

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**Reserved On: 18.12.2025**

**Pronounced On: 06.01.2026**

**CORAM**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**AND**

**THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)Nos.3188, 3189, 3204, 3211, 3212, 3213, 3217, 3218, 3219, 3220,  
3221, 3222, 3223, 3225, 3226, 3227, 3229, 3230, 3231, 3232 of 2025**

**and**

**C.M.P(MD)Nos.19509, 19508, 19712, 19800, 19832, 19831, 19871, 19870,  
19873, 19882 of 2025**

**W.A(MD)No.3188 of 2025:**

The Executive Officer  
Arulmigu Subramanian Swamy Temple,  
Thirupparankundram, Madurai. ... Appellant/4<sup>th</sup> Respondent

Vs.

1.Rama.Ravikumar ... 1<sup>st</sup> Respondent/Writ Petitioner  
2.The District Collector  
Madurai.  
3.The Commissioner of Police  
Madurai City.



4. The Joint Commissioner  
HR & CE Department, Madurai.

... Respondents 2 to 4/  
Respondents 1 to 3

WEB COPY  
5. Sikkandar Badhusah Dharga,  
Represented by its Jamath Members,  
Thiruparankundram, Madurai District.

6. Hazarath Sutan Sikkandar Badhusha Avuliya Dargah,  
Represented by its Managing Trustee, Y .Ozeerkhan,  
T hiruparamkundram, Madurai – 5.

7. The Superintending Archeologist,  
Archeological Survey of India, Trichy  
Sub-Circle, Trichy - 620 002.

*(R5 to R7 are Suo Motu Impleaded Vide Court  
Order Dated 19.11.2025)*

8. The Commissioner,  
Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai-600 034.

9. The Tamil Nadu Waqf Board,  
Represented by its Chief Executive Officer,  
No.1 Jaffar Syrang Street,  
Vallal Seethakathi Nagar,  
Chennai-1.

10. M.Kannan @ Solai Kannan

11. V.Aranganathan

... Respondents 5 to 11/  
Respondents 5 to 11

*(R8 and R9 are Suo Motu Impleaded  
Vide Court order dated .... )*

**Prayer:** Writ Appeal filed Under Clause 15 of Letters Patent to prefer the following memorandum of grounds of writ appeal as against the order dated 01-12-2025 passed by this Court in W.P.(MD).No.32317 of 2025.



WEB COPY

For Appellant	:Mr.N.Jothi, Senior Counsel, for Mr.V.Chandrasekar
For R1	:Mr.P.Valliappan, Senior Counsel, for Mr.RM.Arun Swaminathan
For R2	:Mr.Veera Kathiravan, Addl. Advocate General assisted by Mr.Thilakkumar, Govt. Pleader
For R3	:Mr.J.Ravindaran, Addl. Advocate General Assisted by Mr.S.Ravi, Addl. Public Prosecutor
For R4 & R8	:Mr.R.Shunmugasundaram, Senior Counsel assisted by Mr.NRR.Arun Natarajan, Special Govt. Pleader
For R5	:Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R6	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen
For R9	:Mr.Abdul Mubeen, for Mr.D.S.Haroon Rasheed
For R10	:Mr.Niranjan S.Kumar, assisted by Mr.A.K.Amaravel Pandiyan
For R11	:Mr.C.Arul Vadivel @ Sekar, Senior Counsel, for Mr.S.Vanchinathan

**WA(MD) 3189 of 2025**

The District Collector,

Madurai.

...Appellant/1<sup>st</sup> Respondent

Vs.

1.Rama Ravikumar

...1<sup>st</sup> Respondent/Writ Petitioner

2.The Commissioner of Police

Madurai City.



3. The Joint Commissioner

WEB HR and CE Department, Madurai.

4. The Executive Officer

Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai.

...Respondents 2to4/  
Respondents 2to4

5. Sikkandhar Badusah Dharga

Represented by its Jamath Members,  
Thirupparankundram, Madurai District.

6. Hazarath Sultan Sikkandar Ba

Dhusha Avuliya Dargah, Represented by its  
Managing Trustee, Y. Ozeerkhan,  
Thiruparamkundram, Madurai -5.

7. The Superintending Archeologist,

Archeological Survey of India,  
Trichy Sub Circle, Trichy - 620 002

8. The Commissioner



Hindu Religious and Charitable Endowments

Department, 119 Uthamar Gandhi Salai,  
ஸல்யமேஷ ஜயக்

WEB COPY Nungambakkam, Chennai - 600 034

9. The Tamil Nadu Waqf Bard

Represented by its Chief Executive Officer,

No.1 Jaffar Syrang Street, Vallal

Seethakathi Nagar, Chennai – 1

10. M. Kannan Alias Solai Kannan

11. V. Aranaganathan ... Respondents 5 to 11/  
Respondents 5 to 11

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer the Writ Appeal against the order dated 01.12.2025 passed by this Court in WP(MD). No.32317 of 2025.

For Appellant	: Mr.P.S.Raman, Advocate General, and Mr.Veera Kathiravan, AAG, Asst., by Mr.P.Thilakkumar, G.P.,
For R1	: Mr.P.Valliappan, Senior Counsel, for Mr.RM.Arun Swaminathan
For R2	: Mr.J.Ravindran, AAG, Asst., by Mr.S.Ravi, APP.,
For R3 & R8	: Mr.NRR.Arun Natarajan, Spl.G.P.,
For R4	: Mr.V.Chandrasekar
For R5	: Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R6	: Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen
For R9	: Mr.Abdul Mubeen,



For R10

for Mr.D.S.Haroon Rasheed  
:Mr.Niranjan S.Kumar,  
Assisted by Mr.A.K.Amaravel Pandiyan  
:Mr.S.Vanchinathan

For R11

WEB COPY

**WA(MD) 3204 of 2025:**

R.Kanagavel Pandian

...Appellant/Petitioner

Vs.

1. The Commissioner

Hindu Religious and Charitable Endowment  
Department, Chennai.

2. The Joint Commissioner

HR and CE Department, Madurai.

3. The District Collector

Madurai District.

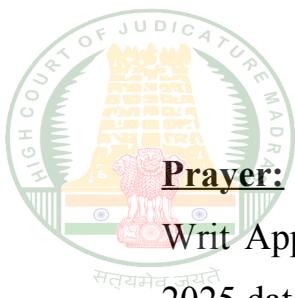
4. The Commissioner of Police

Madurai City.

5. The Executive Officer

Arulmighu Subramania Swamy Temple,  
Thirupparankundram, Madurai.

... Respondents/Respondents



**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order of this Court passed in W.P.(MD). No. 34051 of 2025 dated 01.12.2025.

WEB COPY

For Appellant :Mr.T.Lajapathi Roy, Senior Counsel,

for M/s.Roy & Roy Associates

For R1 & R2 :MrR.Shunmugasundaram, Senior Counsel, Assisted by

Mr.NRR.Arun Natarajan, Spl.G.P.,

For R3 :Mr.P.S.Raman, Advocate General & Mr.Veera Kathiravan, AAG, assisted by Mr.P.Thilakkumar, G.P.,

For R4 :Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindran, AAG, assisted by

Mr.Ravi, APP

For R5 :Mr.V.Chandrasekar

**WA(MD) 3211/2025**

The Executive Officer  
Arulmigu Subramania Swamy Temple,  
Thirupparankundram,  
Madurai District.

...Appellant/6<sup>th</sup> Respondent

Vs

...1<sup>st</sup> Respondent/Writ Petitioner

2.The State of Tamil Nadu

Rep by its Additional Chief Secretary to  
Government, Hindu Religious and Charitable  
Endowments Department, Secretariat,  
Chennai-600 009.

3.The Commissioner

Hindu Religious and Charitable Endowment  
Department, 119 Uthamar Gandhi Salai,  
Nungambakkam, Chennai-600 034.

4.The Joint Commissioner

Hr and Ce Department, Thirupparankundram,  
Madurai.



5. The District Collector,  
Madurai.

WEB COPY  
6. The Commissioner of Police,  
Madurai City.

...Respondents 2 to 6/  
Respondents 1 to 5

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order dated 01.12.2025 passed by this Court in WP(MD) No.33112 of 2025.

For Appellant	: Mr.T.V.Masilamani,Senior Counsel, for Mr.V.Chandrasekar
For R1	:Mr.Guru Krishna Kumar, Senior Counsel, for Mr.Niranjan S.Kumar
For R2 & R5	:Mr.Veera Kathiravan, AAG, assisted by Mr.P.Thilakkumar, G.P.,
For R3 & R4	:Mr.R.Shunmugasundaram, Senior Counsel assisted by Mr.NRR.Arun Natarajan, SGP
For R6	:Mr.Vikas Singh, Senior Counsel, Mr.J.Ravindran, AAG, assisted by Mr.S.Ravi, APP.,

### WA(MD) 3212 of 2025

The Executive Officer

Arulmigu Subramania Swamy Temple,

Thirupparankundram, Madurai.

...Appellant/5<sup>th</sup> Respondent

Vs.

1.S.Paramasivam

...1<sup>st</sup> Respondent/Writ Petitioner

2.The District Collector



Madurai.

सत्यमेव जयते

3. The Commissioner of Police

WEB ON Madurai City, Madurai.

4. The Commissioner

Hindu Religious and Charitable Endowments  
Department, No.119, Uthamar Gandhi Salai,  
Nungampakkam, Chennai - 600 034.

5. The Joint Commissioner

HR and CE Department, Thirupparankundam,  
Madurai District.

...Respondents 2 to 5/  
Respondents 1 to 4

6. M. Vinoth ...6<sup>th</sup> Respondents/6<sup>th</sup>  
Respondent

**Prayer:** Writ Appeal filed under Clause 15 of Letters patent praying to prefer this Writ Appeal against the order dated 01.12.2025 passed by this Court in W.P. (MD).No.33197 of 2025.

For Appellant	:Mr.A.K.Sriram, Senior Counsel,
	for Mr.V.Chandrasekar
For R1	:Mr.S.Sriram, Senior Counsel,
	for Mr.P.Subbiah
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Kathiravan, AAG,



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For R3

assisted by Mr.P.Thilakkumar, G.P.,  
:Mr.Vikas Singh, Senior Counsel and  
Mr.J.Ravindran, AAG, assisted by  
Mr.S.Ravi, APP

For R4 & R5

:Mr.R.Shunmugasundaram, Senior Counsel,  
assisted by Mr.NRR.Arun Natarajan, SGP  
:M/s.J.Anandhavalli

For R6

**WA(MD) 3213 of 2025**

V.Aranganathan

...Appellant//11<sup>th</sup> Respondent

Vs

1.Rama.Ravikumar

...1<sup>st</sup> Respondent/Petitioner

2.The District Collector

Madurai District.

3.The Commissioner of Police,

Madurai City.

4.The Joint Commissioner

HR and CE Department, Madurai.

5.The Executive Officer,

Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai.



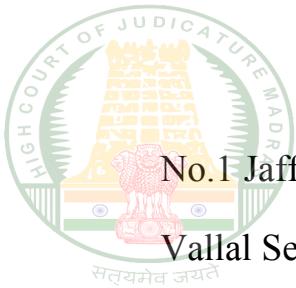
6. Sikkandar Badhusah Dharga,  
सत्यमेव जयते  
WEB (Represented by its Jamath Members,  
Thiruparankundram, Madurai District.

7. Hazarath Sutan Sikkandar Ba  
Dhusha Avuliya Dargah,, Represented by its  
Managing Trustee, Y.Ozeerkhan,  
Thiruparamkundram, Madurai - 5.

8. The Superintending Archeologist,,  
Archeological Survey of India, Trichy  
Sub-Circle, Trichy - 620 002.

9. The Commissioner,  
Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai-600 034.

10. The Tamil Nadu Waqf Board,  
Represented by its Chief Executive Officer,



No.1 Jaffar Syrang Street,

Vallal Seethakathi Nagar, Chennai-1

सत्यमेव जयते

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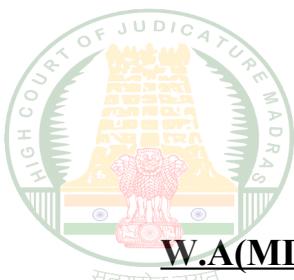
11.M.Kannan @ Solai Kannan

...Respondents 2 – 11/

Respondents 2 - 11

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this writ appeal against the order passed by this Court dated 01-12-2025 in W.P. (MD).No.32317 of 2025.

For Appellant	:Mr.V.Selvaraj,
For R1	for Mr.S.Vanchinathan :Mr.P.Valliappan, Senior Counsel, for Mr.RM.Arun Swaminathan
For R2	:Mr.Veera Kathiravan, AAG, assisted by Mr.P.Thilakkumar, G.P.,
For R3	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindran, AAG, assisted by Mr.S.Ravi, APP.,
For R4 & R9	:Mr.R.Shanmugasundaram, Senior Counsel, assisted by Mr.NRR.Arun Natarajan, SGP
For R5	:Mr.V.Chandrasekar
For R6	:Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R7	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen
For R10	:Mr.Abdul Mubeen, for Mr.D.S.Haroon Prasad
For R11	:Mr.Niranjan S.Kumar, for Mr.A.K.Amaravel Pandiyan



**W.A(MD)No.3217 of 2025**

संसदीयमन्त्र न्यायालय

WEB C1. Sikkandar Badhusah Dharga

Rep. by its Jamath Members,

Thirupparankundram, Madurai District.

2. Hazrath Sulthan Sikkandar BaDhusaha Avuliya Dharga,

Rep. by its Managing Trustee Y.Ozheer Khan

Thirupparankundram,

Madurai District.

...Petitioners/Petitioners

Vs

1. Rama Ravikumar ...1<sup>st</sup> Respondent/Writ Petitioner

2. V. Aranganathan

3. The District Collector

Madurai.

4. The Commissioner of Police

Madurai District.

5. The Joint Commissioner

Hr and Ce Department, Madurai.

6. The Executive Officer

Arulmigu Subramania Swamy Temple,

Thirupparankundram, Madurai.



7.The Superintending Archeolog

WEB Ist, Archeological Survey of India, Trichy

Sub-Circle, Trichy - 620 002.

8.The Commissioner

Hindu Religious and Charitable Endowments

Department, 119, Uthamar Gandhi Salai,

Nungambakkam, Chennai-600 034.

9.The Tamil Nadu Waqf Board,

Represented by its Chief Executive Officer,

No.1 Jaffar Syrang Street,

Vallal Seethakathi Nagar, Chennai-1.

10.M. Kannan @ Solai Kannan

...Respondents

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order dated 01.12.2025 made in W.P.(MD) No. 32317 of 2025 by this Court.

For 1<sup>st</sup> Appellant : Mr.A.Shek Nasurdeen

For 2<sup>nd</sup> Appellant : Mr.G.Prabhu Rajadurai,



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for Mr.A.Shek Nasurdeen

For R1	:Mr.Mr.P.Valliappan, Senior Counsel, for Mr.RM.Arun Swaminathan
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., asst., by Mr.P.Thilakkumar, G. P for R2
For R3	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG., asst. by Mr.S.Ravi, APP
For R4&R7	:Mr.R.Shunmugasundaram, Senior Counsel asst., by Mr.NRR.Arun Natarajan, SGP
For R8	:Mr.Abdul Mubeen for Mr.D.S.Haroon Rasheed
For R9	:Mr.Niranjan S.Kumar, for Mr.A.K.Amaravel Pandiyan
For R10	:Mr.S.Vanchinathan

**W.A(MD)No.3218 of 2025**

1.Sikkandar Badhusah Dharga,  
Represented by its Jamath Members,  
Thiruparankundram, Madurai District.

2.Hazarth Sultan Sikkandar Badhusha Avuliya Dharga,  
Represented by its Jamath Members,  
Thiruparankundram,  
Madurai District.

... Appellants/Respondents 4&5

Vs.

1.Karthikeyan ...1<sup>st</sup> Respondent/Petitioner

2.The District Collector  
Madurai.

3.The Commissioner of Police,  
Madurai City, Madurai.



4. The Commissioner, HR and CE  
 Department, No.119, Uthamar Gandhi Salai,  
 Nungampakkam, Chennai - 600 034.

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5. The Joint Commissioner  
 HR & CE Department, Thirupparankundam  
 Madurai District.

6. The Superintendent Archeologist,  
 Archeological Survey of India, Trichy  
 Sub-Circle. Trichy District ... Respondents 2 to 6/  
 Respondents 1 to 4 and 7

Prayer: Writ Appeal filed Under Clause 15 of Letters Patent to prefer this writ appeal against the order dated 01-12-2025 made in W.P.(MD).No.33724 of 2025 by this Court.

