

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025
and

W.M.P(MD)Nos.4301, 4302, 4303, 11725, 11726, 13502, 13504, 13505,
17048, 17049, 17052 & 17053 of 2025

1.W.P(MD)No.5893 of 2025:

Rama.Ravikumar

... Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Principal Secretary
Department of Tourism,
Culture and Endowments,
Chennai – 9.

2.The Commissioner,
HR & CE Department,
Chennai – 34.

3.The Executive Officer,
Arulmigu Kaalakatheeswarar Abirami Amman Temple,
Dindigul.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India

Page 1 of 48



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in G.O.(MS)No.98, dated 03.03.2023 passed by the first respondent and quash the same as illegal and unconstitutional and consequently directing the State Government to take appropriate disciplinary, penal action against the authorities concerned for construction of unlawful/illegal building including the recovery of such funds released from the respective temples.

For Petitioner : Mr.RM.Arun Swaminathan

For RR 1 & 2 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.P.Subbaraj
Special Government Pleader (HR & CE)

For R – 3 : Mr.V.Chandra Sekar

2.W.P(MD)No.15498 of 2025:

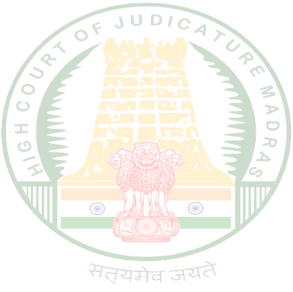
Rama.Ravikumar ... Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Principal
Secretary Department of Tourism,
Culture and Endowments,
Chennai – 9.

2.The Executive Officer,
Arulmigu Dhandayuthapani Swami Devasthanam,
Palani.

... Respondents



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in the impugned G.O.(MS)No.154, dated 16.05.2025 passed by the first respondent and quash the same as illegal and unconstitutional.

For Petitioner : Mr.RM.Arun Swaminathan

For R - 1 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.P.Subbaraj
Special Government Pleader (HR & CE)

For R – 2 : Mr.A.K.Sriram
Senior Counsel
for Mr.R.Murali

3.W.P(MD)No.17666 of 2025:

Rama.Ravikumar

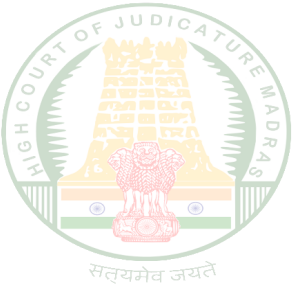
... Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary Department of Tourism,
Culture and Endowments,
Chennai – 9.

2.The Commissioner,
Hindu Religious Charitable
and Endowments Department,
Nungambakkam,

Page 3 of 48



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB CO Chennai.

3.The Executive Officer,
Arulmigu Dhandayuthapani Swami Devasthanam,
Palani. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in the impugned G.O.(MS)No.343, dated 26.09.2024 passed by the first respondent and quash the same as illegal and unconstitutional.

For Petitioner : Mr.RM.Arun Swaminathan
For RR 1 & 2 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.P.Subbaraj
Special Government Pleader (HR & CE)
For R – 3 : Mr.A.K.Sriram
Senior Counsel
for Mr.R.Murali

4.W.P(MD)No.21966 of 2025:

Rama.Ravikumar ... Petitioner
vs.

1.The State of Tamil Nadu,
Represented by its Principal
Secretary Department of Tourism,
Culture and Endowments,
Chennai – 9.

Page 4 of 48



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

2.The Executive Officer,
Arulmigu Dhandayuthapani Swami Devasthanam,
Palani.

3.Fit-Person,
Arulmigu Kamarayaperumal Temple,
Pichampatti, Andipatti Taluk,
Theni District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in the impugned G.O.(MS)No.556, dated 24.12.2024 passed by the first respondent and quash the same as illegal and unconstitutional.

For Petitioner : Mr.RM.Arun Swaminathan

For R - 1 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.P.Subbaraj
Special Government Pleader (HR & CE)

For RR 2 & 3 : Mr.R.Murali

5.W.P(MD)No.21967 of 2025:

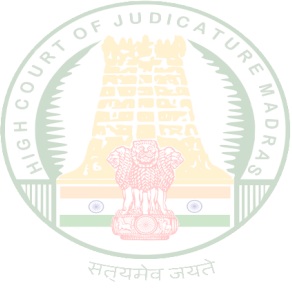
Rama.Ravikumar

... Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Principal

Page 5 of 48



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY Secretary Department of Tourism,
Culture and Endowments,
Chennai – 9.

2.The Executive Officer,
Arulmigu Dhandayuthapani Swami Devasthanam,
Palani.

3.Fit-Person,
Arulmigu Thirukalatheeswarar
and Narasingaperumal Temple,
Uthamapalayam,
Theni District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records in the impugned G.O.(MS)No.514, dated 18.12.2024 passed by the first respondent and quash the same as illegal and unconstitutional.

