

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Ordinary Original Civil Jurisdiction
Friday the 26th day of November 1937
The Hon'ble Mr. Justice Wadsworth

George VI by the Grace of God
of Great Britain, Ireland and
the British Dominions beyond
the seas, King, Defender of the
Faith, Emperor of India.

C.S.No. 427 of 1933.

Between:

1. P. Bhavan Ammal
2. K. Murugesu Pillai
3. N.R. Ponnambalam Pillai.

The plaintiffs are persons interested in the maintenance and welfare of a Public Trust known as the Sri Arumuga Naval Saiva Prakasa Vidya Salai at Chidambaram and they bring this suit in their capacity as persons having such interest ... Plaintiffs.

and

1. Thiagaraja Pillai, one of the three trustees for the time being of the said Trust, residing at Chidambaram, South Arcot District.
2. Rao Bhadur R.K. Venugopal Naidu Garu also a Trustee of the said Trust residing at Cuddalore New Town, Cuddalore South Arcot District and also a Receiver appointed by this Court in T.O.S.No.6 of 1928 on its file in its Testamentary Jurisdiction. ... Defendants.

Suit by the plaintiffs as the persons interested in the maintenance and welfare of the Sri Arumuga Navalar Saiva Prakasa Vidyasalai at Chidambaram, a Public Trust, owing considerable endowed properties in Madras and in the District of South Arcot dedicated to the promotion of Tamil studies and propagation and spread of the Saiva Samaya Cult and its Siddhanta and which is also one of the

two foundations instituted by one late Sri Arumuga Navalar of Nallur in Jaffna, for the removal of Thyagaraja Pillai, defendant I herein, from the office of Trustee for life of the said Trust and the charities attached thereto for reasons more particularly mentioned in the plaint filed herein; for either a competent person being appointed Trustee by this Court in accordance with the Scheme Decree made in T.O.S. 6 of 1928 and C.S.No. 373 of 1928 on the file of this Court and dated 15th October 1930 or the said decree being amended in such manner as this Court deems just and desirable in the interests of the Trust and directions being given in pursuance of such amendment; for an account being taken of the amounts due to the said Trust by the said Thyagaraja Pillai, defendant I herein, and for directions to him to pay the same immediately to the Trust estate; for costs and consequential reliefs.

This ~~is~~ suit having been heard on the 9th November 1937 in the presence of Mr. K. Kuppiswami, Advocate for the plaintiffs herein, of Mr. S. Nagaraja Ayyar, Advocate for Defendant 2 herein and the Official Trustee of Madras in person, on the 23rd November 1937 in the presence of Mr. K. Kuppiswami, Advocate for the plaintiffs herein of Mr. S. Nagaraja Ayyar, Advocate for defendant I herein and of Mr. S.P. Doraiswami, Advocate for defendant 2 herein and coming on this day before this Court for final disposal in the presence of Mr. K. Kuppiswami, Advocate for the plaintiffs herein of Mr. S. Nagaraja Ayyar, Advocate for defendant I herein, of Mr. S.P. Doraiswami, Advocate for defendant 2 herein and of Mr. K.S. Venkatramani, the Receiver herein in person, and upon reading the report of the Receiver filed herein on the 20th October 1937, the Receiver's

statement filed herein this day, the letter from the Secretary of the Trustees of the Pachaiyappa's Charities, Madras dated and filed herein this day and the orders made herein and dated respectively the 25th April and 3rd March 1935, IT IS ORDERED AND DECREED as follows:

1. That the scheme in respect of the Public Trust known as the Sri Arumuga Navalar Saiva Prakasa Vidya Salai at Chidambaram and the charities attached thereto set out in the schedules "A" and "B" hereto be and is hereby approved and sanctioned:

2. That a sum of Rupees Seven hundred and thirty two (Rs.732) as and for the costs of the plaintiffs in this suit and a sum of Rupees One hundred and fifty (Rs.150) to each of the defendants 1 and 2 herein as and for their respective costs of this suit shall be paid from and out of the funds belonging to the suit Trust;

3. That the amounts aforesaid shall be paid off in three equal annual instalments; and

4. That the Receiver herein do continue to draw six per cent of the collections made by him until he hands over charge and shall be discharged on the passing of his accounts.