For 1<sup>st</sup> Appellant :Mr.T.Mohan, Senior Counsel,  
 for Mr.A.Shek Nasurdeen

For 2<sup>nd</sup> Appellant :Mr.G.Prabhu Rajadurai  
 for Mr.A.Shek Nasurdeen

For R1 :Mr.K.P.S.Palanivel Rajan, Senior Counsel  
 for Mr.M.Murugan

For R2 :Mr.P.S.Raman, Advocate General and  
 Mr.Veera Karthiravan, AAG.,

asst. By Mr.P.Thilakkumar, G. P.,  
 :Mr.Vikas Singh, Senior Counsel and

Mr.J.Ravindaran, AAG., asst. by Mr.S.Ravi, APP  
 :Mr.R.Shunmugasundaram, Senior Counsel  
 asst. by Mr.NRR.Arun Natarajan, SGP

### W.A(MD)No.3219 of 2025

1. The State of Tamil Nadu  
 Rep. By its Additional Chief Secretary to



Government, Hindu Religious and Charitable  
Endowments Department, Secretariat, Chennai  
600 009

संसदीयमन्त्र जनरल

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2. The Commissioner

Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai 600 034

3. The Joint Commissioner

HR & CE Department, Thirupparankundram,  
Madurai

...Appellants/Respondents 1 to 3

Vs.

1. M Arasupandi

....1<sup>st</sup> Respondent/Petitioner

2. The District Collector

Madurai

3. The Commissioner of Police

Madurai City

4. The Executive Officer

Arulmigu Subramania Swamy Temple,  
Thirupparankundram,  
Madurai District.

... Respondents 2 to 4/  
Respondents 2 to

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the common order dated 01.12.2025 passed by this Court in WP(MD). No.33112 of 2025.

For Appellant	:Mr.R.Shunmugasundaram, Senior Counsel asst. by Mr.NRR.Arun Natarajan, SGP
For R1	:Mr.Guru Krishna Kumar, Senior Counsel for Mr.Niranjan S.Kumar
For R2	:Mr.P.S.Raman, Advocate General and



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For R3

For R4

Mr. Veera Karthiravan, AAG., asst. by  
Mr.P.Thilakkumar, G. P  
:Mr.Vikas Singh, Senior Counsel and  
Mr.J.Ravindaran, AAG, asst. by Mr.S.Ravi, APP  
:Mr.V.Chandrasekar

**W.A(MD)No.3220 of 2025**

The District Collector  
Madurai

...Appellant/1<sup>st</sup> Respondent

Vs

1.S.Paramasivam

...1<sup>st</sup> Respondent/Writ Petitioner

2.The Commissioner of Police  
Madurai City, Madurai

3.The Commissioner  
HR & CE Department,  
119, Uthamar Gandhi Salai,  
Nungambakkam,Chennai 600 034

4.The Joint Commissioner  
HR & CE Department,  
Thirupparankundram,Madurai

5.The Executive Officer  
Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai. R5 Suo Motu  
Impleaded Vide Orderdated 19.11.2025

6.M.Vinoth

...Respondents 2 to 6/  
Respondents 2 to 6

Prayer:Writ Appeal filed under Clause 15 of Letters patent praying to prefer this  
Writ Appeal against the order dated 01.12.2025 passed by this Court in W.P.  
(MD).No.33197 of 2025.



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For Appellant	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., asst. by Mr.P.Thilakkumar, G. P
For R1	:Mr.S.Sriram, Senior Counsel for Mr.P.Subbiah
For R2	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG, Asst. by Mr.S.Ravi, APP
For R3&R4	:Mr.R.Shunmugasundaram, Senior Counsel, asst. by Mr.NRR.Arun Natarajan, SGP
For R	:Mr.V.Chandrasekar
For R6	:M/s.J.Anandhavalli

**W.A(MD)BNo.3221 of 2025**

1. The Joint Commissioner  
HR and CE Department, Madurai

2. The Commissioner  
Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam,  
Chennai 600 034

....Appellants/Respondents 3,8

Vs.

1.Rama Ravikumar

....1<sup>st</sup> Respondent/Writ Petitioner

2. The District Collector  
Madurai

3. The Commissioner of Police  
Madurai City

4. The Executive Officer  
Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai

5. Sikkandar Badhusah Dharga  
Rep.By its Jamath Members,  
Thirupparankundram, Madurai District

6. Hazarath Sultan Sikkandar



Badhusha Avuliya Dargah, Rep.By its  
Managing Trustee, Y.Ozeerkhan,  
Thirupparankundram, Madurai 5

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7.The Superintending Archeologist,  
Archeological Survey of India, Trichy  
Sub-Circle, Trichy 620 002

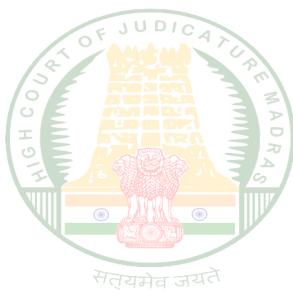
8.The Tamil Nadu Waqf Board  
Rep.By its Chief Executive Officer, No.1,  
Jaffar Syrang Street, Vallal Seethakathi  
Nagar, Chennai 1.

9.M. Kannan Alias Solai Kannan  
10.V.Aranganathan

....Respondents 2 to 10/  
Respondents 1,2,4to7, 9 to11

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the common order dated 01.12.2025 passed by this Court in W.P.(MD). No. 32317 of 2025.

For Appellant	:Mr.R.Shunmugasundaram, Senior Counsel, asst. by Mr.NRR.Arun Natarajan, SGP
For R1	:Mr.J.Jaaswant
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., asst. By Mr.P.Thilakkumar, G. P
For R3	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG., asst. by Mr.S.Ravi, APP
For R4	:Mr.V.Chandrasekar for R4
For R	:Mr.T.Mohan, Senior Counsel for Mr.A.Shek Nasurdeen
For R6	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen



For R8 :Mr.Abdul Mubeen,  
for Mr.D.S.Haroon Rasheed  
For R9 :Mr.Niranjan S.Kumar  
For R10 :Mr.S.Vanchinathan

WEB COPY

W.A(MD)No.3222 of 2025

The District Collector

Madurai. ....Appellant/1<sup>st</sup> Respondent

Vs.

1.A.Karthikeyan ...1<sup>st</sup> Respondent/Writ Petitioner

2.The Commissioner of Police

Madurai City Madurai

3.The Commissioner

Hindu Religious and Charitable Endowments

Department, 119 Uthamar Gandhi Salai

Nungambakkam, Chennai 600 034.

4.The Joint Commissioner

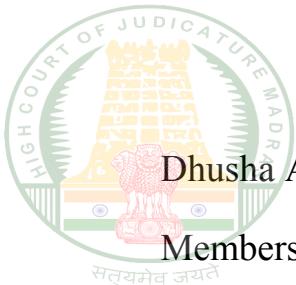
HR& CE Department Thirupparankundram

5.Sikkandhar Badhusah Dharga

Rep by its Jamath Members Thirupparankundram,

Madurai District

6.Hazarath Sultan Sikkandar Ba



Dhusha Avuliya Dargah, Rep by its Jamath

Members Thirupparankundram Madurai 5

सत्यमेव जयते

WEB C 7. The Superintending Archeologist,

Archeological Survey of India,

Trichy Sub Circle, Trichy.

...Respondents 2 to 7/

Respondents 2 to 7

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer the writ appeal as against the order dated 01-12-2025 passed by this Court in W.P. (MD).No.33724 of 2025.

For Appellant	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG. Asst. By Mr.P.Thilakkumar, G. P
For R1	:Mr.K.P.S.Palanivel Rajan, Senior Counsel for Mr.Mr.M.Murugan
For R2	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG. Asst. by Mr.S.Ravi, APP
For R3 and R4	:Mr.R.Shunmugasundaram, Senior Counsel Asst. by Mr.NRR.Arun Natarajan, SGP
For R5	:Mr.T.Mohan, Senior Counsel for Mr.A.Shek Nasurdeen
For R6	:Mr.G.Prabhu Rajadurai for Mr.A.Shek Nasurdeen

Nasurdeen

**W.A(MD)No.3223 of 2025**

The District Collector  
Madurai.

... Appellant/4<sup>th</sup> Respondent

Vs

1.M Arasupandi

...1<sup>st</sup> Respondent/Writ Petitioner

22/170



2. The State of Tamil Nadu  
 Rep by its Additional Chief Secretary to  
 Government Hindu Religious and Charitable  
 Endowments Department Secretariat  
 Chennai 600 009.

3. The Commissioner  
 Hindu Religious and Charitable Endowments  
 Department 119 Uthamar Gandhi Salai  
 Nungambakkam, Chennai 600 034

4. The Joint Commissioner  
 Hr and Ce Department Thirupparankundram  
 Madurai

5. The Commissioner of Police  
 Madurai City

6. The Executive Officer  
 Arulmigu Subramania Swamy Temple  
 Thirupparankundram,  
 Madurai District.

...Respondents 2to6/  
 Respondents 1to3,5&6

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order dated 01.12.2025 passed by this Court in WP(MD). No.33112 of 2025.

For Appellant	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., Asst. By Mr.P.Thilakkumar, G. P
For R1	:Mr.Guru Krishna Kumar, Senior Counsel for Mr.Niranjan S.Kumar
For R2 to R4	:Mr.R.Shunmugasundaram, Senior Counsel Asst. by Mr.NRR.Arun Natarajan, SGP
For R5	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG. Asst. by Mr.S.Ravi, APP



For R6 :Mr.V.Chandrasekar

**W.A(MD)No.3225 of 2025**

WEB COPY

1.The Commissioner

Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai 600 034

2.The Joint Commissioner

Hr and Ce Department, Thirupparankundram,  
Madurai. ...Appellants/Respondents 3&4

Vs

1.A.Karthikeyan

...1<sup>st</sup> Respondent/Writ Petitioner

2.The District Collector

Madurai

3.The Commissioner of Police

Madurai

4.Sikkandar Badhusah Dharga

Rep.By its Jamath Members,  
Thirupparankundram, Madurai District

5.Hazarath Sultan Sikkandar

Badhusha Avuliya Dargah, Rep.By its Jamath  
Members, Thirupparankundram, Madurai

6.The Superintending Archeologist,

Archeological Survey of India, Trichy  
Sub-Circle, Trichy 620 002

...Respondents 4 to 6/

Respondents 1,2 & 5 to 7

Prayer: Writ Appeal filed under Clause 15 of Letters patent praying to prefer this  
Writ Appeal against the common order dated 01.12.2025 passed by this Court in  
W.P.(MD).No.33724 of 2025.



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For Appellants :Mr.R.Shunmugasundaram, Senior Counsel  
asst. by Mr.NRR.Arun Natarajan, SGP  
For R1 :Mr.K.P.S.Palanivel Rajan, Senior Counsel  
for Mr.Mr.M.Murugan  
For R2 :Mr.P.S.Raman, Advocate General and  
Mr.Veera Karthiravan, AAG., Asst. By  
Mr.P.Thilakkumar, G. P  
For R3 :Mr.Vikas Singh, Senior Counsel and  
Mr.J.Ravindaran, AAG. Asst. by Mr.S.Ravi, APP  
For R4 :Mr.T.Mohan, Senior Counsel  
for Mr.A.Shek Nasurdeen  
For R5 :Mr.G.Prabhu Rajadurai,  
for Mr.A.Shek Nasurdeen

**W.A(MD)No.3226 of 2025**

1.The Commissioner

Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam,  
Chennai 600 034.

2.The Joint Commissioner

HR & CEE Department,  
Thirupparankundram, Madurai. .... Appellants/Respondents 3-4

Vs

1.S. Paramasivam .... 1<sup>st</sup> Respondent/Writ Petitioner



2.The District Collector

Madurai.

संसद यमेव जयते

WEB 3.The Commissioner of Police

Madurai City, Madurai.

4.The Executive Officer

Arulmigu Subramania Swamy Temple,

Thirupparankundram, Madurai.

5.M. Vinoth

...Respondents 1,2,5&6  
Respondents 1,2,5&6

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the common order dated 01.12.2025 passed by this Court in W.P.(MD). No. 33197 of 2025.

For Appellants	:Mr.R.Shunmugasundaram, Senior Counsel Asst. by Mr.NRR.Arun Natarajan, SGP
For R1	:Mr.S.Sriram, Senior Counsel, for Mr.P.Subbiah
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., Asst. By Mr.P.Thilakkumar, G. P
For R3	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG., Asst. by Mr.S.Ravi, APP
For R4	:Mr.V.Chandrasekar
For R5	:M/s.J.Anandhavalli



**W.A(MD)No.3227 of 2025**

WEB CCPN

1. The Tamilnadu Waqf Board  
Represented by its Chief Executive Officer,  
No.1 Jaffar Syrang Street, Vallal  
Seethakathi Nagar,  
Chennai-600 001.

...Appellant/9<sup>th</sup> Respondent

Vs

1. Rama.Ravikumar ...1<sup>st</sup> Respondent/Petitioner

2. The District Collector  
Madurai.

3. The Commissioner of Police,  
Madurai City.

4. The Joint Commissioner  
Hr and Ce Department, Madurai.

5. The Executive Officer,  
Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai.

6. Sikkandar Badhusah Dharga,  
Represented by its Jamath Members,  
Thirupparankundram, Madurai District.

7. Hazarath Sutan Sikkandar Ba  
Dhusha Avuliya Dargah,, Represented by its  
Managing Trustee, Y.Ozeerkhan,  
Thiruparamkundram, Madurai - 5.

8. The Superintending Archeologist,  
Archeological Survey of India, Trichy  
Sub-Circle, Trichy - 620 002.

9. The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
119, Uthamar Gandhi Salai,



Nungambakkam,  
Chennai-600 034.

WEB COPY  
10.M.Kannan @ Solai Kannan

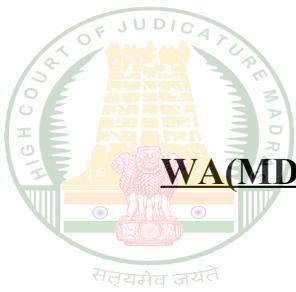
11.V.Aranganathan

...Respondents 2to 9/  
Respondents 1 to 8

...Respondents 10 & 11/  
Respondents 10 & 11

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this writ appeal against the order dated 01-12-2025 in W.P.(MD)No.32317 of 2025 passed by this Court.

For Appellant	:Mr.Abdul Mubeen, for Mr.D.S.Haroon Rasheed
For R1	:Mr.P.Valliappan, Senior Counsel for Mr.RM.Arun Swaminathan
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., Asst. By Mr.P.Thilakkumar, G. P
For R3	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG., Asst. by Mr.S.Ravi, APP
For R4 & R9	:Mr.R.Shunmugasundaram, Senior Counsel Asst. by Mr.NRR.Arun Natarajan, SGP
For R5	:Mr.V.Chandrasekar
For R6	:Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R7	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen
For R10	:Mr.Niranjan S.Kumar
For R11	:Mr.S.Vanchinathan



**WA(MD) 3229/2025**

WEB (The) Commissioner of Police

Madurai City.

...Appellant/1<sup>st</sup> Respondent

Vs

1.Rama. Ravikumar

.. 1<sup>st</sup> Respondent/Writ Petitioner

2.The District Collector of Po

Lice, Madurai.

3.The Joint Commissioner

HR and CE Department, Madurai.

4.The Executive Officer

Arulmigu Subramania Swamy Temple,  
Thirupparankundram, Madurai.

5.Sikkandar Badhusah Dharga

Represented by its Jamath Members,  
Thirupparankundram, Madurai District.

...Respondents/Respondents



6.Hazarath Sutan Sikkandar Ba

Dhusha Avuliya Dargah,, Represented by its  
सत्यमेव जयते

WEB COPY Managing Trustee, Y.Ozeerkhan,

Thirupparankundram, Madurai 5.

7.The Superintending Archeolog

Ist, Archeological Survey of India, Trichy

Sub-Circle, Trichy 620 002

8.The Commissioner

Hindu Religious and Charitable Endowments

Department, 119, Uthamar Gandhi Salai,

Nungambakkam, Chennai -600 034.

9.The Tamil Nadu Waqf Board

Represented by its Chief Executive Officer,

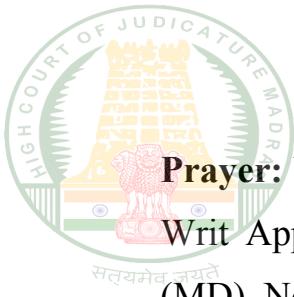
No.1, Jaffar Syrang Street, Vallal

Seethakathi Nagar, Chennai 1.