For Petitioner : Mr.RM.Arun Swaminathan

For R - 1 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.P.Subbaraj
Special Government Pleader (HR & CE)

For RR 2 & 3 : Mr.R.Murali



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

COMMON ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The Writ Petitions on hand have been instituted to assail the Government Orders issued in G.O.(Ms)No.98, G.O.(Ms)No.154, G.O.(Ms)No.343, G.O.(Ms)No.556 and G.O.(Ms)No.514 of the Department of Tourism, Culture and Endowments Department, dated 03.03.2023, 16.05.2025, 26.09.2024, 24.12.2024 and 18.12.2024 respectively, granting permission for construction of marriage hall by utilizing the temple funds belonging to five different temples situated in different places.

2.A perusal of the Government Orders impugned reveals that the Hon'ble Minister for Hindu Religious and Charitable Endowments Department, had announced in the Floor of the Assembly during the Budget Speech that the Government had decided to construct marriage halls in 27 temples by spending the temple funds to the tune of Rs.80 crores. Arulmigu Kaalakatheeswarar Abirami Amman Temple is one



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

amongst the 27 temples and based on the announcement made in the Floor of the Legislative Assembly, the impugned Government Orders came to be issued.

3.The learned counsel appearing for the petitioner would mainly contend that the Government has no jurisdiction to utilize the temple funds or surplus funds for the construction of marriage halls under the provisions of the Hindu Religious and Charitable Endowments Act and the Rules framed thereunder. The construction of marriage halls are for commercial purposes, as the Government made it clear that the marriage halls proposed to be constructed will be let out to the Hindus for conducting marriage functions. Therefore, temple funds cannot be utilized for commercial purposes and the impugned orders are in violation of Sections 35, 36 and 66 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short hereinafter referred to as 'the Act, 1959').

4.The petitioner further states that the impugned Government Orders disclose that the funds are borrowed from other temples for the



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

construction of marriage halls, but the terms and conditions of such borrowal of temple funds has not been stipulated in the Government Orders. At the outset, the Government Orders are ambiguous in respect of utilization of temple funds for construction of marriage halls and more specifically, the utilization of temple funds for commercial purposes is not contemplated under the Act, 1959.

5.The learned counsel appearing for the petitioner further submitted that no building plan permission has been obtained for the construction of marriage halls in the proposed temple lands. These temple lands situated adjacent to the temples, are congested and now being utilized for the movement of devotees, who all are visiting the temple. It will affect the parking facilities to be provided for the devotees nearby the temple. No marriage hall can be constructed without obtaining building plan approval from the competent authority, which should be in consonance with the provisions of the building construction rules, regulations and other relating laws. It is further contended that even before obtaining building plan approval, the temple funds are released.



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY Thus, the orders impugned are liable to be set aside.

6.In W.P(MD)No.21966 of 2025, the learned counsel appearing for the petitioner submitted that the marriage hall is proposed to be constructed 150 kilometers away from Palani, Arulmighu Dhandayuthapani Swami Devasthanam, Palani, Dindigul District, specifically at Andipatti, Theni District. Therefore, the construction of the marriage hall would not anyway be beneficial to the Arulmighu Dhandayuthapani Swami Devasthanam at Palani.

7.In W.P(MD)No.21967 of 2025, the learned counsel appearing for the petitioner submitted that the marriage hall is proposed to be constructed 110 kilometers away from Palani, Arulmighu Dhandayuthapani Swami Devasthanam, Palani, Dindigul District at Uthamapalayam, Theni District. Therefore, the construction of marriage hall would not anyway be beneficial to the Arulmighu Dhandayuthapani Swami Devasthanam at Palani.



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

8.The learned Additional Advocate General, appearing on behalf of the State, would oppose by stating that the temple funds borrowed by way of loans will be settled in accordance with the rules. The performance of Hindu marriages are religious activities and in order to assist the Hindus to perform the marriage functions with less expenditures, the Government took a decision to construct the marriage halls. Therefore, construction of marriage hall is for religious purposes, more specifically for conducting marriage functions of Hindus nearby the temple and the temple lands are utilized for construction of marriage halls. The construction of marriage halls will fall under the ambit of construction of building for the temple activity. Thus, the Government has not violated any of the provisions of the Act, 1959. In this regard, the learned Additional Advocate General relied on Sections 36-A and 36-B of the Act, 1959. Construction of any building is permissible and marriage hall is proposed to be constructed for the benefit of the Hindus to perform marriage functions. Therefore it is well within the ambit of the provisions of the Act.



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

9.The learned Additional Advocate General further submitted that necessary applications are filed for securing building plan permission and funds are yet to be released. Therefore, the statement by the petitioner that funds are released is incorrect.

10.The learned Senior Counsel appearing for the Executive Officer, Arulmigu Dhandayuthapani Swami Devasthanam, Palani in W.P(MD)Nos.15498 and 17666 of 2025, submitted that the marriage hall is proposed to be constructed from and out of the temple funds and not from the surplus funds. Hence, there is no legal impediment for construction. That apart, the proposed site is Inam lands and therefore, the present Writ Petitions are to be rejected.

11.This Court has heard the submissions of the parties to the lis on hand.

