application by the first Plaintiff for being appointed as trustee of the

suit temple and it was received by D.W. 1 Munuswami the then Inspector of the Hindu Religious and Charitable Endowments in Dharmapuri.

Exhibit B-14 to B-16 is a similar applications by Plaintiffs 2 to 4 in the suit. Exhibit B-17 is an application filed by the second Defendant P.R.

Krishnan, Advocate, Dharmapuri, belonging to the Vaniya Vaisya community for being appointed as trustee and he was appointed trustee of the

suit temple as evidenced by the order exhibit B-4. But it is clear from the evidence in this case that he is not actually functioning as trustee in

pursuance of the order evidently on account of the attitude of the members of the Vaniya Vasiya Community, who have elected their own trustees

for the management of the suit temple.

9. The learned Principal Subordinate Judge, Salem, has, on a consideration of the entire oral and documentary evidence in this case, found that the

suit temple is a public temple and not a private or denominational temple as contended by the Plaintiffs and dismissed the suit on the ground that the

order of the Commissioner, Hindu Religious and Charitable Endowment's, Madras is not liable to be set aside.

10. The main contentions urged in this appeal are that the suit temple is a denominational temple belonging to the Vaniya Vaisya community of

Dharmapuri, now managed by the Vaniya Vysia Samughami and that in any event the trustees of the suit temple are hereditary trustees as defined

in Section 6(9) of Hindu Religious and Charitable Endowments Act of 1951.

11. The oral and documentary evidence in this case makes it fairly clear that the suit temple was founded by Vaniya Vysia families of Dharmapuri

even as early as 1897 and that specific endowments were made by several members of the community for carrying on the religious services in the

temple. The Plaintiffs have examined three witness to speak to the fact that the trustees of the suit temple have always been members of the Vaniya

Vaisya community of Dharmapuri. There can be no doubt in this case that the Vaniya Vaisya Community people of Dharmapuri have been

managing the suit temple through persons appointed by them as trustees. The

deity Sri Ambika Parameswari is the Kuladeivam (family Goddess)

of the Vaniya Vysia Community in Dharmapuri. P.W. 1 Dhanaswamy Chetty deposed that the members of his community alone living in 50 houses

in Dharmapuri Worship in the temple and that other members of the Hindu public are not entitled to worship in the suit temple. P.W. 2 Chinna Pillai

Chetty deposed that there are about 15 families of Vaniya Vysias of other places residing in Dharmapuri and that they also come and worship the

suit temple, but that other people do not come and worship in the temple. P.W. 3 Thangavelu Chettiar, the third Defendant in the suit, stated that

none except the Vaniya Vysia worship in the temple or manage its affairs. D.W. 1 Muniswami, Inspector of Hindu Religious and Charitable

Endowments in Dharmapuri in 1958, stated that he found other members of the community also worshipping in the suit temple and that members of

all communities were giving aradhana. It is possible to contend that the suit temple was primarily intended for Vaniya Vysia people and that they

tolerated the members of the other communities offering worship in the temple.

12. There can, however, be no doubt in this case that the suit temple is a place of public worship and not a place of private worship. Even P.W.

1 Dhanaswamy Chetty admitted in his evidence that the suit temple is situated in Bazaar Street, that there is gopuram with kalasam, that there is

pragatam, but no dwajasthambam, that there is moola vigraham as well as an utsava vigraham, that there are special poojas and festivals, that

Goddess is taken in procession in the streets and that aradhana is performed when the village people offer camphor.

Temple has been defined Section 9(12) of Madras Act II of 1927, in Section 6(17) of Madras Act XIX of 1951 and in Section 6(20) of Madras

Act XXII of 1959 in the same terms and in the latter Acts it is as follows:

Temple"" means a place by whatever designation known, used as a place of public religious worship, and dedicated to, or for the benefit of or

used as of right by, the Hindu community or any section thereof, as a place of public religious worship.