10.M.Kannan @ Solai Kannan

11.V. Aranganathan

...Respondents/Respondents



**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order dated 01.12.2025 passed by this Court in W.P. (MD). No. 32317 of 2025.

WEB COPY

For Appellant	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG., Asst. by Mr.S.Ravi, APP Mr.P.Valliappan, Senior Counsel
For R1	:Mr.RM.Arun Swaminathan
For R2	:Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., Asst. By Mr.P.Thilakkumar, G. P
For R3 & R8	:R.Shunmugasundaram, Senior Counsel, Asst. by Mr.NRR.Arun Natarajan, SGP
For R4	:Mr.V.Chandrasekar
For R5	:Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R6	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen
For R9	:Mr.Abdul Mubeen, for Mr.D.S.Haroon Rasheed
For R10	:Mr.Niranjan S.Kumar
For R11	Mr.S.Vanchinathan

### WA(MD) 3230/2025

The Commissioner of Police

Madurai City.

...Appellant/1<sup>st</sup> Respondent

Vs

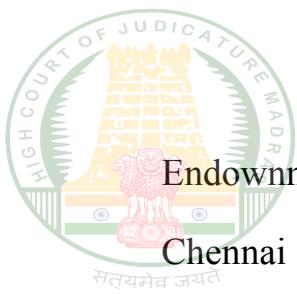
1.M. Arasupandi

...1<sup>st</sup> Respondent/Writ Petitioner

2.The State of Tamil Nadu

Rep. by its Additional Chief Secretary to

Government, Hindu Religious and Charitable



Endowments Department, Secretariat,  
Chennai -600 009.  
सत्यमेव जयते

WEB 3.The Commissioner

Hindu Religious and Charitable Endowments  
Department, 119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai -600 034.

4.The Joint Commissioner

Hr and Ce Department, Thirupparankundram,  
Madurai.

5.The District Collector

Madurai.

6.The Executive Officer

Arulmigu Subramania Swamy Temple,  
Thirupparankundram,  
Madurai District.

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to prefer this Writ Appeal against the order dated 01.12.2025 passed by this Court in W.P. (MD). No. 33112 of 2025.

For Appellant :Mr.Vikas Singh, Senior Counsel  
and Mr.J.Ravindaran, AAG.,  
Asst. by Mr.S.Ravi, APP

For R1 :Mr.Guru Krishna Kumar, Senior Counsel,  
for Mr.Niranjan S.Kumar



WEB COPY

For R2 to R4 :Mr.R.Shunmugasundaram, Senior Counsel,  
Asst., by Mr.NRR.Arun Natarajan, SGP  
For R5 :Mr.P.S.Raman, Advocate General and  
Mr.Veera Karthiravan, AAG. Asst.,  
By Mr.P.Thilakkumar, G. P  
For R6 :Mr.V.Chandrasekar

**W.A.(MD)No.3231 of 2025**

The Commissioner of Police,  
Madurai City.

... Appellant/1<sup>st</sup> Respondent

Vs.

1.A.Karthikeyan ...1<sup>st</sup> Respondent/Writ Petitioner  
2.The District Collector,  
Madurai.  
3.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
119, Uthamar Gandhi Salai,  
Nungambakkam,  
Chennai -600 034.  
4.The Joint Commissioner,  
HR and CE Department, Thirupparankundram,  
Madurai.  
5.Sikkandar Badhusah Dharga,  
Represented by its Jamath Members,  
Thirupparankundram, Madurai District,  
6.Hazarath Sutan Sikkandar Badhusha Avuliya Dargah,  
Represeneted by its Managing Trustee,  
Y.Ozeerkhan, Thirupparankundram,  
Madurai 5.  
7.The Superintending Archeologist,  
Archeological Survey of India,



Trichy Sub-Circle,  
Trichy 620 0022.

... Respondents/Respondents

WEB COPY

**PRAYER**:- Writ Appeal – filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P.(MD)No.33724 of 2025 dated 01.12.2025.

For Appellant	:Mr.Vikas Singh, Senior Counsel and Mr.J.Ravindaran, AAG. Asst. by Mr.S.Ravi, APP
For R1	: Mr.K.P.S.Palanivel Rajan, Senior Counsel, for Mr.Mr.M.Murugan
For R2	: Mr.P.S.Raman, Advocate General and Mr.Veera Karthiravan, AAG., Asst. By Mr.P.Thilakkumar, G. P
For R3 & R4	: MrR.Shunmugasundaram, Senior Counsel, Asst. by Mr.NRR.Arun Natarajan, SGP
For R5	: Mr.T.Mohan, Senior Counsel, for Mr.A.Shek Nasurdeen
For R6	:Mr.G.Prabhu Rajadurai, for Mr.A.Shek Nasurdeen

**W.A.(MD)No.3232 of 2025**

The Commissioner of Police,  
Madurai City.

... Appellant/1<sup>st</sup> Respondent

Vs.

1.S.Paramasivam  
2.The District Collector,  
Madurai.

...1<sup>st</sup> Respondent/Writ Petitioner

3.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
119, Uthamar Gandhi Salai,  
Nungambakkam, Chennai -600 034.

4.The Joint Commissioner,  
HR and CE Department, Thirupparankundram,  
Madurai.



5. The Executive Commissioner,  
Arulmigu Subramania Swamy Temple,  
Thiruparankundram, Madurai.  
(R5 *suo motu impleaded vide order dated 19.11.2025)*

WEB COPY

6. M. Vinod

... Respondents/Respondents

**PRAYER**:- Writ Appeal – filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P.(MD)No.33197 of 2025 dated 01.12.2025.

For Appellant	:Mr. Vikas Singh, Senior Counsel and Mr. J. Ravindaran, AAG., Asst. by Mr. S. Ravi, APP
For R1	:Mr. S. Sriram, Senior Counsel for Mr. P. Subbiah
For R2	:Mr. P. S. Raman, Advocate General and Mr. Veera Karthiravan, AAG., Asst. By Mr. P. Thilakkumar, G. P
For R3 & R4	:Mr. R. Shunmugasundaram, Senior Counsel, Asst. by Mr. NRR. Arun Natarajan, SGP
For R5	:Mr. V. Chandrasekar
For R6	:M/s. J. Anandhavalli

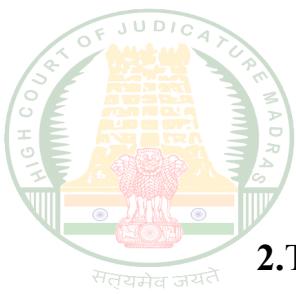
### **COMMON JUDGMENT**

**DR.G.JAYACHANDRAN, J.**  
**and**  
**MR.K.K. RAMAKRISHNAN, J.**

#### **Introduction:**

**“ God said Let there be light and there was light”**

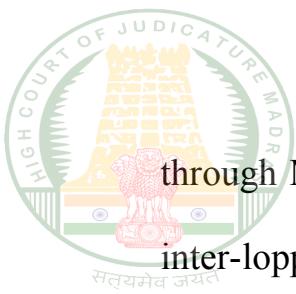
It is the famous biblical phrase from Genesis 1:3 where God speaks light into existence, symbolizing creation, hope, and divine power.



**WEB COPY** 2. The controversy under consideration is the judgement of the High Court Bench of Single Judge, which directed the Executive Officer of the Thiruparangundram Devasthanam to lit lamp at the stone lamp pillar in the hill on the full moon evening of the Tamil Karthigai month. The State represented by the District Collector and Superintendent of Police apprehends that the implementation of this order will create disturbance to the public peace. The Hindu Religious and Charitable Department (hereinafter referred to as 'HR & CE Department') says, the order is against 'Agama Shastra' and some of the adversaries say, it is a new custom invented by the Court.

3. A dispute, which could have been resolved amicably through dialogues, unfortunately had been escalated by some disgruntled elements. Attempts to demoralize and demean the judiciary with the might of power, had also surfaced. We are thankful to the Learned Senior Counsel Mr. T. Mohan appearing for one of the Appellants for his appropriate reminder to this Court '***Fiat justitia ruat caelum***' – (Let Justice be done though the heavens fall).

4. We must here also place on record that at the time of hearing the appeals, we thought that it is not late to explore the possibility of amicable settlement



through Mediation. However, as the arguments proceeded, slowly we realized the inter-loppers, fence sitters and onlookers outside the ring are waiting to play the **WEB COPY** spoil game, since they gain as long as the animosity among the two communities continues.

**5.**The appeals are in short, directed against the right of the worshippers recognized in the batch of Writ Petitions. The Learned Single Judge viewed that by directing the Executive Officer to light the lamp on the Karthigai Deepam Day at the lamp pillar made of stone ('Deepathoon' in Tamil), it is a restoration of the religious custom and practice. The said pillar is located on a flat surface of a rock, a little below the highest Peak of the Hill, where the Dharga of Suji Saint is located. Thus the location is the real epicenter of the controversy. In his Judgement, the Learned Judge had also observed that by revival and retrieval of the practice would well assert the property right of the Devasthanam.

**6.**The State through its District Administration, HR & CE Department through its Commissioner, Joint Commissioner and Executive Officer, and the representatives of other religious group say, '**No**'. There is no such established custom to light the lamp in that particular place of the hill. Any direction by the Court to light the lamp at the stone pillar found near the Dharga, will set a new



custom and also cause disturbance to the public peace. The impugned judgement tends to create disharmony. If really there is any dispute regarding the title or

**WEB COPY** possession for assertion of those rights, parties should have been relegated to Civil Court or any other remedy available in the Law. The Writ Court ought not to have decided the title and possession. The Writ Court has exceeded its power by directing the Devasthanam, as he opined ‘what ought to be done’.

#### **Terrain of the Thiruparankundam Hill:**

7. The hill called ‘**Parankundram**’ in ancient Tamil literatures is a hill about 1050 feet height. At the foot, the hill is carved and the Cave Temple, namely Subramaniyaswamy Temple is located. Along the perimeters of the Hill, there are few more temples. On the Hill, at different height and place, there are two other Temples, caves with rock beds and water springs. On the top there is a Dharga. ***“(Satellite Picture of the Hill is marked as ‘A’ and annexed)”***.

8. For a long time, Hindu Temples and structures of Hindu religion alone were along the foothill and on the hill. Rest of the hill remained unoccupied. Later Jain’s cave and its inscriptions were carved. This was followed by a Dharga of a Sufi Saint by name ‘Sikkandar Badhusha’. These structures are not of



contemporaneous period. They were put up on the rocks of the hill at different place at different period, obviously, only much after the followers of Jainism and

WEB COPY

Islam came to this part of the country either as preachers or as invaders. Due to the presence of those structures which came later, the hill also identified by few as 'Samanar Hill' (Hill of Jains) or 'Sikkandar Hill' (After the Sufi Saint). Though a misconception prevails among a section of people that there are two hills in that terrain separated by a valley, from the statement of visitors and the notes of research scholars about this hill, it is clear that this is one hill consists of two peaks and few summits (flat surface on the rocks) at different levels. The Sikkandar Dharga, Kasi Viswanathar Temple, Nellithope, Jain Caves and rock beds and the Stone Pillar (Deepathoon) are few structures found around the hill. Trace of a ruined rectangular shape, man made construction, with brick and lime mortars found on the surface of a rock, and on another rock the stone pillar could be seen. They are separated by a deep cut water body (sunai). There are few more water bodies called '**sunai**'. It is not certain whether these water bodies ('sunai') ('sunai' in Tamil means 'water springs') are natural or man made. Nonetheless, records show that people revered the water bodies as 'holy'.

9. We have the advantage of the aerial views taken through Google map, in addition to the observation of the Sub-Judge, Madura, who had recorded what he



found on his inspection of the hill in the years around 1920-23, and the observation of the Learned Judge of the High Court, who had visited the hill in the WEB COPY year 2025.

**10.**From the photographs as well as the observations of the Learned Judges, one fact which remains consistent is that at the highest point of the hill, the structure called ‘Sikkandar Dharga’ is located. Historians say, this structure was constructed in memory of Sulthan Sikkandar Shah and worshipped as ‘Auliah’. A photograph of the Wall of the Dharga shows the number ‘1805’, but it is not sure whether that photo is of the Sikkandar Dharga Wall or the number found connotes the year of its construction. We also notice that the observations about the hill as recorded by the Judicial officers at two different point of time, center essentially in respect of the issue which was for their consideration in the respective *lis*. Hence, certain physical features found were not recorded, since those physical features were not essential for them to decide the *lis*.

**11.**On the Western side of the hill, little towards North at the level lower to the Dharga, Caves with sets of rock beds are noticed. While many historians claim that the caves and rock beds are for Jain saints, one of the research scholars by name Nagappa.Nachiappan in his book called ‘Thiruparankundram koil-



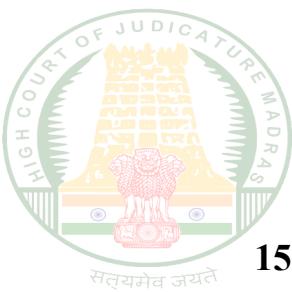
Verkottam" ("திருப்பரங்குன்றம் கோயில் (வேற்கோட்டம்)"), published in the year 1989, says that it resembles rock beds of Buddhist at Ceylon, so it must have been carved by Buddhist and later captured and altered by Jain monks.

WEB COPY

**12.**According to Dr. V.Vedachalam, Archeologist and Historian, Bhrami letters (ancient Tamil dialects) of the first and second century were found on the Jain caves and rock beds located on the North- West of the Parankundram hill. He also recorded in his book, namely "Enperungundram" ("எண்பெருங்குன்றம்") published in the year 2020, that to collect the rain water, the top of the cave is artistically carved for the water to drain through channel cut North-South.

**13.**Little lower down, 'Kasi Viswanathar Temple' is located. Near Kasi Viswanathar Temple a 'sunai' (water spring) on the East with Bhrami letters are found. Further down, a structure and a pillar called as 'Uchipillayar Temple' is located. According to Dr.V.Vedachalam, the Bhrami letters indicate about the sainthood attained by a woman Jain saint.

**14.**Nagappa.Nachiappan in his book 'Thiruparankundram Koil – Verkottam', records the existence of 7 Hindu temples around the foothill and 2 Hindu temples on the hill, besides the Dharga on the highest peak of the hill.



15. The entire hill was the subject matter of litigation long ago and the Privy Council consisting of Lord Atkin, Lord Thankerton, Lord Macmillan, Lord George Lawnds and Sir Dinshah Mulla in *Re Madura, Tiruparankundram, etc., Devasthanam, Through its Trustee -vs- Alikhan Sahib and others ( reported in Oudh Weekly Notes Vol VIII page 952 = AIR 1931 PC 212)* had vividly described the terrain as below:-

*“The Tirupparankundram Temple is one of the famous rock temples of southern India. It is situated at the base of a hill some 500 feet high and is dedicated to Subramanya, the son of Siva. The inner shrine of the temple is hewn out of the hill and in it, carved in the rock itself, is the image of the deity. Around the base of the hill is a pilgrim's way, nearly two miles in extent. This is said to be essential to the worship of the devotees, who perform the ceremony of Pradakshinam by going round the image of the deity with the right shoulder continuously presented to him. As the image in the temple is an actual part of the hill, it is obvious that the performance of this rite necessitates the perambulation of the hill itself. This way, which is also used for processions of the temple car on ceremonial occasions, is known as the Ghiri Veedhi, and it is claimed as the property of the temple. It is referred to in numerous documents, dating back to 1144, as the Malaiprakaram of the temple. The Subordinate Judge states that prakaram is a Sanskrit word meaning the outer round of the temple, or fort: malai merely means hill. Within the perimeter of the Ghiri Veedhi are certain cultivated and assessed lands, and also some houses, to*



WEB COPY

which the temple makes no claim. But in addition to the main temple there are also within the Ghivi Veedhi certain smaller shrines of almost equal sanctity, and a number of old-established mandapans or rest houses, together with tanks and bathing places for the pilgrims, and These are scattered about irregularly over the lower at least in one place a garden for the use of the temple. slopes of the hill, which contains various springs, they to be of great religious water of which is supposed efficacy.

The temples are evidently of considerable antiquity, probably dating back to the 13th century A. D., and which they are possibly earlier. The worship of Siva, to devoted, is usually of a phallic nature, Siva as a member of the Hindu triad presiding over the destruction and reproduction of life. It is stated in a report of the Director-General of Archaeology in India, which is embodied in an order of the Local Government, that the whole rock is worshipped by the Hindu community as a Linga, and there seems to be some reason to believe that Madura is the home of this peculiar form of worship (Nelson's Manual, Pr. III, 48). The hill itself is frequently referred to in temple documents and also in some of the early Government records as the Swamimalai or God's Hill".