SCHEDULE SCHEME "A"

(1) The Arumuga Navalar Saiva Prakasa Vidyasala and the charities attached thereto and the movable and immoveable properties appertaining thereto shall vest in a trustee to be constituted as herein after set out.

(2) The Trustee herein before mentioned in paragraph (1) shall be appointed by the Trustee for the time being of the Sri Arumuga Navalar Saiva Prakasa Vidya Salai at East Vannar Pannai in Jaffna. Such appointment shall be made

after consultation with the "Board of Control" herein after referred to. The Trustee so appointed shall hold office for a term not exceeding five years and shall be eligible for re-appointment at the expiry of such period. He shall be at liberty to renounce his office within the term fixed. If for any reason the Jaffna trustee fails or omits to exercise his power of appointment, the "Board of Control" (Referred to herein after) shall be at liberty to move this Honourable Court for a temporary appointment of Trustee so appointed shall cease to hold office from the time the Trustee appointed by the Jaffna Trustee is ready and willing to assume office. The "Board of Control" shall always before moving the Court for a temporary appointment, intimate the fact to the Jaffna Trustee and give him due notice of the intended motion.

(3) The Trustee as appointed shall administer the trust in accordance with the intentions laid down by Sadasivam Pillai in his Trust Deed dated 31.10.1910, Ponnambalam Pillai in his will dated 18.10.1918 and the will of Viswanatham Pillai dated 12.1.1928 and shall manager the said properties and apply the income, rents and profits of the said properties.

(4) to the management, maintenance and development of the said Saiva Prakasa Vidyasala on the lines laid down in the said documents, and according to the syllabus of studies adopted and carried out in the said school and as far as possible in consonance with the wishes and directions of Sri Arumuga Navalar set out in pages 42 to 44 of his Biography by T. Kailasam Pillai, Second Edition, Published in the year 1930.

(b) be all other objects and purposes mentioned in the said Trust Deed and wills and particularly enumerated in the Schedule "B" herein.

(c) in case of funds permit to maintain a hostel for the accommodation and boarding of pupils studying in the said school.

(4) The Trustee administering the trust shall be solely in charge of the Trust and be responsible for the due and proper administration and management of the institution and endowments thereof, subject to the general supervision of the Board of Control.

(5) The Board of Control shall consist of five persons, viz, (i) Two to be nominated by the community of the Jaffna Tamil residents at Chidambaram. (ii) two by the District Educational Officer, South Arcot, one of whom shall be a Deekshitar (iii) one to be nominated by the Board of Trustee of the Pachaiyappa's Charities.

(6) No person shall be eligible to be a member of the Board of Control unless he is a Hindu Saivite. If possible, members of the Board of Control shall be selected from followers of the cult of of the Arumuga Navalax.

(7) The members of the Board of Control shall hold Office for a term of three years and shall be eligible for reappointment. They are entitled to frame rules and regulations for their guidance and conduct of business.

(8) A budget of receipts and expenditure based as far as possible on the custom and usage of the institution in the past shall be prepared by the Trustee, and presented to the Board of Control, for approval before the 15th May of every year.

The Board of Control shall pass the budget with such modifications as may be necessary before 15th June. The Trustee shall not incur any expenditure which is not sanctioned in the budget, in the absence of unforeseen contingencies. Any such unsanctioned expenditure should at once be reported to the Board for sanction.

(9) The Board of Control shall appoint a duly qualified auditor every year to audit the accounts and such auditor shall furnish a report to the Board of Control. The Trustee shall comply with all reasonable requirements of the Board of Control based on the auditor's report.