12.The utilization of temple funds is provided under Section 35 of the Act, 1959. It deals with “the authority of trustee to incur expenditure



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

for securing health, etc., of pilgrims and worshippers and training of archakas etc”, which reads as follows:

“35. Authority of trustee to incur expenditure for securing health etc., of pilgrims and worshippers and for training of archakas, etc., —

(1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in sub-section (2) of section 86, incur expenditure—

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution ; and

(b) for the training of archakas, Adhyapakas, vedaparayanikas and othuvars.

(2) In incurring such expenditure, the trustee of the religious institution other than a math or a specific endowment attached to a math shall be guided by such general or special instructions as may be given by the Commissioner.”



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

13. Section 35(1) of the Act, 1959 contemplates that the trustee of a religious institution may, out of funds in his charge, after making adequate provision for the purposes referred to in sub-Section (2) of Section 86 incur expenditure.

14. Section 35 of the Act, 1959 in clear terms indicates that the expenditure must be in connection with the arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution. It does not speak about construction of a marriage hall for commercial purposes. Section 35 cannot be read in isolation. Section 36-A of the Act, 1959, speaks regarding utilization of surplus funds for Hindu marriages. The proposed construction of marriage halls are for renting it out to the Hindus for celebrating marriage functions.

15. Section 36 of the Act, 1959, deals with the "Utilization of surplus funds", which reads as follows:



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

“36. Utilisation of surplus funds.— With the previous sanction of 1[the Commissioner], and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institutions may appropriate for any of the purposes specified in sub-section (1) of section 66—

(i) any portion of the accumulated surplus of such institution, and

(ii) if, after making adequate provision for the purposes referred to in subsection (2) of section 86 and also for the arrangements and the training referred to in sub-section (1) of section 35, there is a surplus in the income of the institution for any year or any portion of such surplus :

Provided that the trustee shall, in appropriating the surplus under this section, give preference to the purposes specified in items (a) to (g) of subsection (1) of section 66:

Provided further that, before according the sanction under this section, 1[the Commissioner] shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest.

Provided also that, the sanction aforesaid shall be



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY published in such manner as may be prescribed:

Provided also that, nothing in this section shall prevent the trustee of a math or of a specific endowment attached to a math from utilizing the surplus referred to in this section in such manner as he deems fit.”

16. Section 36-A of the Act, 1959, speaks about “Utilization of surplus funds for Hindu marriages”, which reads as follows:

“36-A. Utilisation of surplus funds for Hindu marriages.— Notwithstanding anything contained in section 36 and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institution may, in addition to the purposes mentioned in that section, appropriate any portion of the surplus fund referred to in section 36 for the performance of Hindu marriages among Hindus who are poor or in needy circumstances.”

17. Section 36-A of the Act, 1959, speaks about “Hindu marriages”. Utilization of surplus funds for Hindu marriages must be upon such conditions and restrictions in consonance with Section 36 of the Act,



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

1959. The provision stipulates that the funds referred to under Section 36 are meant for the performance of Hindu marriages among Hindus, who are poor or in needy circumstances. It only speaks about Hindu marriages among the Hindus who are poor or in needy circumstances in order to provide financial assistance to the poor and persons in needy circumstances for performance of marriages. There is no express provision under this Section for construction of marriage halls for commercial purposes.

18. Section 66 (b) of the Act, 1959, specifically mentions about grant of aid to any religious purpose connected with Hindu religion.

19. The term religious purpose as mentioned under section 66 of the Act, 1959, is not clearly defined. Hence it is imperative to rely on Hindu law authorities to deduce the meaning accorded to religious purposes under Hindu law.

20. It is important to place reliance on **Mayne's Hindu law**¹,

¹ Mayne's Hindu law, 11th Ed at page 192



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

which states that “what are purely religious purposes and what religious purposes will be charitable must be entirely decided according to Hindu law and Hindu notions.”

21.Also in **Mayne's Hindu Law** and Usage, there is an illuminating passage on this aspect:

"Gifts for religious and charitable purposes were impelled by the desire to acquire religious merit. They fall into two divisions, ishta and purta; the former meant sacrifices and sacrificial gifts and the latter meant charities. The former led to heaven and the latter to moksha or emancipation; charity was thus placed on a higher footing than religious ceremonies and sacrifices. Manu says: 'Let him, without tiring always after sacrifices (ishta) and performworks of charity (purta) with faith; for offerings and charitable works made with faith and with lawfully earned money procure endless regards. Let him always practise, according to his ability with a cheerful heart, the duty of liberality (danadharma) both by sacrifices (ishta) and charitable works (purta) if he finds a worthy recipient for his



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY *gifts*².

22. Religious and charitable purposes have nowhere been defined by Hindu lawyers. It was said by **Sir Subramanya Iyer, J. In *Parthasarathi Pillai vs Thiruvengada***³, that the expression “dharma” when applied to gifts means and includes, according to Hindu text writers, what are known as **Istha** and **Purtha** works. Also, no exhaustive list of such works has been drawn up by the Hindu lawgivers, and they include all acts of piety and benevolence whether sanctioned by Vedas or by the popular religion, the nature of the acts differing at different periods of Hindu religion history.”⁴

23. Hence what constitutes as a religious purpose is a wide area with no definitive acts mentioned in Hindu law texts. But a general understanding makes it clear that Istha and Purtha works are said to

² V.K.Varadachari's, *Hindu Religious and Charitable Endowments* 235-236, Fourth edition with suppl. 2018, EBC

³ ILR 30 Mad 340

⁴ B.K.Mukherjea, *the Hindu Law of Religious and Charitable Trusts*, (Fifth ed, Eastern Law House)



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

constitute religious and charitable purposes according to Hindu commentators.