### Previous litigations - Findings of the Courts:

16. For better understanding of the dispute in hand, the political history of this place is also essential to note. We get the history from the Privy Council's judgment in P.C.Appeal No.05/1930 dated 12.05.1931 (reported in AIR 1931 PC 212). The relevant portion of the judgment is extracted below: -



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*“There appears to be no doubt that under the Nayakkan Kings of Madura the seven temples in, and in the immediate neighbourhood of the capital were endowed with large revenues derived from the number of villages. The temples were known as the Hafta Devastham, and included the Tiruparankundram Temple. It seems probable that this endowment was due mainly in the generosity of Tirumala, a famous member of that dynasty who reigned from 1623 to 1639. During the century and a half that followed, the history of Madura is a confused record of internecine warfare, in which the incursions of Mohammedan, Mysorean and Maharatta invaders played the largest part, and these were penetrated by East Indian Company.*

.....

*Thenceforward, Madura seems to have come gradually under the Company’s control, and after the fall of Seringapatnam the civil and military administration of the district was formally made over as part of the Carnatic, to the British under Lord Clive’s treaty with Azimani- Dowlah of the 3rd July, 1801 (Asitchilson’s Treaties, 4th Ed, X 57).*

.....

*But the more relevant period to consider that following the cession of sovereignty in 1801, the only rights which the temple can assert against the respondent or rights which the East Indian Company granted to them to retain, Secretary of State –vs- Bai Raj Bhai (reported in 42 Indian Appeal 229) and their Lordships think evidence shows that the temple was left after 1801 in undisturbed possession of all that it now claims. Indeed, the policy of the Directors seem to have been rather to restore to the temples what they had been deprived of in the long years of anarchy, which had preceded British*



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rule, than to mulch them of any remnant that was left. It is, in their Lordship's view, hardly conceivable that the East Indian company would have wished for no gain to themselves, to appropriate what was plainly the *parakaram* of an ancient Temple studded with shrines, *Mandapam* and other accessories to the worship of the devotees. Nor is there in the report of Mr Hurdis, or of any of his successors, which are summarised in the Nelson manual, any hint of such a policy or of any claim by Government to rights over the hill. ....

*Their lordships do not doubt that there is a large presumption that waste lands are the property of the crown, but they think that it is not applicable to the facts of the present case where the alleged waste is, at all events, physically, within the temple enclosure. They see no reason to disagree with the Subordinate Judge's discussion of the authorities on the question...*

.....

*On the whole their Lords are of opinion that the appellant has shown that the unoccupied portion of the hill has been in the possession of the temple from time immemorial and has been treated by the temple authorities as their property. They think that the conclusion come to by the Subordinate Judge was right, and that no ground has been shown for disturbing his decree.”*

**17.**Claiming exclusive right over the Thiruparankundram hill area by these two religious group, existing for quite a long time. The first legal dispute on record available is when the Suit in O.S.No.101 of 1917 and O.S.No.6 of 1918 later renumbered as O.S.No.4 of 1920, was filed on behalf of the Temple



Devesthanam before the First Additional Subordinate Court, Madurai for declaration, injunction and recovery of possession against 1) the Secretary of State for India in Council Rep through the Collector of Madura, 2) President, Taluk

**WEB COPY** Board, Madura and Huqdars of the Sikkandar Mosque situated at the top of Tiruparangundram hill.

**18.** In this suit, the Temple Devasthanam as plaintiff contended that, Devasthanam is the title holder of the entire village of Tiruparankunaram and in exclusive possession of the Hill, Giri veedthi, the Sannadhi Veethi, the sacred shrines, Temples, Caves and the holy waters in the hill and all unoccupied poramboku in the hill area. The only interference with the plaintiff's exclusive ownership and possession was the construction of a small mosque by the Mohamadans on a detached portion of the hill.

**19.** The Huqdar's (Dharga representatives) in their written statement contended that, the plaintiff's claim over the entire hill is incorrect. There are two hills and higher of the two hills is called 'Sikkandar Malai' after a Mohammedan Saint, whose remains is buried. The mosque with all the holy water have been deemed sacred by the Mohammedan Community. The Hindu God Subramanya and the waters sacred to the Hindus are all in the lower hill. The Devasthanam has



no title or possession of the Sikkandar Malai. The Nellithope area is in possession of the Trustees (Huqdaras) of the Mosque from time immemorial. A mandapam is built by the trustees near the flight of the steps leading to the mosque and is kept in repairs by the trustees.

**20.** The Learned Sub-Judge, delivered his judgment on 25/08/1923 wherein he had observed that;

*“the available records establish that the whole of Tirupparankundram village including, or course, the hill was once endowed property of the Devasthanam. They also show that the village was seized by the Mahomadan conquerors and that the British Government which succeeded the Mahomadan Government retained the village. There are no records throwing light on the question as to whether the entire lands in the village occupied and unoccupied, assessed and unassessed were seized or the revenues only were sequestered or whether the Devasthanain was deprived of its possession of the sacred hill and its appurtenance including the Giri Veedhi.*

*The Probability is that the Devasthanam was allowed to. continue in undisturbed possession of the hill which represents God Siva's Linga and in which God Subramanya is enshrined. That the Mahomadan Governor, Mahomad Yusuff Khan, paid 6000 chakrams annually for the up-keep of the worship in the temple and the British Government has continued to pay dastig allowance annually for the same purpose shows that the Devasthanam as an institution was not interfered with but was allowed to exist as before. The basis of the Devasthanam institution at Tirupparankundram is the sacred hill, the temple of Subramanya. It follows,*



therefore, that the devasthanam could not have been deprived of the hill itself considered to be the very embodiment and abode of God."

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**21.**At this juncture, we also need to mention that the Learned Sub Judge in his judgment has recorded some important events;

(i)the application of the Huqdars to the British Government in the year 1908 for grant of Inam for the entire hillock and the refusal by the British Government;

(ii)the attempts on the part of the Hindus to put up lights at the summit of the hillock on which the mosque stands, one in the year 1862 and other in the year 1912 and in both cases the Magistrate interdicted the lighting because it was not customary to put up a light there and probably because a breach of peace was apprehended.

**22.**The Learned Subordinate Court Judge had finally concluded as below:-

*"46. On the whole my conclusions and findings are:-*

*1. That the plaintiff is the owner and has been in possession of the whole of Tirupparankundram hill and the Giri veedhi in the manner alleged excepting assessed the occupied lands, the Nellitope including the new mantapam, the flight of steps leading from the Nellitope up to the mosque and the top of the rock on which the mosque and the flagstaff of the mahomadans stand.*



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2. that the Mahomadan defendants 3 to 5 and 7 to 13 are owners and are in possession of the Nellitope with all that it contains, the flight of steps mentioned above the new mantapam and the whole of the top of the hillock on which the mosque and the flagstaff stand,
3. that the mantapam referred to in paragraph III (d) of the plaint is a new one put up on the site of an old one as contended by the Mahomadans,
4. that the Kasiviswanathaswamy temple and Theertham belong to plaintiff,
5. that the Giri Veedhi and other streets referred to in paragraph III (a) of the plaint are vested in the second defendant, that the plaintiff is not entitled to Sannadhi streets but is entitled to the Giri Veedhi subject to the rights of the 2nd defendant under the Madras Local Boards Act, and
6. that the plaintiff is entitled to the trees on the sides of the Giri Veedhi and on the hill excepting such as belong to private owners (Issues 1, 2, 3, 5, 6, 7 & 9). ”

**23.** Aggrieved by the Judgment and Decree passed in O.S.No.04 of 1920, the Trustees of the Mosque filed Appeal Suit in A.S. No.34 of 1924 and the Government filed Cross Appeal before the High Court. The Division Bench of the Madras High Court in its judgment dated 04.06.1926 had observed as follows:



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*“the evidence given on the side of the plaintiff ( temple devasthanam) makes it clear that the Government conducted itself as the owners of the hill and no act was done by the contending parties without its ( Government) consent. No doubt, the evidence shows that the temple of Tiruparankundram has certain distinct rights and privileges in and about the rock. For instance, the Kasi Viswanathaswami Theertham seems ito belong to them and the Umaiarkoil. The Devasthanam seems to have some rights also to the trees in the Giriveethi. What those various rights are, it is not necessary for us to decide in this case. So also the Mohammedans have established certain distinct rights. It declared hill belongs to Government. The suit mainly relates to the ownership of the hill, it is not necessary to discuss in detail what the various rights respectively of the Hindus and Mohammedans are”.*

**24.**As a result, the First Appellate Court dismissed the appeal filed by the trustees of the Mosque, allowed the Cross Appeal of the Government. The Judgement and decree of the trial Court in O.S.No.04 of 1920 was set aside and the suit was dismissed.

**25.**On further appeal to the Privy Council by the Devasthanam, the Privy Council agreed with the view of the trial Court and the Judgement and the Decree passed by the trial Court got restored. The Privy Council's observations about the hill and control of it over the period starting from Nayakar period were already discussed supra.



26. Few more facts of sterling quality find place in this judgment and they

need to be referred. Hence those passages are extracted below:-

**WEB COPY** “ ..... on one occasion, as the accounts show, a number of bridges were built at a cost of several thousand rupees; on another a compound wall was put up around the precincts of one of the smaller temples, evidently enclosing a portion of the hill. On a third occasion, a new Mandapam was built.

*The evidence of all these acts extending over the greater part of the time since the East Indian company first came into possession of this part of the country, has been elaborately discussed by the subordinate judge. The conclusion to which he came was that there were sets of ownership, openly exercised by the temple authorities, and that taken in connection with the admitted title of the temple to the shrine and other buildings scattered over the hill, and their undoubted antiquity, they established the appellant's (Devasthanam in this case) claim to all the unoccupied land within the Ghiri Veedhi. The path itself be held to have been dedicated by the temple to the public, and to be vested in the Taluk Board under the provisions of the Madras Act, XIV of 1920, and this finding has not been disputed before their lordships. But he held that the subsoil of the Ghiri Veedhi and all other rights of property in and over it, remained with the temple.*

*The only acts on the part of the government which be thought could be regarded as assertion of a property right where two attempts to quarry stone on the hill. The first occasion was in 1879 when the Railway was under construction. The temple authorities were asked whether they had any objection and whether they claimed rights over the hill. They did object, emphatically. The Superintendent of the temple wrote that “ the big hill and the Malaiprakaram street belong to the temple” and were in its possession: that they had employed watchman to prevent the quarrying, and he asked that it*



should be stopped: and this apparently was done. In 1904, the Government again attempted to lease the quarrying rights: The temple Authorities again objected, and lease was cancelled. There was also some oral evidence about quarrying, but the subordinate judge thought it was of no value. Their lordships have perused the evidence and see no reason to differ from the subordinate judges estimate of it.”

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**27.** In the year 1959, the Meenakshi Sundareswarar Temple Devasthanam had filed O.S.No.111 of 1959 for injunction and for damages against the Haqdars of the Sikkandar Pallivasal at Thiruparangundram alleging that the defendants have quarried stones from the Tiruparangundram Hill, which belongs to the Temple. They prayed for injunction and for damages of Rs.1,100/- for the illegal removal of stone from the Hill. The defendants (Haqdars) had pleaded that they have quarried stone only from the area owned by Dharga as per the decree passed in O.S.No.4 of 1920.

**28.** The Court had held that the quarry by the Haqdars was within the Nellithope area. As a result, it held that:

“12. In the result, plaintiff is given a decree restraining the defendants from cutting stones from any rock outside Nelli Tope and assessed and occupied area as described in the prior judgment in O.S.No.4 of 1920. The exact location and the extent of the property mentioned above will be determined in a fresh suit and this decree will not operate as res judicata. The other prayers



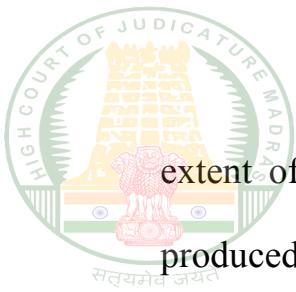
*claimed in the plaint are disallowed. Plaintiff will suffer the costs and pay the costs to the defendants.”*

**WEB COPY** **29.**Thus from the judgment above, it is to be understood that the Nellithope area which was declared to be the area of the Mohamadans in O.S.No.4 of 1920 was not demarcated by metes and bounds at that point of time.

**30.**The Temple went on appeal against the Judgment and decree passed in O.S.No.111 of 1959. The District Court, Madurai in the said appeal in A.S.No.90 of 1960, after observing that the exact location of Nellithope and its extent was not determined, held that the relief of injunction not to cut any rock outside the Nellithope limit cannot be enforced. Hence, modified the trial Court decree of injunction and substituted the decree as below:-

*“That the exact location and extent of the property viz.. Nellitope and assessed and occupied areas, be determined by issue of a survey-knowing commission as far as possible acceptable to both sides in execution, so that clause 1 of the decree may be respected by the defendants, and duly enforced and implemented”. Subject to the above modification, the decree of the lower Court is confirmed and this appeal is otherwise, dismissed;but, in the circumstances without costs”*

**31.**Pursuant to the modified decree, in the execution petition in E.P.No.163 of 1962, the Nellithope area was measured and demarcated. As per the survey, the



extent of Nallithope is 33 cents. We find from the photocopy of the proforma produced by the Learned Counsel for the Waqf Board that the trustees of the

**WEB COPY** Dharga had mentioned that Sikkandar Mosque possess an extent of 40 cents land in Nellithope and an extent of 50 cents on the top of the hill. Probably, the proforma should have been submitted prior to the measurement of the Nellithope area pursuant to the Execution Petition No.163 of 1962. In any case, the proforma shown to us is a self serving documents of the Dharga site and the measurement shown in the said proforma is only an approximate measurement.

**32.** In the year 1975, the Devasthanam through its Executive Officer filed suit O.S.No.506 of 1975 before the Sub-Court, Madurai for injunction apprehending that the trustees of the Mosque had collected material near the depression between the Pallivasal and the flagstaff to fill it up and encroach the Temple land. The Mosque trustees claimed that the entire top of the hill, in which the Pallivasal and the flagstaff are located, belongs to them and they are only planning to put a protection wall to prevent accidental fall of the devotees and to save the rain water collected in the depression. To avoid seepage, they want to cement the sides of the depression. In the written statement, the trustees of the Mosque stated about the stone pillar near the pallivasal, upon which the Hindus

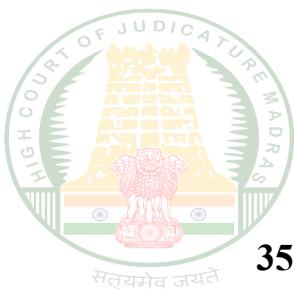


attempted to light the lamp during the years 1862 and 1912. As a fact of matter, the Judgment passed in O.S.No.04 of 1920 was also referred.

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**33.**In O.S.No.506 of 1975, the trial Court declined to accept the plea of the Devasthanam. The trial Court clarified that, the whole top of the hill means the top portion of the hill, where the mosque and flagstaff are located and also the space between the Dharga and flagstaff. Observing so, the trial Court dismissed the injunction suit filed by the Devasthanam.

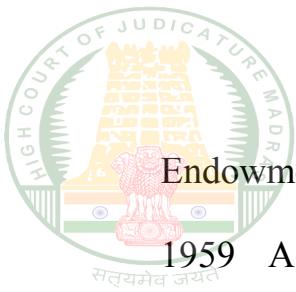
**34.**The Devasthanam went on appeal against the Judgment and decree passed in O.S.No.506 of 1975 dated 22.11.1978. It appears that the Devasthanam had sought leave for withdrawal of the suit with liberty to file fresh suit on the same cause of action. The Appellate Court namely, the Additional District Court, Madurai has considered the application in I.A.No.122 of 1981 and allowed the appeal filed by the Devasthanam and the judgment and decree of the lower Court in O.S.No.506 of 1975 was set aside. The plaintiff i.e.,the Devasthanam, had given liberty to file a fresh suit on the same cause of action on condition that the plaintiff to pay Rs.100/- to the respondents as a condition precedent for filing the fresh suit. No material has been placed before us to know whether the Devasthanam pursued this issue further by filing a fresh suit.



**35.**At this juncture, it is also appropriate to make a brief note on the administration of the Temples in and around the Temples at Thiruparankundram

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Hill. Mr.Nagappa. Nachiyappan in his research work cited supra, refers a stone inscription and says about the human sacrifice to protect the Temple from invader during the year 1793. He records that, during that period, the Temple was administered by 'Aaru Nirvagatharar' (ஆறு நிர்வாகதாரர்) means a committee of six members. After Madura came under the Madras Presidency between the year 1801 to 1842, the Temple had been administered by the Government directly through its nominees, who were Englishmen. From the year 1842 onwards till 1861, the Temple came to be administered by the Committee of Managers appointed by the Government. Most of the committee members were natives having high social status. The Adeenam of Madurai was also a member of the Committee during that period.