(10) The Trustee shall have no power of alienation of immoveable properties of the Trust, except for leases not exceeding three years in duration, without the sanction of the Court on application under this Scheme.

(11) The Trustee shall receive no remuneration, unless the Court for special reasons sees fit to sanction one on application under this Scheme. The Trustee shall be entitled to charge his legitimate expenses for travelling and to reside rent free in the house No.24, Malaikatti Street which has hitherto been set apart for the accommodation of the Trustee.

The widow of Ponnambalam Pillai shall continue to reside in the Gnanaprakasam Madam for the remainder of her life.

(12) The amounts of the decree for cost in T.O.S. No.6 of 1928 and C.S.No. 373 of 1928 shall be paid from the Trust funds, as also any arrears of salary or wages due to the employees of the trust.

(13) Thiagaraja Pillai shall be entitled to such amount as may be passed by the Assistant Registrar of this Court in respect of his claim against the estate for

Rs.3,600/- as having been incurred on behalf of the Trust.
For any balance, he may be referred to a suit.

(14) Nothing in the present proceedings in this Court shall be treated as disqualifying the 1st defendant from serving the Trust.

(15) The Receiver shall take steps for the constitution of the first Board of Control and the appointment of a Trustee. As soon as the Board has been constituted and the Trustee appointed, he shall hand over charge of the trust to the Trustee and be discharged subject to passing of his accounts.

SCHEDULE "B"

List of Charities referred to in paragraph 3 (c) of the Scheme in accordance with the deeds of endowment and the usage and custom governing in this behalf.

...

1. Maintenance of the Arumuga Navalar Saiva Prakasa vidyasala at Chidambaram and the promotion of Saivism (para paragraph 10 of deed of 1910)
2. Establishment of similar Saiva Prakasa Institution (if funds permit vide clause II of the Deed of 1910)
3. Publication of Sri Arumuga Navalar's works and other classics at Vidyanupalana Printing Press, Madras.
4. Guru Puja to Sri Arumuga Navalar and the Archana, Abhisekam etc., at Maha Nakshatram day of Karthigai month.
5. Nivedhanam (two times a day) to Sri Natarajar at Chidambaram (vide paragraph 13 of Deed of 1910)
6. Palkavadi expenses for the mid-day abhisekam of Sri Thirumoola Sthaneswarar at Nataraja temple, Chidambaram (Clause 14).

7. Archana in respect of Ya. Ka. Arumugam Pillai at the New Moon Day at Margazhi for the Dakshnamurthi deity.
8. Second Kalam daily neivedhanam in respect of Karaitheevu Kandha Pillai.
9. Daily Nivedhanam for Sekhizhar Nainar at Anakkutti Mutt Gnanaprakasam Street, Chidambaram (vide clause 4 of Deed of 1918)
10. Annabhishekam for Subramaniaswami at Tiruchendur in the month of Chitrai (vide clause 10 of deed of 1918).
11. Abhishekam and Nivedhanam for Karpaga Vinayakar at Nataraja temple, Chidambaram (vide clause 3 of Deed of 1918) poorvapatcham Chathurthi.
12. Monthly nivedhana and Abhisheka at Mahanakshatram day of every month to Nataraja for Arumuga Navalar.
13. Awarding scholarship to deserving students (vide clause 14 of Deed of 1918)
14. Thirugnana Thirumulaippal Uthsavsam at Nataraja temple Chidambaram.
15. Kaliapparkoil Uthsavam for one day at Vaikasi month at Sivapuri.
16. Feeding poor Jaffna visitors during festivals as at Ani and Margazhi months.
17. Sadasivam Pillai Mahanakshatram.

Witness the Honourable Mr. Alfred Henry Lionel Leach Chief Justice at Madras aforesaid this 26th day of November, 1937.

(sd.) K.C. NAMBIAR, 24.1.1938,

Second Asst. Registrar.

/TRUE COPY/