24.To understand this concept better, the following passages are extracted from the collection of Tagore law lectures delivered by **Dr.B.K.Mukherjea**, published under the caption “**The Hindu Law of Religious and Charitable Trusts**”⁵;

‘1.11. Hindu concepts of religious and charitable gifts-Istha and Purtta.—

Hindu religious and charitable acts have been from the earliest time classified under two heads, viz., Istha and Purtta. The two words are often used conjointly, and they are as old as the Rigveda. The compound word Istha-Purtta has been retained in the writings of all Brahminical sages and commentators down to modern days, and although the connotation of these two expressions was extended to some extent in course of time, the fundamental ideas involved in them remain practically the same. By "Istha" is meant Vedic sacrifices, and rites and gifts in connection with the same; "Purtta", on the other hand, means and signifies other pious and charitable acts which

5 Cited supra



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

are unconnected with any Srauta or Vedic sacrifice. The meaning of the two expressions has been discussed elaborately by Pandit Pran Nath Saraswati, in his Tagore Law Lectures on the Hindu Law of Endowments, and for my purposes I will cull a few texts to which reference has been made by the learned author in this connection.

In the Rigveda, which is the earliest record of Aryun culture, Isthā and Purttā are described as the means of going to heaven. There is a verse in the 10th Mandala of the Rigveda⁶ where the seer describes the dead man as going to the highest heaven, along with the pitris, as a result of the Isthā and Purttā works done by him in this world. The celebrated commentator Sayana in commenting on this passage says that by Isthā-Purttā are meant gifts bestowed in Srauta and Smārta rites. The same commentator in explaining these very words which occur in Taittiriya Aranyaka⁷ observes that the word Isthā denotes Vedic rites like Darsa, Purnamash etc. and Purttā means Smārta works like tanks, wells etc. The two texts of Manu, where the merit of Isthā and Purttā is extolled and which have been referred to by subsequent commentators, stand as follows:

“Let each wealthy man continually and sedulously perform sacred rites (Isthā) and

⁶ Rigveda, 10th Mandala 14, 8

⁷ Taittiriya Aranyaka Pro. X. Anu. 1, 6.



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

consecrate pools and gardens (Purtta) with faith since thesetwo acts accomplished with faith and with riches honestly gained, procure an unperishable reward".

"If he meets with fit objects of benevolence, let him constantly bestow gifts on them, both at sacrifices and consecrations (Istha & Purтта), to the best of his power and with a cheerful heart.⁸

1.12. Following a text of Sankha quoted by Hemadri, Pandit Pran Nath Saraswati makes the following enumeration of Istha works: viz.,

- (1) Vedic sacrifices etc.,*
- (2) gifts offered to priests at the same,*
- (3) preserving the Vedas,*
- (4) religious austerity,*
- (5) rectitude,*
- (6) Vaiswadev sacrifice and*
- (7) hospitality.⁹*

The Purтта works not only signified such works of public utility as excavation of tank, wells, etc., but included all acts which either conferred some kind of benefit on those who were in need of it, or were regarded as

⁸ Manu IV 226 & 227

⁹ P.N.Saraswati, Tagore Law Lectures on Endowment, p.21



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

meritorious from the spiritual or religious point of view. From the numerous Smriti texts bearing on the point, Pandit Pran Nath Saraswati has compiled a list of Purтта works which are generally recognised as such by Brahminical writers. These are:

- (1) Gifts offered outside the sacrificial ground,*
- (2) gifts on the occasion of an eclipse, solstice and other special occasions,*
- (3) the construction of works for the storage of water, as wells, tanks, etc.,*
- (4) the construction of temples for the gods,*
- (5) the establishment of procession for the honour of the gods,*
- (6) the gift of food and*
- (7) the relief of the sick.¹⁰*

The list is by no means exhaustive; dharmasalas, rest houses, mutts for the residence of ascetics, planting of trees and dedication of groves are also Purтта works mentioned by the commentators. From the list of Istha and Purтта works given above it will be noticed that construction of a temple for the worship of an idol is an instance of Purтта work, whereas hospitality is regarded as one of the Istha acts. The reason is that the construction of temple has no connection with a Vedic sacrifice; it is a thing of later origin and hence is regarded as a Smartha act of piety. Worship of guests on

¹⁰ P.N.Saraswati, cited supra



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

the other hand is one of the sacrifices which is enjoined on every householder by the Vedas. Hospitality therefore is associated with Srauta or Vedic rites and comes under the category of Ishta works”.