**36.**After the Act XXII of 1863, the composition of administrators changed and continued till 1922, till the intervention of the Court by appointing a Receiver. This arrangement had been in force between 1922 to 1925. Thereafter the administration by the Temple Committee got restored. Since then, the administration had been carried as per the Hindu Religious and Charitable and



Endowment Act, 1937 (hereinafter referred to as 'the Act') which was replaced by

1959 Act. Thiruparankunram Temple was a sub temple of Arulmighu

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Sundareswara Meenakshi Amman Temple Madurai till 1983. The administration got separated and came under the exclusive administration of Executive Officer of Thiruparankundram Temple and its Board of Trustees. This research statement is well fortified through the cause titles of the civil suits mentioned above.

**37.** To recapsulate, in O.S.No.04 of 1920, the Temple was represented by the Court appointed receiver, namely, Thiru Muthu. K.R.V. Alagappa Chettiar. In O.S.No.111 of 1959 filed for injunction and damages, the plaintiff is Sri Meenakshi Sundareswarr Temple Devasthanam through its Executive Officer. O.S.No.506 of 1975, the suit for permanent injunction, was filed by the Executive Officer of the Sri Meenakshi Sundareswarar Temple Devasthanam, representing the Sri Subramaniyaswami Temple at Thiruparankundram as a sub-temple of Sri Meenakshi Sundareswarar Temple Devasthanam.

**38.** The above mentioned civil suits between the Devasthanam and the Mosque, were brought to the attention of this Court while in the course of arguments. We are not sure whether there are any other suits between them, except one moree suit in O.S.No.447 of 2004 by the Executive Officer of



Thiruparangkundram Temple, for permanent injunction to restrain the Town Panchayat of Thiruparangkundram from erecting electrical poles in the land of the

**WEB COPY** Temple without their permission to provide light from the foothill via Nellithope and further to the top of the hill, where the Dharga is located.

**39.** Though the suit in O.S.No.447 of 2004 was filed by the Executive Officer of Thiruparangkundram Temple for injunction restraining the local body to erect poles in its land, the trial Court after granting permanent injunction restraining the Town Panchayat from erecting electrical poles in the property of the Devasthanam also, at the same time directed the plaintiff /Temple to provide light facility to the public at its own costs and the first defendant that is the Town Panchayat to provide necessary assistance .

**40.** The above judgement and decree of the trial Court was challenged by the Temple in A.S.No.173 of 2011 on the ground that the trial Court has granted a relief, which was not sought by any of the parties. The appellate Court vide judgment dated 29.08.2012 allowed the appeal partly. It had held that, the steps from the foothill till Nellithope belongs to the Temple. To reach the Sikkandar Dharga and the Kasi Viswanathar Temple, people have to go through these foot steps. From Nellithope to the Dharga, the foot steps belong to the Dharga. The trial Court's judgment directing the Temple to provide light facility to the foot



steps leading to Dharga is not correct. Therefore, the clauses (3) and (4) of the trial

Court decree was modified to the effect that:- the public, who use the foot steps,

**WEB COPY** need proper lighting facilities. However, the Temple cannot be forced to spend for providing electricity from foothill to the top of the hill, where the Dharga is located. Hence, from foothill till Nellithope, on permission of the Temple, the Town Panchayat has to lay the poles and provide light facility. From Nellithope to Dharga the Trustee of the Dharga has to make their own arrangement for light at their cost.

**41.**As the High Court started entertaining writ petitions to establish civil rights, the sparring groups started filing writ petitions. The first of it, is the much spoken W.P.No.18886 of 1994f filed by one Mr.Thiagarajan, President, Hindu Baktha Gana Sabai. This writ petition was filed as Public Interest Litigation seeking issuance of a writ of mandamus forbearing the 7<sup>th</sup> respondent (Hindu Munnani) from lighting Deepam at a different place other than the place where the deepam used to be lit traditionally. In that writ petition, the Learned Single Judge vide order dated 21.11.1996, gave the following directions:-

*“1. The parties shall remember, recognise and respect the decree of the Sub Court, Madurai in O.S.No.4 of 1920.*

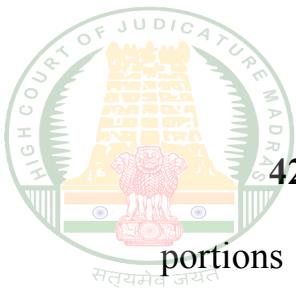


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2. The Devasthanam, which is the owner of the hill to the extent indicated in the above said decree shall alone light the Deepan in Thirupparankundram hill and they alone shall light the Deepan ordinarily in the traditional place of the Mandapan at Subramaniyaswami Temple near Uchipillaiyar Kovil. This year viz., for the year 1996, it is stated positively that the Karthigai Deepam festival positively falls on Sunday the 24th day of November, 1996. There is hardly three days for the festival. Therefore, I direct that this year the Devasthanam shall light the Karthigai Deepam in the usual place as directed by me in the years 1994 and 1995 in W.M.P.Nos.28692 of 1994 and 24619 of 1995, dated 17-11-1994 and 1-12-1995 respectively. The Devasthanam shall not also allow any other person to light the Deepam in any other place during this year viz., on 24-11-1996;

3. Subject to clause (4) and with a view to respect the wishes of the worshippers, it is open to the Devasthanam to permit the lighting of the Deepam for future years at any other place in Thirupparankundram Hill with the prior permission of the Authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959; and

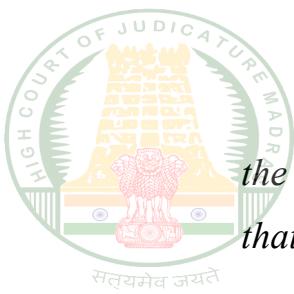
4. While permitting any other person to light the Deepan in any other place or if the Devasthanam itself wants to light the Deepam in any other place they shall have due regard to the nearness of the Dargah and only choose a suitable place atleast 15 metres away from the Dargah, the light of steps and the Nellithope area, and Places declared to lighting to the eighth respondent under clause 2 of the decree in O.S.No.4 of 1920.”



42. While issuing the above directions, the learned Judge has extracted the portions of the judgment in O.S.No.04 of 1920, which are very relevant for understanding how the relationship between the two communities was swayed based on the Rulers of the day. Hence, it is extracted under:

*“Having dealt with the rival claims of plaintiff and defendants 1 and 2, I proceed to deal with the dispute between the plaintiff and the Mahonedans defendants, the Huqdars of the mosque situated at the top of the hill. The mosque is built on the top most peak of the hill- a peak somewhat detached from the portion east and north of it by a valley which, though deep, is still very much higher than the base of the entire hill. The hill contains two prominent peaks. The Hindu God Subramanya is at the base of the lower of the two peaks. The Mohamedan mosque is at the top of the higher peak. The plaintiff admits that the mosque belongs to the huqdars and that the mohamedans have a right of way over the hill to go to the mosque but contends that the Mohamedans have no other right to or possession of the hill..”.....*

*“The establishment of a mohamedan mosque in the same hill in which the Hindu God is enshrined and at a higher place than the Hindu shrine might have been due to religious fervour, frenzy or rivalry. The non-inter-ference with the mosque on the part of the Devasthanan might have been due to the political helplessness of the Hindu Community in those times or to the spirit of toleration very characteristic of the Hindu mind. We are not concerned with those things. What is important is the undisputed fact that for over a century*



*the mosque has been in existence as the property of the huqdars and that it has been in the exclusive possession of the Mohomadans..."*

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**43.**Next are the two Writ petitions filed in the year 2014. They are:

- 1) W.P.(MD)No.19371 of 2014 by one Ganesan, the Vice President of Akila Bharatha Hindu Maha Saba; and
- 2) W.P.(MD)No.19422 of 2014 by one V.Subramaniam.

**44.**In W.P.(MD)No.19371 of 2014, one Ganesan sought for permission to light deepam by his Sangam jointly with the Temple authorities at the top of the hill, a place called 'Kuthirai Sunai' on 05.12.2014, the day of Karthigai-full moon. Since the police have refused his request, vide proceedings dated 26.11.2014, he sought for issuance of Ceritorarified - Mandamus a hybrid kind of writ, which was coined by the Bar members in Madras High Court and prevalent.

**45.**In his writ petition, Mr.Ganesan had relied on the judgment of this Court in W.P.No.18884 of 1994 dated 21.11.1996 and the outcome of the peace committee meeting dated 21.11.2012. According to him, the High Court in W.P.No.18884 of 1994 had given directions to the Temple devasthanam to consider the wishes of the worshipers for lighting deepam at any other place in Thiruprankundram hill. In the peace meeting held on 21.11.2012, it was resolved



to meet later to decide in advance the different place for lighting the deepam in the ensuing years, however the authorities failed to carryout the outcome of the peace

**WEB COPY** meeting. Hence, he prayed for issuance of mandamus as prayed. The Writ Court dismissed the writ petition after observing as follows:-

*"29. It is to be pointed out petitioner through his representation dated 18.11.2014 addressed to the District Collector and four others cannot claim as a might of right that the 'Deepam' should be lighted at 'Kudhiral Sunai Thittu' to Thirupparankundram hill. In this connection one cannot ignore the vital fact that the stone pillar is situated on top of the hill very near to the Sulthan Sikanthar Avulia Dargha, as averred by the first respondent in paragraph No.11 of the counter filed before this Court. Also that the petitioner cannot take advantage of Clauses 3 and 4 of the order dated 21.11.1996 passed by this Court in W.P.No.18884 of 1994, since the Clause 2 of the said order enjoins that the Devasthanam, which is the owner of the hill to the extent Indicated in the abovesaid decree shall alone light the 'Deepam' in Thirupparankundram hill and they alone shall light the Deepam ordinarily in the traditional place of the mandapam at Subramaniyaswami Temple near Uchipillaiyar Kovil.*

*30. That apart, it is to be noted that no religion prescribes that prayer should be performed by disturbing the peace of others and in fact, others rights are also required to be honoured and respected, in the considered opinion of this Court.*

*31. Be that as it may, on a careful consideration of respective contentions and also on an over all assessment of the entire gamut of the attendant facts and circumstances of the present case in an encircling*



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*fashion, this Court comes to a consequent conclusion that based on the letter of the third respondent/Temple dated 23.11.2014, respondent/Inspector of Police had passed the impugned order dated 26.11.2014 inter alia stating that till date in any year the Deepam was not lit at 'Kudhirai Sunai Thittu' and also it appears that either for the petitioner or for 'Hindu Mahasangam' or for any particular individual, no permission was granted to light 'Mahadeepam' by the administrative officer and as usual on 05.12.2014 protection would be provided based on the letter given by the administrative officer of the temple, who had sought protection and ultimately rejected the representation of the petitioner dated 18.11.2014 refusing to grant permission and the said order of the second respondent, in the considered opinion of the Court, cannot be found fault with and also is not interfered with by this Court. Consequently, the writ petition fails."*

46. In the other writ petition in W.P.(MD)No.19422 of 2014, Mr.V.Subramaniam sought for issuance of Writ of Mandamus directing the Commissioner of HR & CE Department, District Collector and the Revenue Divisional Officer to consider his representation dated 20.11.2014 to light the Karthigai Deepam on 05.12.2014 at the top of the Thiruparankundram hill, instead of lighting it in the present site, i.e., the Motcha deepam near the Uchipillaiyar Temple. This writ petition was also dismissed observing as below:-

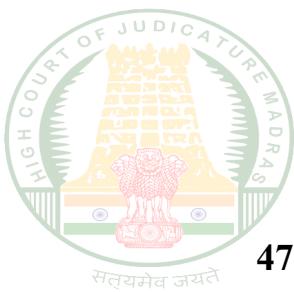


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“13. At this stage, this Court pertinently points out that 'Mandamus' is a command issued to a public authority to perform a duty imposed by Statute or by the common law. It cannot be gainsaid. For the issue of writ of Mandamus, a Court of law has to first come to a conclusion that the aggrieved person has a legal right which entitles him to seek its enforcement. As a matter of fact, the existence of a legal right and infringement of the same by a public authority is a *Sine quo non* for exercise of jurisdiction to issue a writ of Mandamus.

14. At this Juncture, this Court cites the decision of the Honourable Supreme Court in **Director of Settlements Vs. N.R.Apparao** reported in 2002 (4) SCC 636, wherein it is held that the powers of High Court under Article 226 of the Constitution of India though discretionary and though without serious limitations, must be exercised along with recognized lines and subject to self imposed limitations.

15. On a careful consideration of respect contentions and this Court taking note of the entire gamut of the attendant facts and circumstances of the present case, in a proper and real perspective comes to an inevitable conclusion that the petitioner has not established that he has a legal right, which entitles him to seek its enforcement and further the temple has made arrangements as per the procedure prevailing in previous years in regard to the lighting of 'Deepam', on 05.12.2014. Therefore, it cannot be said by any stretch of imagination that the temple has failed to perform its duty much less a legal duty. Moreover he has not expatiated as to how the lighting of 'Deepam' is against 'Agama Sastras'. As such the writ petition filed by the petitioner is devoid of merits and the same fails.”

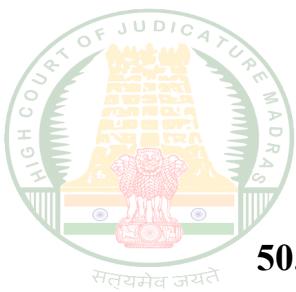


**47.**Thiru. Ganesan against the dismissal of his writ petition in W.P.(MD)No:

**WEB COPY** 19371 of 2014 filed W.A.(MD)No.1442 of 2014. Mr.V.Subramaniam against the dismissal of his writ petition in W.P.(MD)No.1524 of 2014. Both the appeals were dismissed by different Bench.

**48.**While Hindus were trying to assert their right to light karthigai deepam at a place other than the place where the deepam is normally lit, the Muslim group also had a grievance regarding the flagstaff mentioned in the decree passed in O.S. No.04 of 1920 by the Sub-Court, Madurai and confirmed by the Privy Council.

**49.**Mr.Y.Ozeer Khan, claiming as a member of Haqdhar family and the Senior Managing Trustee of the Hazrath Sulthan Sikkandar Badsha Avullia Dargah and Mosque, filed W.P.(MD) No.11001 of 2021, alleging that when the wooden flagstaff near Dharga was attempted to be replaced with iron rod flagstaff and kept permanently throughout the year instead of three days during sandal pot festival during the Tamil month of Chitirai, the Hindu group is opposing it. In this regard, the peace committee meeting was held and decision was taken vide proceedings dated 25.06.2021 without giving fair opportunity to them, hence the proceedings has to be quashed.



**50.** The learned Single Judge taking into consideration the earlier litigations

**WEB COPY** including the observation of this Court in W.P.(MD)No.21695 of 2018 in connection with the challenge to the previous peace committee meeting dated 08.07.2018, dismissed the writ petition in W.P.(MD)No.11001 of 2021 on 04.08.2021, after recording certain observations in respect of the litigation and right of the Dharga to substitute the existing temporary flagstaff with permanent flagstaff.

**51.** Begining of this year, a group of Muslims attempted to sacrifices animal and conduct a feast (Khanduri) at Thiruparangundram Hill near Nellithope. This attempt was opposed by the Hindu group. W.P.(MD)No.2277 of 2025 filed by one M.Kannan @ Solai Kannan for direction to the authorities to prevent Sikandar Badusha Auliah Dargah from performing any form of animal sacrifice in entire Tiruparankundram Hill and also from serving food prepared by animal sacrifice. While this petition came up for consideration before the Division Bench of this Court, five other writ petitions were also tagged and taken up for consideration, since those writ petitions were also in respect of alleged conduct of prayer by Muslims inside the temple land or attempt to rename the Thiruparangundarm Hill as Sikkandar Malai or as Samanar Malai.



**52.** The details of those five other writ petitions and its prayer are as follows:-

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1) W.P.(MD)No.8523 of 2017: By A.Abdul Jabbar, for mandamus to provide civic amenities to the public visiting the temple and Dharga situtated on the Hill.

2)W.P.(MD) No.15565 of 2023 : By A.P.Ramalingam, for mandamus to take action against the Jamath members of the Dharga for conducting prayer in the temple land.

3)W.P.(MD)No.23198 of 2023: By Y.Ozeer Khan, Senior Managing Trustee of Sikkandar Dharga, for mandamus not to prevent the petitioner from carrying out day-to-day administration of the Dharga and carry out renovation and construction work of the Dharga.