The definition in the first Act also is the same except for the omission of the word public in the last but the two word. In Chidambareswara Temple

v. Commissioner, Hindu Religious and Charitable Endowments ILR [1965] Mad. 404 it has been held that a temple dedicated for the use of

particular section of the Hindu community can be a public temple, as defined in Section 6(17) of the Madras Act XIX of 1951. It is pointed out in

the decision that even if that temple is founded by a section of the Hindu community which claims exclusively right of worship in it, the definition of

public temple in Section 6(17) of the said Act will apply so long as that particular section of the community is clearly marked and constitutes a

considerable section of the Hindu community. The well-known principle that there is a presumption in the case of temples in South India, unlike the

temples in Malabar and Kerala, that they are public and that the burden is on the party who asserts that they are private to prove it, is also referred

to in that decision. The contention of the learned Advocate for the Appellants is that the suit temple is a denominational temple belonging to the

Vaniya Vaisya Community of Dharmapuri. The learned Principal Subordinate Judge has considered this contention in paragraph 13 of his judgment

and negated it. The expression denominational temple has not been defined in the Hindu Religious and Charitable Endowments Act. The

Commissioner, Hindu Religious and Charitable Endowments (Administration) Department has pointed out in his order exhibit A-12, that the

Vaniya Vaisya Sangam cannot certainly be called a religious denomination and that at best they are only a sections of the Hindu community. The

learned principal Subordinate Judge has pointed out in his judgment that Ambika Parameswari Amman is a goddess worshipped by all Hindus.

The Pillayar idol originally installed in the suit temple is also a God worshipped by all Hindus. The learned Principal Subordinate Judge has pointed

out that the Vaniya Vaisyas do not belong to any religious denomination. In fact, there is nothing in the plaint, or in the evidence of the Plaintiffs"

witnesses, to show that the Vaniva Vaisya community constitute a religious denomination, apart from being a section of the general public.

13. In *Sri Shirur Mutt v. Commissioner, Hindu Religious and Charitable Endowments Board* (1952) 1 M.L.J. 557 a Bench of this Court has

considered the fundamental right guaranteed to religious denominations under Article 26 of the Indian Constitution in dealing with *Shirur Mutt*. The

following dictionary meaning of the word denomination as given by Webster is quoted in the decision at page 590:

Of action of naming from or after something; giving a name to, calling by a name; a characteristic or qualifying name given to a thing or class of

things; that by which anything is called an application, designation or title; a collection of individuals classed together under the same name; now

almost always specifically a religious sect or body having a common faith and organisation and designated by a distinctive name.

The Bench then referred to the Irish case *Mac. Laughlin v. Campbell* in which Fitz Gibbon, L.J. has referred to the word denomination as meaning

only a sect writ large and observed as follows:

Even taking it in that sense, the division of the members of the Hindu religion based upon a system of philosophy which is adopted by a group of

members may be treated as a denomination or sect and any section of that denomination, and a division made either on territorial or sectional

basis, may be treated as a section thereof. Every religious seat, therefore, under the Article has the right to establish and to maintain institutions for

religious and charitable purposes and to manage its affairs in the matter of religion. It is also permissible for such a sect to own and acquire

movable and immovable property and to administer such property in accordance with law. The right to maintain implies the right to continue the

institution according to the established usage, to carry on the worship and to make it function in the manner in which it has been functioning

according to long established usage. Except on the ground of public order and morality and health the right cannot be in any manner affected by

legislation. The religious sect or denomination considered as an autonomous body has got its unquestioned right to manage its own affairs in matters

of religion. Whether an uncertain and fluctuating body could own and acquire property or not, a religious denomination being a definite body is

permitted by the Constitution to own and acquire movable and immovable property also and to administer such property but in accordance with

law.

It has been held in that case that the Shivalli Brahmin community has the right to the continued existence of the mutt for serving the spiritual needs of

its members and the head of the mutt is the person in whom the power to administer the religious affairs and the administration of the property are

vested, that Article 26 of the Indian Constitution is concerned with the religious institutions which exist for spiritual and not for material benefit and

that there is no difficulty in treating the Shivalli Brahmin community as a

denomination entitled to protection of the right guaranteed under Article 26 of the Constitution of India. This case went up on appeal to the Supreme Court and it has been held by the Supreme Court in *Commissioner of H.R.E., Madras v. Shirur Mutt* (1954) 1 M.L.J. 596 (S.C.) that as Article 26 of the Constitution contemplates not merely a religious denomination but also a section thereof, the math or the spiritual fraternity represented by it can legitimately come within the purview of the Article. It is pointed out in that decision that it is well known that the practice of setting up maths as centres of theological teaching was started by Shri Sankaracharya and was followed by various teachers since then. The Supreme Court agreed with the finding of the High Court that the math in question is in charge of the Shivalli Brahmins who constitute a section of the followers of Madhawachaiya and it can legitimately come within the purview of Article 26 of the Constitution of India. In *Indian Metal and Metallurgical Corporation Vs. Industrial Tribunal, Madras and Another*, it was held that the Gowd Saraswath Brahmin community was in the circumstances of the case a religious denomination or at any rate a section of the religious denomination and the protection under Article 26 of the Constitution of India had been rightly claimed on its behalf. It relied on the various considerations adverted to in *Sri Shirur Mutt v. Commissioner, Hindu Religious and Charitable Endowments Board* (1953) 1 M.L.J. 557 in arriving at that finding.