25.The scope of "**religious purpose**" under Hindu law has been judicially clarified in ***Saraswathi Ammal and another v. Rajagopal Ammal***¹¹. The Supreme Court held that what constitutes a "**religious purpose**" must be determined according to Hindu notions, with acquisition of religious merit (punya) as a key criterion. Even private religious acts, such as perpetual endowments for family idol worship or annual sraddha ceremonies, have been upheld as valid religious purposes, despite not conferring a direct public benefit. The Court, however, cautioned that the heads of religious purposes cannot be endlessly enlarged merely on the belief of individuals; the purpose must have a Shastraic basis or wide recognition among Hindus.

26.In paragraph 7 of this judgment, the Hon'ble Apex Court

¹¹ (AIR 1953 SC 491 : 1954 SCR 277)



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

also referred to earlier Madras High Court decisions in the case of ***Kunhamutty Vs. Thondikkodan Ahmad Musaliar [ILR (1935) 58 Mad 204 at p. 211]; A.Draivaisundaram Pillai Vs. N.Subramania Pillai, [ILR 1945 Mad 854] and Veluswami Goundan Vs. Dandapani [AIR 1946 Mad 485]***, which held that the building of a samadhi or a tomb over the remains of a person and making of provision for the purpose of Gurupooja and other ceremonies in connection with the same cannot be recognized as charitable or religious purpose according to Hindu law.

27.This judicial understanding ensures that the concept of religious purpose remains rooted in tradition, while also constrained by public policy and modern needs.

28.Thus, the statutory scheme and the vires of section 66 of the Act, 1959 mirrors the Hindu law principle that surplus funds cannot be diverted for commercial or profit making ventures, but must remain confined to religious or charitable purposes. Therefore what conduces to religious merit in Hindu law is primarily a matter of Shastraic injunction.



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

29.It is also noteworthy that though Hindu marriages are primarily considered as a sacrament it also carries with it elements of contract. So the principles of Hindu marriage as recognised under the Hindu Marriage Act, 1955 has within its ambit elements of a sacred union, which is bound by contractual terms. Hence Marriage being a sacred union of two individuals cannot in itself constitute a “religious purpose”. Therefore marriage per se cannot be attached to religious purposes.

30.A reading of the Hindu law commentaries makes it clear that the aspect of charity in religious purpose is essential. It nowhere prescribes commercial benefit or financial returns for the acts of ‘religious purposes’ carried out.

31.In the present case on hand, the G.O was issued for creation of marriage halls out of the surplus temple funds. The



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY submissions of the respondent clarified that the renting of such marriage halls is not free of charge but is rented out on payment of a fee. So the essence of charity is nowhere present in the heart of this G.O. This Court views that, the G.O loses its footing on this very point itself. Hence in the absence of any element of charity (charity being an important facet of hindu religion) involved in this scheme, it cannot be termed as a religious purpose under the tenets of section 66 of the Act.

32.The Division Bench of the Madras High Court recently decided the similar issue in the case of ***P.Bhaskar Vs. The District Collector, Chengalpattu and others***¹². In the said case, the HR & CE Department of the Government of Tamil Nadu had taken a decision to construct a shopping complex. The Division Bench of this Court considered the scope of Sections 36 and 66(1) of the Act, 1959 and held that construction of a shopping complex is not permissible under the provisions of the Act.

33.The Judgment of the Division Bench of this Court in

¹² W.P(MD)No.19084 of 2024, dated 09.01.2025



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB **P.Bhaskar's case** (cited supra) has been confirmed by the Honourable Supreme Court of India in **SLP(C) Nos.12843-12844 of 2025 dated 26.05.2025.**

34. Section 36-A of the Act, 1959, intends to provide assistance for the performance of Hindu marriages among Hindus who are poor or in needy circumstances. Thus, the provision does not intend for construction of marriage halls for commercial purposes. The scope of the provision cannot be expanded, since the very objective of the Hindu Religious and Charitable Endowments Act is to ensure that the movable and immovable properties, ornaments, jewels etc., donated by devotees/donors to the temple, must be used by the temple only for religious purposes and not for any other common purposes. The donors/devotees are donating their valuables to the deity in a temple with an intention that their donations are to be utilized only for the benefit of the temple and for religious purposes.

35. The Government, therefore, has no powers to utilize the



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY funds for any other purpose other than the purpose for which the valuables are donated by the devotees/donors to the temple. The Government under the Act is bound to utilize the temple funds only for the maintenance and development of the temple and for connected religious purposes. They have no authority or powers to divert the funds for any other purposes under the name of the religion which would certainly defeat the very objectives of the Act and Rules and also the wishes of the donors/devotees, who are all donating movable, immovable properties in favour of the deity out of their emotional and spiritual attachment with temples.

36. Section 36-B of the Act, 1959, states “Utilization of surplus funds for making contribution towards any funds for the purposes of feeding the poor etc”. It stipulates that Section 36 for making any contribution towards any fund constituted for the purpose of-

- (i) feeding the poor; or
- (ii) Constructing any building, shade or centre for feeding the poor.

These two clauses stipulated under Section 36-B of the Act, 1959, is to be



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

read together in a holistic manner to understand the purpose and intention of the provision.