4) W.P.(MD) No.2678 of 2025: By S.Paramasivam, for mandamus to take appropriate action against persons, who call Thiruparangundram hill as sikkandar Malai and to prohibit any kind of animal sacrifice in the hill area.

5)W.P.(MD)No.3703 of 2025: By the representing Swasthi Shri Laxminseна Bhattacharya Maha Swamigal Sri Jina Kanchi Jain Mutt, to issue a writ of declaration, declaring the Thiruparankundram Hill as 'Samanar Kundru' and declare it as a site of national importance and desist from carrying on any activities against the Jains principle and preachings

**53.**After a detailed discussion, one of the Judge (Hon'ble Mrs.Justice Nisha Banu) dismissed all the writ petitions by concluding as below:-



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*“15. The Thiruparankundram Hill, insofar as the Hindus are concerned and subject to the recognised rights of the Mohammedans, is not vested with any individual or any particular group or association of people, but is vested with Arulmigu Subramaniya Swamy Temple, Thiruparankundram. There is no allegations of violation of the rights of the Temple in respect of the Thiruparankundram Hills, as such rights have been recognized and confirmed by the Civil Courts. Therefore, we find no merit in WP. (MD) Nos. 2277/2025 & 2678/2025.*

*16. Before parting, we feel that in the facts and circumstances of the case, it is necessary to direct the authorities concerned, in order to maintain public peace, harmony and tranquility, to take firm and immediate steps against persons/organisation who attempt to disrupt the same.*

*Accordingly, all the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.”*

**54.** The other Learned Judge ( Hon'ble Mrs. Justice Srimathy ) differed with the view expressed by Mrs. Justice Nisha Banu, Her dissent Judgement, extracting the posters affixed in the name of Muslim Iykiya Jamath and other Political parties, announcing Samabandhi virunthu (equality feast) to be conducted for communal harmony at Sikkandar Malai after slaughtering Goat and Chicken on 18<sup>th</sup> January, 2025, holding as follows:-



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*"43. For the reasons stated supra, the Court is passing the following orders:*

- i. The Tirupanrankundram Hill shall be continued to call as Tirupanrankundram Hill alone.*
- ii. The Tirupanrankundram Hill shall not be called either as Sikkandar Malai or as Samanar Kundru.*
- iii. Any quarrying of the Tirupanrankundram Hill is hereby prohibited.*
- iv. The Dargah is directed to approach Civil Court to establish their practice of Kandoori animal sacrifice as well as prayer during Ramzan, Bakrith and other Islamic festival was prevailing prior to O.S.No.4 of 1920. However, the dargah is allowed to do the Santhanakodu festival.*
- v. Since no body is allowed after 6 pm to Kasi Viswanathar Temple and Sikkandar Dargah, electricity connection is not necessary.*
- vi. The hill would be damaged if road, drinking water supply and toilet are granted, hence the same shall not be granted. However, for drinking water supply the temple shall carry water manually and also duly instruct the devotees who visit Kasi Vishwanathar Temple to carry water on their own. Likewise the dargah shall carry water manually and also duly instruct the devotees who visit Kasi Vishwanathar Temple to carry water on their own.*
- vii. The prayer seeking direction against police officials not to interfere is vague prayer and blanket order of not to interfere cannot be granted and the same is rejected.*



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viii. For any construction or renovation work of Dargah, the Managing Trustee shall approach the Archaeological Department, if the Dargah is intended to put up construction and reconstruction.

ix. The 1<sup>st</sup> and 2<sup>nd</sup> respondents in W.P.(MD)No.3703 of 2025 are directed to allow the 4<sup>th</sup> respondent Archaeological Department to survey the Tirupanrankundram Hill, demarcate the protected monuments stated supra, demarcate the dargah, demarcate the temple and note all physical features along with measurements and the said exercise shall be completed within a period of one year and a report may be submitted to the Court.”

55. In view of the split verdict, these batch of six writ petitions were referred to a third Judge. The third Judge (Hon’ble Mr.Justice.R.Vijayakumar) after considering the materials placed before him and the concurring and conflicting views expressed by the two Learned Judges, had rendered his decision, on 10.10.2025 as below:-

“104. It is true that there is an extent of 33 cents in the Nellithoppu area which has been declared in favour of the Mohammedans. There are no permanent structures in this area to offer prayer. In such circumstances, if a greater number of people are permitted to offer prayer, the crowd is certainly likely to occupy the pathway leading to the Kasi Vishwanathar Temple and the traditional steps leading up to the Nellithoppu area, which has been declared in favour of the temple Devasthanam. However, the said over-crowding cannot be a ground for denying the right to offer



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prayers within the Nellithoppu area, provided it does not obstruct the pathway to the devotees and the traditional steps leading up to the Nellithoppu area.

105. However, in the Nellithoppu area any animal sacrifice, cooking, carrying or serving of any non-vegetarian food cannot be permitted until a decision is rendered by a competent Civil Court with regard to the customary practice of animal sacrifice upon the Thiruparankundram Hillock. In fact, the temple Devasthanam has been declared to be the absolute owner of the traditional footsteps leading up to Nellithoppu area. The Mohammedans are only having the right of usage over the said pathway. In such circumstances, they cannot use the said pathway for any other purpose other than to reach Nellithoppu area.

106. The Mohammedans could be permitted to offer their prayers in Nellithoppu area during Ramzan and Bakrid festival days alone, subject to the above said conditions and they will not defile or spoil the traditional footsteps.

**(G). Conclusion:**

107 (i). I concur with the conclusion of Mrs. Justice S. Srimathy in WP(MD)No.2277 of 2025 and WP(MD).No.2678 of 2025 with regard to the allowing of those writ petitions.

(ii). I concur with the conclusion of Mrs. Justice J. Nisha Banu with regard to the dismissal of WP(MD).No.15565 of 2023. No costs. Consequently, connected miscellaneous petitions are closed."



**56.**Soon after the disposal of the above batch of six writ petitions, a batch of writ petitions in W.P.(MD)No.32317 of 2025 etc., were filed. The common order

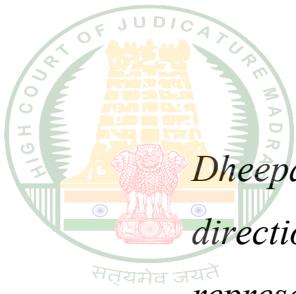
**WEB COPY** passed by the learned Single Judge on 01.12.2025 is the subject matter of the present Writ Appeals under consideration before us.

**57.The Details of the writ petitions and the Common Judgement dated 01.12.2025:**

1) *W.P.(MD)No.32317 of 2025: By Rama.Ravikumar, for Certiorarified Mandamus to quash the proceedings dated 03.11.2025 of the Executive Officer, A/M Subramaniyaswamy Temple, Thiruparankundram, Madurai and direct the Eexecutive Officer to light the Karthigaideepam at Dheepathoon (Ancient Stone Lamp Pillar) situated on the Thiruparankundram Hill Top, in accordance with the directions of the High Court Madras passed in W.P.No. 18884 of 1994 dated 21.11.1996, in the alternative, permit the petitioner to light the same on 03.12.2025 by making necessary administrative and security arrangements including the Bandobust scheme by the respondents.*

2) *W.P.(MD)No.33112 of 2025: By Arasupandi, for issuance of Mandamus directing the respondents to consider his representation dated 17.11.2025 and make arrangement for lighting Karthikai Deepam at the Dheepathoon situated at the top of the Thiruparankundram hill.*

3) *W.P.(MD)No.33197 of 2025: By S.Paramasivam, for issuance of Mandamus to direct the Executive Officer of Arulmighu Subramaniyaswamy Temple, Thiruparankundram, Madurai to light the Karthigai Deepam at*



*Dheepathoon, situated at Thiruparankundram hill top, in accordance with the direction of HighCourt in W.P.No.18884 of 1994 and by considering his representation dated 16.11.2025.*

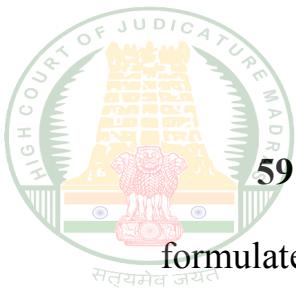
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4) *W.P.(MD) No.33724 of 2025: By A.Karthikeyan, for issuance of Mandamus to direct the Executive Officer of Arulmighu Subramaniyaswamy Temple, Thiruparankundram, Madurai to light the Karthigai Deepam at Dheepathoon, situated at Thiruparankundram hill top, in accordance with the direction of the High Court in W.P.No.18884 of 1994 and by considering his representation dated 19.11.2025.*

5) *W.P.(MD)No.34051 of 2025: By R.Kanagavel Pandian, for issuance of Mandamus directing the respondents not to deviate from the customary practice of lighting the Karthigai Deepam at the Hillock in Thirupparankundram other than the lighting at the usual and traditional place at the Uchipillaiyar Temple.*

6) *In W.P.(MD)No.32317 of 2025: By Rama.Ravikumar, which is the lead case, initially the District Collector, Commissioner of Police , Executive Officer, Arulmighu Subramaniya Swamy Temple, Thiruparangundram, Madurai alone were respondents.*

**58.** Later in the course of hearing, the representatives of Dharga, Waqf Board, HR& CE Department, ASI were impleaded *suo motu* as respondents 5 to 9 and some of the private individuals got themselves impleaded as respondents and arrayed as Respondents 10 and 11 .



**59.** The Writ Court, upon considering the oral and written submissions, formulated the question for consideration as to whether the Temple management can be directed to light the festival lamp at Deepathoon.

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**60.** While the writ petitioners, except one Kangavel Pandian in W.P.(MD) No.34051 of 2025, relying on the judgement in W.P.(MD)No.18884 of 1994 sought for direction to light the Deepam on 03.12.2025 on the Deepathoon, the State Government, HR & CE Department, Temple Management, Waqf Board as well as representatives of the Dharga Management, opposed the prayer in the writ petitions intending to shift the lighting of Deepam from the traditional place to a place near the Dharga in the existing stone pillar.

**61.** The Learned Judge summarized the objections raised by the respondents, gave his reasonings and directed the Temple management /devasthanam to light Karthigai Deepam at Deepathoon also apart from the usual places. It is the duty of the jurisdictional Police to ensure that the direction is complied with. The Commissioner of Police, Madurai City shall see to it that no one comes in the way of enforcement of the order.

**62.** The operative portion of his order reads as below:-

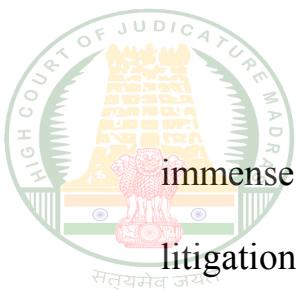


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*“42. For the reasons mentioned above, I direct the temple management/devasthanam to light the Karthigai Deepam at Deepathoon also apart from the usual places. Karthigai is also a festival of light. Lamps are lit all over the house and not in the pooja room alone. The Karthigai Deepam shall be lit from this year onwards at Deepathoon also. It is the duty of the jurisdictional police to ensure that the direction of this Court is complied with. The Commissioner of Police, Madurai City shall see to it that no one comes in the way of enforcement of this order”.*

**63.** The above order was passed on 01.12.2025, two days before the Karthigai Deepam day festival which falls on 03.12.2025. The direction issued was not complied by the Executive Officer of the Devasthanam. Hence, the Contempt petition was filed by the writ petitioners. In the contempt petition, the Learned Single Judge permitted the petitioners along with 20 others to go to the hill top and light the Deepam at the Deepathoon and directed CISF to give protection to those 20 persons. At that juncture, the Commissioner of Police issued prohibitory order under Section 144 Cr.P.C., (Section 163 of BNSS ) and not permitted the petitioners to light the lamp at the place designated by the Court.

**64.** Thus the controversy has been perennial for more than a century, we could find at least 4 milestones in the form of judicial pronouncements, which has



immense significance to resolve the dispute. In our view, the milestones so far, the litigation had travelled are :-

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- 1) *The judgment and decree passed in O.S.No.04 of 1920, later confirmed by the Privy Council judgment, dated 12.05.1931.*
- 2) *The Judgement of the Hon'ble Justice J.Kanakaraj in W.P.No. 18884/2014, dated 21.11.1996.*
- 3) *Judgements of Justice M.Venugopal in W.P.(MD)No.19371 of 2014 filed by Akila Bharatha Hindu Maha Saba rep. by its President Ganesan and W.P.(MD) No.19422 of 2014 filed by V.Subramanian, both disposed on 04.12.2014, later, confirmed in the writ appeals by two different Division Benches .*
4. *The split verdict in W.P.(MD)No.2277 of 2025, W.P.(MD)No.3703 of 2025, W.P.(MD)No.2678 of 2025. W.P.(MD)No.15565 & 23198 of 2023 and W.P.(MD)No.8523 of 2017 dated 24.06.2025, on reference to the third judge and his judgment dated 10.10.2025.*

#### **Grounds raised in the Appeal:**

**65.** Against the common Judgement passed in the batch of writ petitions, 26 appeals were filed. Most of the parties are common in all the appeals. Therefore, the grounds and arguments are to some extent overlapping. Hence, we have decided to deal the overlapping or common grounds together and submissions which are unique, individually. For the sake of convenience, the contesting parties are categorized into 6 groups. Viz;



1) The Government, represented by the District Collector and City Commissioner of Police;

WEB COPY 2) Writ Petitioners (Worshippers/Devotees and persons interested) pray a direction for or against lighting lamp at the 'Deepathoon' during the full moon night of the Tamil month of Karthigai (which falls between November-December);

3) H.R & CE Department and its officers like Commissioner, Joint Commissioner and Executive Officer;

4) The representatives of Hazarath Sultan Sikkandar Badhusha Avulaiy Dharga;

5) The Tamil Nadu Waqf Board; and

6) Persons, who got impleaded themselves, as interested in the dispute.

**66.** Mr. P.S.Raman, learned Advocate General, on behalf of the Government in the lead case filed by Rama.Ravikumar, commenced his argument with a following fundamental questions:-

*“a) Whether there was a custom to light the lamp anywhere on the top of the hill and whether the stone pillar on the hill is a ‘deepathoon’?.*

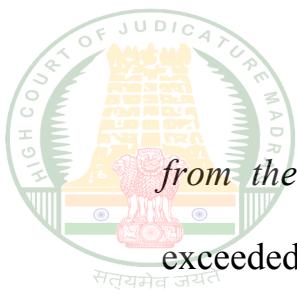
*b) Whether the representation of Rama.Ravikumar and the response of the Executive Officer, Thiruparankundram Devasthanam warrants any*



interference of this Court in exercise of its power under Article 226 of the Constitution of India to issue a writ of certiorari and writ of mandamus in the matter concerning customary practices of a particular sect of religion."

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67. Elaborating his submission, Learned Advocate General said that the writ petitioner, namely Mr. Rama.Ravikumar sought for a place to light Deepam on the Thiruparankunram Hill. The request was made to the Executive Officer HR & CE Department, Thiruparankundram. The request was considered and the writ petitioner was duly informed that the Deepam will be lighted at the Deepa Mandapam, near Uchipillaiyar Temple as per the existing custom. The Learned Judge, has rightly found that the representation does not synchronize to the relief sought in the writ petition and had said, "*it is true that Rama.Ravikumar in his representation did not speak with clarity*". Having said so, he should have dismissed the writ petition without further deliberation. However, he had proceeded further saying, "*the learned counsel for the contesting respondents tried to make much out of it. But Rama.Ravikumar is not the only petitioner before this Court. He has been joined by few other persons including an impleaded petitioner. There is no point in quibbling. The bull has to be taken by its horns. The question has to be formulated directly and precisely. It is whether the devasthanam is obliged to light Karthigai Deepam at Deepathoon also apart*



from the site near Uchi Pillaiyar Mandapam". Thus, the Learned Judge had exceeded his jurisdiction by issuing the impugned direction which is uncalled.

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**68.** The Learned Advocate General submitted that the learned Single Judge has assumed for himself more than what pleaded in the affidavit. His formulation of the question as to whether Devasthanam is obliged to light Karthigai Deepam at Deepathoon also apart from the site near Uchi Pillaiyar Mandapam, is not a plea of the writ petitioners. The issue of lighting karthigai deepam at a place other than the designated traditional place viz., 'Uchipillaiyar Temple' is already declined in the earlier writ petitions. While so, in violation of the judicial discipline and in contrary to the two decisions of Division Bench, the Learned Single Judge had issued the impugned direction. He had invented a new custom without any basis. The new custom invented by him is contrary to the Agama sastra. Decision or customs and practice does not fall within the domain of judicial review.