14. In Writ Petition Nos. 804 and 805 of 1957 (*Venkatachalapathy v. Deputy Commissioner, Hindu Religious and Charitable Endowments, Thanjavur*), a Bench of this Court relied on the earlier decisions and held that the Sourashtra community of Kumbakonam constituted a Hindu Religious denomination within the meaning of Article 26 of the Constitution of India. They pointed out that through the Sourashtras formed a sub-sect of the Hindus, they constituted a distinct religious denomination within that fold. It was held in that decision that the temple in that case belonged to the religious denomination of Sourashtras and if that community was entitled to manage the temple, it would be a denominational religious institution. It relied on the decision of this Court in Writ Petitions Nos. 379 and 380 of 1951 reported along with the decisions in *Sri Shirur Mutt v. Commissioner, Hindu Religious and Charitable Endowments Board*

(1952) 1 M.L.J. 557, 597 that the Dikshitars who managed the Chidambaram temple constituted a religious denomination in arriving at that finding. In *Sri Venkatarmana Devaru v. State of Mysore* (1958) 1 M.L.J. 109 (S.C.) the Supreme Court has held that the Sri Venkataramana Temple at Moolky is a public temple as defined in Section 2(2) of Madras Temple Entry Authorisation Act and that the temple is a denominational temple founded for the benefit of the Gowd Saraswath Brahmins. It is pointed out in the decision that the question is one of fact as to whether the rights claimed by the Appellants in that case are strictly denominational in character. The Supreme Court relied also on the judgment in *Indian Metal and Metallurgical Corporation Vs. Industrial Tribunal, Madras and Another*, that the said temple is a denominational temple founded for the benefit of Gowda Saraswath Brahmins. It is clear from the decision that the Gowda Saraswath Brahmins migrated from Gowda Desa first to Goa and then to the South that they carried with them their idols and that when they first settled in Moolky a temple was founded and their idols were installed therein. The decision does not rest on the fact that the Gowda Saraswath Brahmins formed a section of the Community, but as a sect associated with the foundation and maintenance of Sri Venkataramana Temple, in other words, not as a mere denomination, but as a religious denomination. The learned Principal Subordinate Judge, has also strongly relied on this decision in support of the finding that the suit temple is not a denominational temple of the Vaniya Vaisyas of Dharmapuri.

15. The learned Advocate for the Appellants relied on the decision in *Muthia Asari v. Madasami Asari* (1965) 2 M.L.J. 220 where it has been held that the Pancha Brahma Ambika Mutt Sri Subramania Swami Temple situate in Sattankulam Kasba, though indisputably denominational in character does not belong merely to the Viswa Karma Brahmin community members of certain villages, or of five named villages, but to the members of that community in the district as a whole and that the right of any corporate body, with regard to a denominational religious institution, to have its functions preserved from invasion under Article 26 of the Constitution has been statutorily embodied in Section 107 of Madras Act XXII of 1959 and that right cannot be interfered with by the Area Committee

nominating trustees. There is no discussion in that case as to whether the temple in that case is a denominational temple and in fact, the decision proceeds on the concurrent findings of the Courts below with regard to the said fact. We have already pointed out that there is nothing in the plaint or in the evidence to show that the Vania Vysias of Dharmapuri formed a religious denomination or a section thereof. For the foregoing reasons, we find that the suit temple is not a denominational temple, as contended by the Appellants.

16. The learned Advocate for the Appellants urged that the trustees of the suit temple are hereditary trustees as the succession to trusteeship is regulated by usage. We have already referred to the order of the Hindu Religious Endowments Board, exhibit B-1 under Act II of 1927, that the suit temple is a public and non-excepted temple. Hereditary trustee is defined in Section 6(9) of the Madras Act XIX of 1951 as meaning

...the trustee of a religious institution 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.