37.For example, construction of a hall adjacent to a temple in the temple land for providing Annadanam (distribution of free food), prasadam to devotees etc., is permissible under this Section. Providing Annadanam and prasadam are attached to the religious purposes. Thus, construction of a hall for religious purposes adjacent to the temple is permissible under the said provision. However, there is no provision for construction of the marriage halls for commercial purposes or renting it to Hindus for conducting marriage functions. In the event of permitting such marriage halls it will pave way in future for the administrators to misutilize or use the halls for some other purposes other than the religious purposes. This exactly is the reason why lawmakers made in specific that the funds of the temple cannot be utilized for any other purposes other than the religious purposes.

38.Section 36 of the Act, 1959, speaks about “Utilization of



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

surplus funds” and stipulates that the trustee of a religious institution may appropriate for any of the purposes specified in sub-Section (1) of Section 66. Therefore, utilization of surplus funds under Section 36 of the Act, 1959 must be in accordance with the terms contemplated under Section 66(1) of the Act, 1959.

39. Section 66 of the Act, 1959 enumerates “Appropriation of endowments”, which reads as follows:

“66. Appropriation of endowments.—(1) The Joint Commissioner or the Deputy Commissioner, as the case may be, may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realisation, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:—

- (a) the grant of aid to any other religious institution which is poor or in needy circumstances;*
- (b) the grant of aid to any religious purpose connected with the Hindu religion;*
- (c) the propagation of the religious tenets of the institution;*
- (d) the recitation of Divya Prabhandam and*



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

Thevaram and the like;

(e) the establishment and maintenance of schools for the training of archakas, adyapakas, vedaparayanikas and othuvars and for the study of Divya Prabandhams, Thevarams and the like, including the study of Indian languages for that purposes;

(f) the establishment and maintenance of a University or college or other institution in which the main features shall be the provision for the study of Hindu religion, philosophy or sastras or for imparting instructions in Hindu temple architecture;

(g) the establishment and maintenance of educational institution where instruction in the Hindu religion is also provided;

(h) promotion of fine arts and architecture;

(i) the establishment and maintenance of orphanages for Hindu children;

(j) the establishment and maintenance of asylums for persons suffering from leprosy;

(k) the establishment and maintenance of poor homes for destitute, helpless and physically disabled persons ; and

(l) the establishment and maintenance of hospitals and dispensaries for the benefit of pilgrims:



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

Provided that in the case of a religious institutions founded and maintained by a religious denomination or any section thereof, the endowment shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.

(2) The Joint Commissioner or the Deputy Commissioner, as the case may be, may, at any time by order, modify or cancel any order passed under sub-section (1).

(3) The order of 1[the Joint Commissioner or the Deputy Commissioner, as the case may be], under the section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 69, be binding on the trustee, the executive officer and all persons having interest.”

40.A plain reading of Section 66(1) of the Act, 1959, indicates that the utilization of temple funds must be only for religious purposes. Circumstances under which utilization of funds to be considered also have been elaborately provided under sub-Section (1) to Section 66. Establishment and maintenance of Schools or University, educational institutions, promotion of fine Arts and architecture, maintenance of orphanages for Hindu children, asylums for persons suffering from leprosy, poor homes for destitute, helpless and physically disabled



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

persons and hospitals and dispensaries for the benefit of pilgrims, all must be established only in terms of the “religious purposes”, and to assist the poors and persons in needy circumstances.

41.Temple funds are collected from and out of the donations offered by the devotees, donors and from immovable properties gifted in favour of the deity/Temple only for religious purposes or to celebrate temple festivals in temples or to utilize the funds for maintenance and development of temple or group of temples as the case may be. Thus, temple funds cannot be treated as public funds or the Government funds. Temple funds are exclusive contribution of the Hindu religious people on account of their emotional or spiritual attachment with the temples or with the deities or with the Hindu religious customs, practices or ideologies etc.

42.Therefore, temple funds cannot be utilized as public fund or the Government fund for common purposes. Trustees have an important role in maintenance of temples and temple funds. Deity being a minor, the trustees responsibility is onerous and any misutilization or abuse of temple



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB funds for any other purposes would attract prosecution and recovery from the persons, who have committed such irregularities or illegalities. If the authorities of the HR & CE Department has misused or misutilized the temple funds, they must be held responsible and accountable and such funds misused, misappropriated or abused or misutilized must be recovered from the concerned authorities or from the Government as the case may be by initiating appropriate actions.

43.The money offered and properties donated to the temple belongs to “**deity**”. Deity became the owner of the funds, properties etc. Deity in a temple is a minor. Thus, the High Court as *parens patriae*, is duty bound to protect the interests of the deity and funds of the temple and properties belong to the deity in a temple. Therefore, utilization of temple funds or surplus temple funds for implementing public schemes/projects or construction of marriage halls for commercial purposes by the Government is impermissible under law. Such funds are to be utilized exclusively for religious purposes. “Religious purposes” are



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

well defined under the Hindu Law.

44.The Government is secular under the Constitution of India.