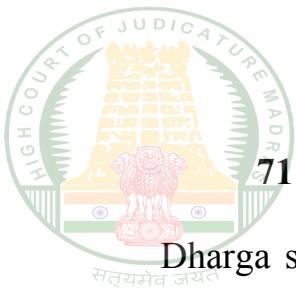
**69.** In the Madras High Court decision reported in *AIR 1945 Mad 234* relied in the impugned judgment is not relevant to the facts of the case in hand. This Judgement does not say that the Court is empowered not only to hold what is? but also, what ought to be. The Learned Advocate General Submitted that, the Constitutional Court is supposed to determine 'what is to be ' and not 'what ought



to be'. The Courts are not supposed to determine what ought to be in the matters of religious custom. The Courts in exercise of its power can ascertain what the

**WEB COPY** prevailing custom when it is called to judicially reviewing the order of the Executives in respect of customs. In the present case, the Sthanigars of the Temple had clearly given their opinion that the deepam must be lit only in the Deepa Mandapam near Uchipillaiyar Temple and not in other place. In contrast to the opinion of the Sthanigars, the learned Single Judge had passed the impugned direction, which is not possible of implementation. In this case, by determining what ought to be the custom, the learned judge had adorned the role of a priest/clergy.

**70.** Learned Advocate General also submitted that, the writ petition was filed as if it is for enforcement of a customary right. Whereas the learned single judge in the course of his discussion had decided the possessory right. Thus he had traversed beyond the scope of the writ. There is no plausible reason or legitimacy in the conclusion of the Learned Single Judge that, '*the writ petitioners are justified in demanding that the temple management resumes or restores the tradition. Even if it is not a matter of custom, asserting the title of the temple over the lower peak by lighting at the Deepathoon, is imperative.*'



71.In the absence of evidence of lighting lamp in the stone pillar near the Dharga situated on the top of the hill, how it is imperative to light lamp on the stone pillar for ascertaining title is not spelt in the judgement. An irrelevant illustration of closing the four outer gates of Madras High Court cited in his judgment is sufficient to hold that the learned Single Judge, to justify a illegal order, had cited irrelevant anecdote.

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72.Further, the writ petition is filed not to ascertain any title over the stone pillar. While so, it is not clear that from where, the Learned Single Judge had drawn the inference that by permitting the petitioners to light the lamp in the stone pillar is a symbolic accession of title and to say, '*it is not a matter of religious tradition alone. At least for the sake of protecting its property the temple management is obliged to light the festival lamp at the deepathoon*'.

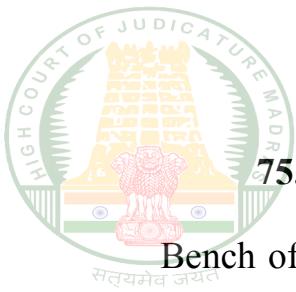
73.Recording his reservation about the nature of the pillar, the Learned Advocate General submitted that the structure is a stone pillar, but the State is not sure whether it is a Pillar meant for lighting lamp and whether it was part of the Temple structure. There is no reference of the existence of a 'Deepathoon' in 1920 civil suit or even in the subsequent writ petitions, nor even in the representation dated 03.11.2025 of the writ petitioner Rama.Ravikumar given to the Executive



Officer. For the first time, only in the writ affidavit, the stone pillar near the Dharga is referred and termed as 'Deepathoon'.

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74. After the suit in O.S.No.04 of 1920 for declaration and permanent injunction reached finality on the disposal of the Appeal before the Privy Council on 12.05.1931, there was no dispute regarding the situs of lighting the lamp. After 60 years, the dispute regarding the place of lighting lamp during the Karthigai deepam festival arose in the year 1994. The Writ Petitioner in W.P.No.18884 of 1994 sought for direction to the official respondents to forbear the volunteers of Hindu Munnani from lighting Deepam or putting up of any construction in any form on the top of the Thiruparankundram hill, Madurai. In the said writ petition, Hindu Munnani filed counter stating that Karthigai deepam was always lighted only by the Devasthanam at the Pillar within the Mandapam. The Motcha Deepam is in the memory of the deceased family members and it is lighted at the Mandapam. After the disposal of W.P.No.18884 of 1994, there was no disturbance in respect of lighting Deepam by the Devasthanam at the traditional place of the Mandapam at Subramaniaya Swami Temple near Uchipillaiyar Koil for next 20 years.



**75.** The set of two writ petitions, filed in the year 2014 before the Madurai Bench of the Madras High Court seeking direction to light the Karthigai Deepam at the 'top of the hill' by V. Subramanian in W.P.(MD)No.19422 of 2014 or at the place called 'Kuthirai Sunai' by Ganesan in W.P.(MD)No.19371 of 2014, were dismissed by Justice M. Venugopal on 04.12.2014. These judgments were confirmed by the Division Bench in W.A.(MD)No.1524 of 2014 dated 07.12.2017 and in W.A.(MD)No.1442 of 2014 dated 19.07.2017. These judgements stand as '*res judicata*' for the subsequent writ petitions for the same relief. The batch of writ petitions by different persons seeking direction to the Temple Devasthanam to light the Deepam at a place on the stone pillar near the Dharga on the top of the hill, ought not to have been entertained by the Learned Single Judge.

**76.** Taking note of the previous incidents in the year 1862 and in the year 1912, the Civil Court in O.S.No.04 of 1920, has categorically held that the new mandapam and the whole of the top of the hillock, on which the mosque and the flagstaff stand, belongs to Dharga. Taking note of the probability of communal conflict, the Learned Judge in W.P.No.18884 of 1994 in his judgement dated 21.11.1996 had mandated that the Karthigai Deepam shall be lit only by the Devasthanam. In future, if any worshipper wishes to choose any other place in the Thiruparankundram hill for lighting Deepam, the same shall be done by the



Devasthanam after obtaining permission from the Authorities under the Tamilnadu

Hindu Religious and Charitable Endowment Act, 1959 and while permitting for

**WEB COPY** lighting lamp at any other place in the hill, it shall be done with due regard to the nearness of the Dharga. Suitable place must be chosen atleast 15 meters away from the Dharga, the flight of the Dharga and the Nellithope area and the places declared to be belonged to the Sikkandar Dharga under clause (2) of the decree in O.S.No.04 of 1920. In this Judgement, it is specifically stated that lighting of Deepam in any place of the hill shall be carried only by the Devasthanam and not by others. While the law had been well laid through multiple judicial pronouncements, the impugned judgment of the Learned Single Judge defying the law of precedent is a clear judicial indiscipline.

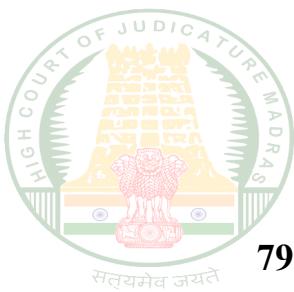
77. Mr.R.Shanmugasundram, Learned Senior Counsel appearing for the Commissioner, HR & CE Department submitted that the writ petitions are filed assuming that the alleged customary right of lighting Karthigai Deepam on the Thiruparankundram Hill at the Deepathoon was already determined in W.P.No. 18884 of 1994. Under Section 28 of the Act, the Department is the custodian of all kind of customary rights. Any person defined under Section 6 (15) of the Act has a right to seek enforcement of a customary practice or right by resorting to the rights conferred under Section 28 of the Act. Under Section 63(e) of the Act, the



Joint Commissioner of the Department is empowered to enquire about the usage and decide. Against the order of Joint Commissioner, an appeal remedy is

**WEB COPY** provided in the statute. While so, when customs and practices are protected under the statute, instead of approaching the authority under the Act, the writ petition was filed at the eleventh hour and same was allowed without giving proper opportunity to all the stake holders. Even now the Department is ready to consider the request of the writ petitioners as per Section 63(e) of the Act.

**78.** Mr.G.Masilamani, Learned Senior Counsel appearing in the writ appeals filed by the Executive Officer of the Thiruparankundaram Temple Devasthanam, submitted that the Devasthanam is administered by the Board of Trustees and any change in the customary practice to be considered only by the Board of Trustees being the representatives of the Devasthanam. The Executive Officer of the Temple has no authority or right to change the customary practices. The judgement of the High Court in W.P.No.18884 of 1994 only says to respect the wishes of worshippers. It is for the Devasthanam to decide about lighting of the Deepam for future years at any other place in Thiruparankundram hill with prior permission of the Authorities under the Act. The same is subject to the condition imposed in clause (4) of the judgment, which imposes distance restriction between the properties of the Dharga as declared in the O.S.No.04 of 1920.



**79.**Therefore, the representation to the Executive Officer by the writ petitioner for change of place of lighting the lamp cannot be considered by the Executive Officer, who is not vested with the power to consider their request. When no power is vested on the Executive Officer, writ of mandamus to consider a representation by a person, who have no power to consider, is not maintainable. Likewise, to seek mandamus, the petitioner must have a right to the remedy sought in the representation. The worshipers have no right to change the custom. Law protects the existing custom but does not envisages any right to create new custom.

**80.**The representation as well the prayer in the writ petitions are on the premise that the Hon'ble High Court in W.P.No.18884 of 1994 had conferred right to the petitioners to light lamp at any place in the Thiruparankundram Hill. The writ petitions bound to fail for multiple reasons. First, it suffers mis-interpretation of the judgment dated 21.11.1996. Next, it suffers suppression of earlier rejection of similar representations and dismissal of the writ petitions filed for the very same relief. The learned Single Judge, in total disregard to the facts, which are sufficient to dismiss the writ petitions in limine, had for the reasons best known, entertained the writ petitions and directed the Executive Officer to light the lamp



on the granite pillar, which is unconnected to the Temple and not part of the Temple structure.

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**81.** The Learned Single Judge had entertained and allowed the writ petition filed for certiorarified mandamus, to consider a vague representation made to a wrong person not vested with the required power, to implement a non existing right. The Executive Officer in response to the representation had replied to the writ petitioner about the arrangement made to light the deepam at Uchipillaiyar Temple as per the usual practice. The Learned Judge after having found that the representation of Rama.Ravikumar does not speak with clarity, had ventured to provide the clarity by himself to pass the order impossible of implementation. The Learned Judge failed to note that the representation of the other writ petitioners, who joined Rama.Ravikumar later, also suffers lack of clarity and misleading.

**82.** The process of lighting lamp in a pillar standing in an open space is laborious task and cannot be done overnight. The Learned judge without affording sufficient time to counter the case, had directed the Executive Officer who is not the proper person to carry out the direction as per the judgment of the High Court passed in W.P.No.18884 of 1994.



83. Mr. Vikas Singh, learned Senior Advocate, appearing for the Police

personnel, made his oral and written submissions as under:-

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(a) The Writ Petitioner had no Statutory, customary or constitutional right to insist that the Karthigai Deepam be lit at the so called "Deepa Thoon" or to seek permission to personally light the Deepam, which is an exclusive Temple ritual. The Learned Single Judge completely ignored the binding Division Bench judgement in W.A.(MD)No.1524 of 2014, wherein it was unequivocally held that the Writ Petitioner therein had no legal right to compel the Temple to change the location of the Deepam and that the Temple's long-standing procedure cannot be interfered with. The petitioner therein had sought an identical relief. Thus the Learned Single Judge failed to apply the doctrine of res judicata. For more than 150 years, the Mahadeepam has been lit only at the Uchipillaiyar Temple Mandapam area, and never at the "Deepa Thoon". In terms of Sections 23, 25, 27, 28, 45 and 63 (e) of the TN Hindu Religious and Charitable Endowments Act, 1959, the Joint Commissioner alone can determine issues relating to customs/usages, and no individual devotee can assert a contrary right. The Executive Officer of the Temple had passed a well-reasoned administrative order dated 03.11.2025 after considering safety, following opinion of Sthanikars, examining

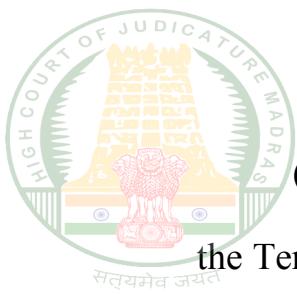


historical practice, consulting police, fire and revenue authorities, and

following Hindu Religious and Charitable Endowments guidelines.

**WEB COPY** (b) The materials placed on record shows the hilltop is a sensitive zone, the so-called Deepathoon lies dangerously close to the areas, which previously saw communal tension. The police have recorded prior disturbances when individuals attempted to insist on lighting Deepam there. The location is unsuitable for crowd movement and fire safety. Judicial directions compelling use of a disputed location expose the administration to grave risks. There is a risk of public order, if the petitioners are permitted to light lamp at the deepathoon near Dharga prompted the District Administration to impose the prohibitory order under section 144 of CrPC ( 163 BNSS).

(c) The Courts cannot dictate where to light the lamp and what is the custom. If the lamp is lighted at the pillar which is near the Dharga, it will damage the Dharga. It may cause disturbance to public order. In the year 1862 and in the year 1912 attempt to light lamp on the hill top was interjected by Executive orders and those facts form part of judicial orders. The present attempt to re-enact the earlier episode is only to create disharmony among two sects.



(d) Referring the reports that lakhs and lakhs of devotees used to throng the Temple during festival days and allowing them to climb the hill top which cannot even accommodate 50 persons at a time, he submits that it would lead to stampede. The order of the Learned Judge which is intended to create disharmony among two communities need to be interfered.'

**84.** Mr. N. Jothi, learned Senior Counsel appearing for the Joint Commissioner, HR & CE Department, submitted that the petitioners have not impleaded the Board of Trustees, who are the necessary parties and empowered to decide the place of lighting the lamp other than the place in which the lamp is traditionally lit. Knowing well they are necessary parties and even after observing so in his judgment, without impleading them either *suo motu*, as he did in case of representatives of Dharga or directing the writ petitioners to do so, had commented the Board members. Under Section 4 of the Temple Entry Authorisation Act, the Trust Board is empowered to regulate the affairs of the Temple. In case of any difficult, under Section 9 of the Temples Entry Authorisation Act, the State has power to remove the difficulties. Researchers like Mr. Bose and Mr. Mayilai Seenai Venkatasami had emphatically recorded that the lamp pillars in stone on the top of hills used to be erected by Jain saints, to enable them to meet during night hours for discussion. In Thiruparankundram also below



the lamp pillar, Jain cave and rock beds are found with inscriptions. Producing photographs of stone pillars in other places, Mr.Jothi, contented that the impugned order permitting to light the lamp in addition to the traditional place and on the stone pillar of Jain's is contrary to custom and usage.

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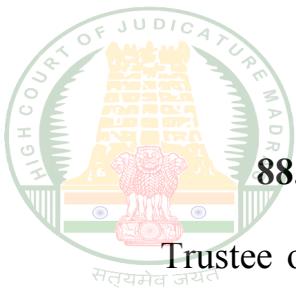
**85.** Mr.T.Mohan, the Learned Senior Counsel appearing for the Jamath Members of the Dharga, submitted that, the judgment of the Learned Single Judge passed in gross violation of natural justice principle, has to be set aside forthwith. The writ petitioner Mr.Rama. Ravikumar for obvious reasons had couched his prayer which is of wide public ramification as if it is his private litigation and moved the learned Single Judge even without impleading the representatives of the Dharga, whose interest is substantially involved in the *lis*. Later, the Learned Judge *suo motu* impleaded the representatives of the Dharga vide his order dated 19.11.2025 as respondents 5 to 7. He reserved the case for orders on 28.11.2025 and passed the impugned judgment on 01.12.2025 without affording sufficient and fair opportunity to defend the right of the Dharga which is well protected by the civil Court decree of the year 1923 in O.S.No.04 of 1920 and confirmed by the Privy Council vide judgment dated 12.05.1931. Any amount of hearing in the appeal will not substitute the hearing by the Court of first instance.



**86.** The High Court of Madras Rules, envisages 8 weeks time for the respondents to file counter, on issuance of 'rule nisi' in a writ petition. The

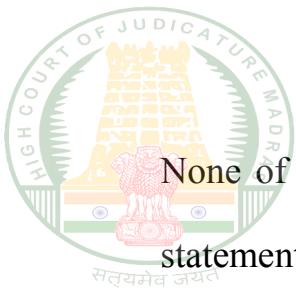
**WEB COPY** Learned Single Judge, in contrary and in violation of Rules, had proceeded to pass his judgment in haste for the reason well exposed by his own conduct inside the Court during the hearing and outside the Court in his public addresses. Citizens expect, 'Justice not only to be done but also seems to be done'. The impugned judgment is far from the expectation from a Hon'ble Judge who had taken oath to discharge his duty as per the Constitution. The dispute is not fit for adversarial adjudication. It has to be resolved through dialogues.