Even under the earlier Madras Act II of 1927, the definition was practically the same and it also recognised persons as hereditary trustees when

succession to the religious office was regulated by usage. In exhibit A-12, the Commissioner for Hindu Religious and Charitable Endowments,

Madras, has referred to the finding of the Deputy Commissioner that there is no clear evidence regarding the alleged usage. It is true that the

Vaniya Yaisya community of Dharmapuri has been managing the suit temple by appointing a member of the community as trustees. Even a reading

of the plaint, will show that there is no usage as regards the succession to trusteeship. Though it is stated in paragraph 10 of the plaint that the

management of the suit temple is regulated by usage, it is clear from the same paragraph that the management of the suit temple was by caste heads

or elders or acknowledged leaders of the Vaniya Vysia Samugham residing in Dharmapuri without any election and that some elective system

came into vogue from about 1943. The evidence of P.W. 1 Dhanaswamy Chetty is only to the effect that the Vaniya Vysia community people

appointed Ponnambala Chetty as the dharmakarthi of the suit temple. P.W. 2 Chinnapillai Chetty merely stated who were all the trustees of the

suit temple. P.W. 3 Thangavelu Chetty stated that he succeeded as trustee after Subbaraya Chetty. There is nothing in the evidence of these

witnesses to prove that succession to the Office of Trusteeship of the suit temple was regulated by any usage. The only fact that emerges from the

evidence in this case is that members of the Vania Vysia community alone were trustee of the suit temple.

17. In *Kumaraswami v. Hindu Religious Endowments Board, Madras* AIR 1937 Mad. 949, it has been held that the right of management by the

village community is certainly not the same as management by hereditary right. It is pointed out in the decision that the fact that the villagers as a

body whoever may happen to be villagers for the time being will have the right of management does not mean that any one of them has got

hereditary right thereto. In *Bhashyaker v. Madras Hindu Religious Endowments Board* AIR 1940 Mad. 519, it has been held by a Bench of this

Court that where the actual trusteeship does not reside in the general body of the members of a certain family or group of families, but the members

constitute the electoral body and they alone are qualified for election as trustees, the succession to the office of trustee cannot be said to be

hereditary though the power of election and the qualification for election are hereditary. It is true that the question for decision in that case was

whether the temple in question was in excepted temple as defined in Madras Act II of 1927 which excluded two types of devolution of trusteeship,

namely, succession by nomination made by a predecessor and succession in accordance with usage. But the decision is useful to show that though

the power of selecting the trustees vests in the Vaniya Vysia community of Dharmapuri, the trustees appointed by them cannot claim to be

hereditary trustees. In *The State of Madras Vs. M. Ramakrishna Naidu and Others*, a Bench of this Court had to construe the term regulated by

usage. It has been held in the decision that the language is regulated by usage but is no longer regulated by usage. It is further pointed out in the

decision that it appears to be singularly inappropriate to say that there is a succession of "A's" office to another when on the efflux of the period for

which "A" was appointed, there is a vacancy and "B" is elected to that vacancy and that it is quite possible that for that vacancy "A" himself might

be re-elected because a retiring trustee is eligible for re-election and that the possibility of "A" being the successor of "A" himself is not merely an

anomaly, it is an impossible legal position as no man can succeed to his own office.

18. Having regard to the principles of these decisions, it is difficult to find that the election of trustees by the Vaniya Vaisya community of

Dharmapuri will amount to the devolution of trusteeship by usage. In act, such usage has come into existence only from about 1943 as averred in

paragraph 10 of the plaint. For the foregoing reasons, we find that there is no dear or satisfactory evidence regarding any usage with regard to the

succession to the trusteeship of the suit temple.

19. The Commissioner, Hindu Religious and Charitable Endowments, Madras, has in his order, exhibit A-12, agreed with the observation of the

Deputy Commissioner that the best that the Appellants can claim is that the selection of trustees should be restricted to the members of their

community. In fact, on two prior occasions, the Board appointed only members of the Vaniya Vaisya community as trustees of the suit temple. In

Section 51 of the Madras Act XXII of 1959 it is stated that in making appointments of trustees the Commissioner shall have due regard to the

claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly intended or maintained. Though the

suit temple does not belong to any religious denomination, it belongs to the Vaniya Vaisya community and members of that community should be

appointed trustees of the suit temple.

20. Subject to this observation, which is also found in the Commissioner's order, exhibit A-12, the decree and judgment of the learned Principal

Subordinate Judge are confirmed and the appeal is dismissed, but in the circumstances, without costs.