The Hindu Religious and Charitable Endowments Act, 1959 empowers the Government to have control over the affairs of the Hindu religious Institutions across the State of Tamil Nadu. But exercise of control under the HR & CE Act by the Government must be within the ambit and four corners of the “religious purposes” and in consonance with the provisions of the Act and Rules. Expanding the scope of interpretation of the Act or Rules other than the religious purposes is null and void. Any such interpretation will lead to misuse, abuse or misutilization of temple funds, and would infringe the religious rights of the Hindu devotees / donors, who have contributed their hard-earned money for the development, maintenance and welfare of the temple, its devotees and deity.

45.The State of Tamil Nadu is known for architecturally designed temples across the State. Few great souls, constructed such architecturally designed temples during ancient times, have donated their



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB CODE

valuable properties, jewels and funds etc., for the maintenance of such huge temples and to protect the interest of the deity in temples. Undoubtedly intention of those great souls was to maintain the temple property, conduct poojas, temple festivals, feed the devotees and poor people visiting the temple and for religious purposes. Thus, any attempt by the Government to misutilize the temple funds by way of expanding the interpretation is unacceptable and would result in infringement of the fundamental right of the Hindus to profess their choice of religion.

46.It is unambiguous that the role of the Government in controlling the affairs of the Hindu temples across the State of Tamil Nadu under the Hindu Religious and Charitable Endowments Act is limited only to prevent, abuse, misutilization or misappropriation of temple funds and its properties. It is the duty of the Government to ensure that temple funds are utilized only for religious purposes as intended by the donors/devotees and under the provisions of the Act and Rules framed thereunder.

47.The key principles with reference to the Act, 1959 to be



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

followed are that surplus temple funds cannot be diverted for commercial or non-religious purposes, such as building revenue-generating marriage halls or unrelated infrastructure. Courts have consistently emphasized that temples are not profit-making bodies and that their funds must remain within the statutory purposes outlined in Sections 36, 36-A, 36-B and 66 of the Act, 1959.

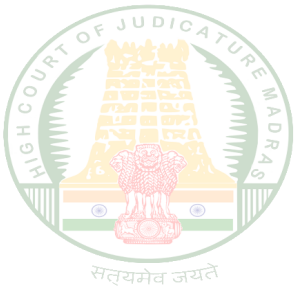
48.The procedures to be followed for utilization of surplus temple funds is also well enumerated under the **Utilization of Surplus Funds Rules, 1960.**

49.Rule 2 of the Utilization of Surplus Funds Rules, 1960 stipulates the “Submission of proposals”, which reads as follows:

“The trustee (or Chairman of the Board of Trustees) of a religious institution must submit a proposal to the commissioner along with:

(1) receipts during the fasli year

(2) expenditure during the fasli year, including:



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

(a) provision under Section 35(1)
(training/arrangements for services)

(b) provision under Section 86(2)
(repairs, maintenance etc.)

(3) The surplus remaining after making
provisions under Sections 35(1) and 86(2).

(4) Details of total accumulated surplus,
including investments and maturity dates

(5) Particulars of proposed diversion, including
purposes and amounts.”

50.The procedure to be adopted for “Scrutiny and Provisional Decision” is contemplated under Rule 3 of the Utilization of Surplus Funds Rules, 1960, which reads as follows:

“The Commissioner shall:

- (a) scrutinize the proposal carefully;
- (b) provisionally decide the amount of surplus to be diverted;
- (c) publish a notice in a leading daily containing:
 - (i) name of the religious institution;
 - (ii) purpose for which the surplus fund is proposed;



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

- (iii) amount proposed.
- (d) Invite objections and suggestions and
- (e) Fix an inquiry date to consider objections/suggestions.”

51.Rules 4 and 6 of the Utilization of Surplus Funds Rules, 1960, speaks about “Objections and Inquiry”, which reads as under:

- “(i) Objections/suggestions must be submitted within 30 days from publication.
- (ii) Inquiry will be conducted on the notified date.
- (iii) After considering objections, the Commissioner may confirm, modify, or set aside the provisional decision.”

52.Rule 5 of the Utilization of Surplus Funds Rules, 1960, speaks about “Publication of Notice”, which reads as under:

- “The notice must be published:
By affixture on
- (i) the religious institution's notice board/front door;
- (ii) notice boards of the Assistant/Deputy/Joint Commissioner and Commissioner;



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

(iii) notice board of the Panchayat Union, Municipal Council or Corporation of Chennai;

(iv) Village chavadi or another conspicuous place in the locality;

(v) by tom-tom announcement in the village where the institution is located and

(vi) in case of a specific endowment, notice must also be published in places where the endowments properties are situated.”

53.Rule 7 of the Utilization of Surplus Funds Rules, 1960, speaks about “Restrictions on Appropriation”, which reads as under:

“(a) Surplus may be appropriated only for:

(i) Section 66(i) purposes (religious/charitable/educational);

(ii) Section 36-A purposes (Hindu marriages of poor Hindus);

(iii) Section 36-B purposes (feeding the poor, buildings/sheds/centres for feeding the poor).

(b) Limits: Appropriation cannot exceed

(i) 50% of the surplus income, or

(ii) 10% of the assessable income, whichever is lower.



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

(c) *Expenditure must strictly follow the Commissioner's order.*

(d) *Trustees must submit monthly progress reports by the 5th of every month until the sanctioned surplus is fully spent."*

54.Rule 8 of the Utilization of Surplus Funds Rules, 1960, speaks about "Communication and Publication of Order", which reads as under:

"(a) A copy of the Commissioner's final order shall be communicated to:

(i) The trustee/Chairman of the Board of Trustees;

(ii) The Executive Officer/other concerned officers;

(iii) Persons who appeared in the inquiry, if necessary.

(b) The order shall also be published in the same manner as the notice under Rule 5.

(c) Publication is deemed sufficient intimation to all persons having interest."

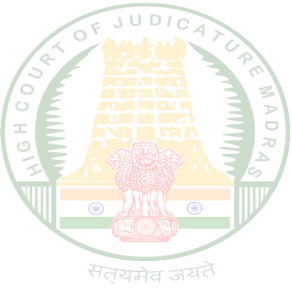


W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COPY

55.A holistic reading of the provisions of the Act and the Rules framed thereunder makes it clear that surplus funds cannot be appropriated arbitrarily; a transparent process involving proposals, objections and enquiry is mandatory. Appropriation is restricted to statutory purposes under Sections 36, 36-A, 36-B and 66 of the Act, 1959. A ceiling limit (50% of surplus or 10% of accessible income, whichever is less) prevents excessive diversion. Public notice and participation are built-in safeguards to protect devotees' interests.

56.In the present case, the Government orders impugned have been passed pursuant to the announcement made by the Hon'ble Minister in the Floor of the Assembly. However, none of the procedures as contemplated under the Act and the Rules framed thereunder had been followed for establishing marriage halls in the lands belonging to the Hindu temples. As per the statement of the learned Additional Advocate General, building plan permissions are yet to be obtained. Without building permission, no building can be constructed under the relevant building rules. If at all any construction activities commenced, such activities are



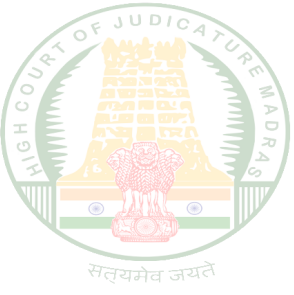
W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB CILlegal and unauthorised.

57.Since the learned Additional Advocate General appearing for the State submitted that the temple funds are not yet released so far, the question of refund of the released funds in favour of the temple accounts may not arise.

58.In view of the discussions made in the aforementioned paragraphs, this Court has no hesitation in arriving a conclusion that the Government decision for construction of marriage halls for the purpose of renting it out for marriage functions is in violation of the provisions of the Act, 1959 and the Rules and does not fall within the definition of “religious purposes”.

59.For all these reasons, the impugned Government Orders are quashed and the Writ Petitions are allowed. There shall be no order as



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

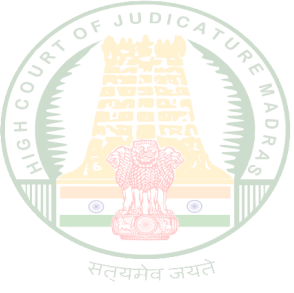
to costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S.,J.] & [G.A.M.,J.]
19.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

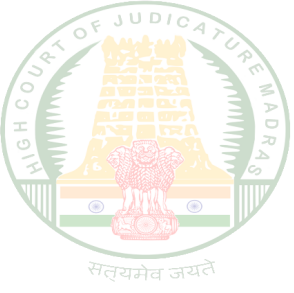
Page 45 of 48



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB C

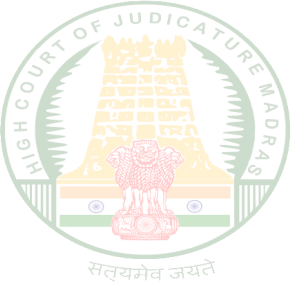
- 1.The Principal Secretary Department of Tourism,
Culture and Endowments,
Represented by the State of Tamil Nadu,
Chennai – 9.
- 2.The Commissioner,
HR & CE Department,
Chennai – 34.
- 3.The Executive Officer,
Arulmigu Kaalakatheeswarar Abirami Amman Temple,
Dindigul.
- 4.The Executive Officer,
Arulmigu Dhandayuthapani Swami Devasthanam,
Palani.
- 5.The Commissioner,
Hindu Religious Charitable and Endowments Department,
Nungambakkam,
Chennai.
- 6.Fit-Person,
Arulmigu Kamarayaperumal Temple,
Pichampatti, Andipatti Taluk,



W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

WEB COURT Theni District.

7.Fit-Person,
Arulmigu Thirukalatheeswarar and Narasingaperumal Temple,
Uthamapalayam, Theni District.



WEB COPY

W.P(MD)Nos.5893, 15498, 17666, 21966 & 21967 of 2025

S.M.SUBRAMANIAM, J.
and
G.ARUL MURUGAN, J.

ps

ORDER MADE IN
W.P(MD)Nos.5893, 15498, 17666,
21966 & 21967 of 2025

DATED : 19.08.2025

Page 48 of 48

<https://www.mhc.tn.gov.in/judis>

(Uploaded on: 26/08/2025 02:32:46 pm)