**87.** According to Learned Senior Counsel Mr.V.Selvaraj, in W.P. No.18884 of 1994 filed by one Thyagarajan, the Court has fixed the place of lighting the lamp during Karthigai Deepam. This according to the Learned Judge is the traditional place of lighting the Deepam. While so, there cannot be any other place in deviation of the custom. The Learned Judge had given the option to the Temple authorities to consider the request in future if worshippers wishes for lighting the lamp at any other place on the hill, with a caveat, that such place chosen must not be within 15 meters distance from the properties of Dharga. Whiles, the impugned judgment of the learned Single Judge is liable to be dismissed.



**88.** Learned Counsel Mr. Prabu Rajadurai appearing for the Managing Trustee of the Jamath, reiterating the submissions made by Mr. T. Mohan, Senior Counsel, submitted that the entire top of the hill belongs to Dharga as per the Civil Court decree and it is a fact confirmed by the Privy Council which is non-negotiable. The Madras High Court in W.P.No.18884 of 1994, had opined that in future the Devasthanam may consider lighting of deepam at any other place in the hill with a restriction of 15 meters from the properties declared as properties of the Dharga. This also cannot be subjected to any negotiation. The point from which the 15 meters to be measured can be fixed only after due survey of the hilltop. So far, survey of the Hilltop was not carried. Unless survey is conducted and area is demarcated, lighting the lamp at the stone pillar near Dharga is not permissible.

**89.** The Learned Judge after his visit to the Hill had cleared that the stone pillar is beyond 15 metres from the Dharga. Nothing on record to show that, the Learned Judge in fact measured the distance and from where he measured the distance between Dharga and the stone pillar. The top of hill means, the whole of the hill and not the structure alone. Any Judicial officer, who intends to carry spot visit, has to follow certain procedures. First, he should give due notice to the parties concerned. Next, he should record a Memorandum of facts observed. The said memorandum should be reduced into writing and form part of his judgment.



None of these procedure were followed by the Learned Single Judge. Making a statement in the open Court during the course of hearing the arguments and visiting the disputed place for inspection on the same evening, is in total violation of procedure and never heard. It is an aberration of judicial mind.

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**90.** Mr. Mubeen representing the Waqf Board, submitted that the expression 'Dharga and its adjuncts' means and includes the area, in which the stone pillar stands. The dictionary meaning of 'Adjuncts' was not properly understood by the Learned Judge. The pillar is not on a different peak, but on the same peak where the Dharga is located. Unless the boundaries are demarcated through proper survey, the impugned judgement cannot be implemented. Earlier the Haqdars of the Dharga had submitted a proforma to the Waqf Board mentioning the measurement of the Nellithope area used as burial ground of Muslims and the Sikkandar Dharga at top of the hill meant for worship. The Waqf board is always willing to cooperate for survey and for a time bound Court-monitored mediation to ensure peace and harmony among the two communities.

**91.** Mr. Lajpathy Roy, learned Senior counsel appearing for the appellant in W.A.(MD)No.3204 of 2025 submitted that, the Judgment rendered by the Learned Single Judge on 01.12.2025 is factually and legally incorrect for more



than one reasons. Though before the writ Court, it was argued that the judgment in

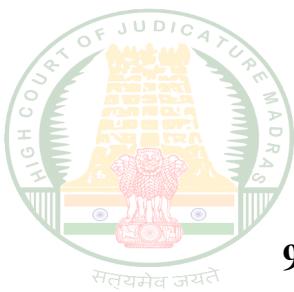
W.P.No.18884 of 1996 rendered on 21.11.1996 was passed without hearing the

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Archeological Department, the learned Judge neither discussed about this nor answered. In the list of archeology sites in Madurai, the Department of Archeology had notified Thirparankundram Cave with Panchapandavar beds on Western Slope of the hills and similar beds behind Sikkandar Mosque on the hilltop in S.No.194/14. The cave and inscriptions on the southern side of Tiruparankundram rock in Survey No.377A, 186/14A are also notified under Ancient Monuments Prevention Act, 1904.

**92.**Section 19 (*Restriction on enjoyment of property rights in protected areas*) of the Ancient Monuments and Archeological Sites and Remains Act, 1958, restrains part or whole of the site being utilized for a different purposes without the permission of Archeology Department. The same is reiterated in the Judgment of this Court in Keezhavazhavu Jain site's case. The entire hillock of about 170 Acres will have to be construed as a protected site. The entire issue is wrongly considered as a property dispute. The provisions of Places of Worship (Special Provision) Act, 1994 was not taken into consideration. In none of the Writ Petitions, Survey Number of the property in issue is mentioned. Thus the writ petition without any right and bereft of details ought to have been dismissed.

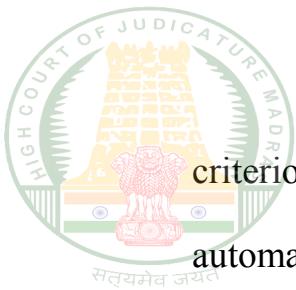
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**93.** The submissions of Mr. Vanchinathan, learned counsel appearing for the appellant in W.A.(MD)No.3213 of 2025 are as below:

“(a) The civil Court in the year 1920 held that the whole of Thiruparankundram hill belongs to Hindus, except the assessed and occupied lands. Nellithope, the right of steps leading from Nellithope to the Mosque, the top of the rock on which the mosque and the flagstaff all belong to Muslims. This makes it clear that the whole of the top of the hillock belongs to the Muslims and it is unknown as to where the top of the hillock ends unless and otherwise the property is clearly demarcated. The learned Single Judge by the impugned judgment had, overruled the earlier judgments of this Court passed by Division Bench consisting of Two Judges. This Court has earlier twice outrightly rejected the request made similar to the instant writ petition. No appeal or review has been preferred against the said judgments and hence, the issue has attained finality. Thus the principle of res judicata squarely applies.

(b) This Court in 1996 judgment, had expressly left the entire matter to the discretion of the Temple authorities and fixed only a minimum threshold, not a specific place. The 15-meters requirement is merely a buffer



criterion and does not mean that any location beyond that distance into an automatically a "suitable" spot. However, the learned Single Judge erred in

**WEB COPY** holding that since the Deepathoon location is approximately 50 meters from the Dhargh, it is therefore acceptable. The fact that a location is more than the minimum threshold does not authorise the Court to mandate it as the place for lighting the Deepam. Further, it is to be noted that this Hon'ble Court in the Judgment in W.P.(MD)No.18884 of 1994 dated 21.11.1996 held that 15 meters distance should be maintained not only from the Dargah but also from the other properties mentioned in the decree of O.S.No.4 of 1920.

(c)The Learned Counsel maintained his claim that the structure in question is not a Deepathoon. It is, in fact, a Survey Station/Survey Point forming part of the historic Great Trigonometrical Survey (GTS) of India. He citing the publication titled "Synopsis of the Results of the Operations of the Great Trigonometrical Survey of India Volume XXIX", prepared in the office of the Trigonometrical Branch, Survey of India, and published under the orders of the Surveyor General of India in the year 1899, contended that the stone pillar is only a survey stone.



(d)The writ petitioners had not produced material to show that they personally possess any such right, nor that such a right existed in favour of

**WEB COPY** any devotee or group in relation to this particular Temple. It is wholly incomprehensible how an individual petitioner could be conferred with a "right" that neither custom nor law recognize. The writ Court failed to notice that several representations were submitted after the first writ petition filed. Such subsequent representations relied upon to cure the defects that existed at the time of filing the original writ petition. Those representations were sent just a day or two before filing the writ petitions. The Act provides ample statutory mechanisms for safeguarding Temple property and there are also civil remedies. By directing the Temple to light the lamp "for the sake of protecting property," the learned Judge had exceeded the scope of writ jurisdiction and imposed a non-existent religious obligation on the Devasthanam.

(e)The Three judges bench of this Hon'ble Court in the case of **S. Paramasivam vs District Collector in W.P. (MD)Nos.2678 & 2277 of 2025 and 15565 of 2023** held that even assuming that the Dharga Administration is the owner of the Sikanthar Mosque and Nellithoppu area, in the light of Rule 8 of Ancient Monuments and Archaeological Sites and



Remains Rules, 1959, the Dharga Administration cannot be permitted to perform any animal sacrifice without the permission of the Archaeological Survey of India Department. Any such permission would be in violation of

**WEB COPY** ASI Act. Therefore, as on today, there is a statutory bar against the traditional practice of animal sacrifice over the Thiruparankundram Hillock. The same principle squarely applies to the present case.

(f) In particular, Rule 8(f) of ASI Act expressly prohibits violation of any regulated practice, usage or custom applicable to or observed in a protected monument. The writ Court, by overlooking the overriding effect of Rule 8(f) of ASI Act and the binding Three-Judges Bench decision, has committed a serious error of law, rendering the impugned order, which is unsustainable.

#### **94. The summary of the appellants' case:**

a) The prayer in the writ petition is in the nature of public interest and it should have been heard by a Division Bench. The Petition before the Bench of a learned Single Judge is nothing but a 'forum shopping'. The improprietary and



personal bias of the judge is exposed by passing the judgment in haste without affording fair opportunity to the Respondents.

**WEB COPY** b) The decisions of this Court in the earlier writ petitions for similar relief is a bar to entertain the present writ petitions, since it hit by the principle of Res-judicata.

c) By granting a relief beyond the representation which is the subject matter of the base case filed for issuance of a Writ of Certiorari and Mandamus, the Impugned judgement suffers judicial over-reach.

d) The administration of the Devasthanam is vested with the Board of Trustees. Neither the writ petitioners who wanted the Deepam to be lit on Deepathoon nor the Court cared to implead the Board of Trustees as a party to hear its view.

e) The impugned judgement had traversed beyond the scope of the writ jurisdiction and had recorded its view about the title, possession and customs.

f) The writ Court ought to have either relegated the parties to the civil Court, if in its view the possessory right of devasthanam over the rest of the hill except the four places mentioned in the century old Civil Court decree, is under threat or should have directed the parties to establish the claimed custom of



lighting maha-deepam at a place near the Dharga on the stone pillar, which they

have identified, by appealing before the Joint Commissioner of HR&CE, under

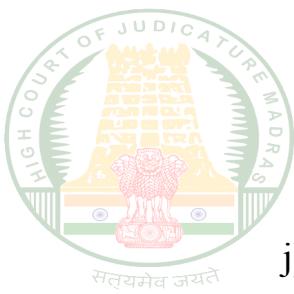
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Section 63(e) of the Tamilnadu Hindu Religious and Charitable Endowment Act.

g) In the absence of evidence, the direction of the learned Judge to the Executive Officer of the Devasthanam to light the lamp in a place never the deepam was lit earlier is a wrong direction to a wrong person. The direction is incapable of enforcing.

h) The nature and the purpose for which the stone pillar was erected, is a disputed fact. The learned Judge identifying the stone pillar, as a 'Deepathoon', for lighting the deepam during the Karthigaideepam festival is based on his personnel inspection of the site without memorandum of inspection. The observations by the Learned Judge, regarding the distance between the Dharga boundary and the Deepathoon, its location and proximity to Dharga are in the absence of the memorandum of inspection, hence same has to be ignored.

i) The lamp during Karthigaideepam festival is traditionally lighted at the designated place known as Deepa Mandapam next to 'Uchipillaiyar Temple', As per the views of the 'Sthanikars', (the hereditary priests of the Temple), lighting Deepam at any other place on the hill is against 'Agamasatra'.



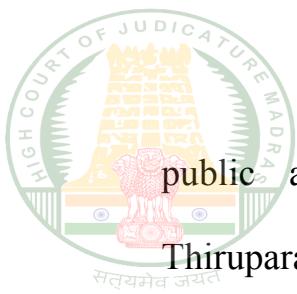
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j) If the lamp is lighted at the pillar which is near the Dharga, damage to the Dharga is possible. It may cause disturbance to public order. If any congregation of public, where the stone pillar is located, is allowed, it will cause stampede. In the year 1862 and in the year 1912, attempt to light lamp on the hill top was interjected by the Executive orders and those facts form part of judicial orders. The present attempt to re-enact the earlier episode will cause disharmony among two sects.

#### **95. Reply by the Respondents:**

(i) Rama.Ravikumar, M.Arasupandi, A.Karthikeyan and S.Paramasivam, the impleaded respondent M.Kannan @ Solai Kannan all appeared through counsels, put forth their submissions through their counsels in defence of the impugned judgment. Like the appellants, some of them also filed notes of submission to buttress their respective submissions.

(ii) Mr.Gurukrishnakumar, learned Senior Counsel put forth his submissions on five different heads. Firstly, the practice of lighting lamp during Karthigai Deepam festival is a well known practice throughout the States of Tamilnadu and Kerala; Secondly, the custom of lighting lamp at hilltop in a vantage point for the



public around the hill to see it and worship, is being followed at

Thiruparankundram hill for time immemorial till the invasion of Muhammedans;

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Thirdly, the structure in which the learned judge has directed to light the lamp is undoubtedly meant for lighting lamp and for nothing else. The age of the pillar is as old as the ancient Temple; Fourthly, the location of the Deepathoon is not within the Dharga area or within the compound of the Dharga. The Deepathoon is located on a different rock on that peak and sufficiently far from the property of the Dharga; Lastly, at the hilltop, the area of Dharga and flagstaff belong to Muhammedians as declared by the Civil Court. Rest of the hill belongs to Devasthanam. When no further issue remains for the civil Court to decide, there is no necessity for the writ petitioners or others to go back to civil Court again. Approaching the Government or the HR & CE Department under Section 63(e) of the Act is not an alternate remedy. This Court in W.P.No.18884 of 1994 has categorically, held that the Devasthanam has to consider the request of worshippers in future, if they want to light the lamp at any other place in the hill. The HR & CE Department as well the Government have no inclination to restore or resume the old tradition, but had taken side. Going back to them, who have last there will be a farce neutrality, will be a farce exercise.



(iii) According to Mr. Guru Krishnakumar, lighting the lamp at the pillar

near Uchipillaiyar Temple is a recent practice as an alternate, after the right of the Hindus to light the lamp at the top of the hill was denied. The place though called

as Uchipillaiyar Temple, it is neither at 'uchi' (top) nor there is any Pilliayar idol.

The pillar at Deepa Mandapam in fact is called 'motchadeepam stone', where

people used to light lamp in memory of departed souls. There are enough literature

by historians to speak about this pillar to vouchsafe the plea that it is only a

motchadeepam used for lighting lamp in memory of departed souls. The

arrangement as a temporary measure to light the Karthigai Deepam Lamp at this

place is pursuant to the interim direction of the High Court in W.P.No.18884 of

1994 and still continues despite several request for change of place. In fact, the

Deepam Mandapam at Uchi Pillaiyar Temple is not the customary place in which

the lamp used to be lighted centuries ago. Hence, there is no reason to refuse the

request to light the lamp at vantage point for the surrounding villagers to see the

lamp and worship. The communication dated 03.11.2025, by the Executive

Officer without answering the request is without jurisdiction as held by the learned

Single Judge.

(iv)(a) Mr. Sriram, Learned Senior Counsel submitted that the writ petitioners for lighting the lamp at the Deepathoon as well as the persons who either got themselves impleaded as respondents or filed separate writ petition all fall within



the meaning of 'Person' as defined under Section 6(15) of the Act. Having opted

for getting redressal through writ Court based on the right vested on them as

**WEB COPY** worshippers, after getting adverse order, the maintainability of the writ petition is questioned. It is not the first instance. For the same Temple and same issue, writ petitions were filed and entertained. Earlier writ petitions were filed and orders were passed and those orders are being cited by either side only to the extent convenient to them. The present plea that the writ petitions are not maintainable, is only to cast aspersion on individuals and institution.

(iv)(b) This is a case where the right of worship vested on the worshippers, is attempted to be curtailed or limited by the State citing untenable and invented reasons. The Learned Judge has not created a new custom but only pointed out the custom prevailing earlier and directed the Executive Officer of the Temple to restore the custom.

(iv)(c) In a conjoint reading of constitution, it is well found that the right of worship has not been confined to Article 25(3) of the Constitution of India. It also extends to the right of expression and speech guaranteed under Article 19(1) (a) of the Constitution of India. Right of worship cannot be curtailed citing public order. Strict rigor of review is mandated, if the executive intends to curtail the right of



worship citing public order. Freedoms enshrined in the constitution shade and merge with one another. Any restriction must be reasonable and cannot be misused to curtail the rights of worshippers by pleading likelihood of disruption. Plea of disruption shall not be a cover to avoid scrutiny of the executive order.

(iv)(d)The representation of Rama.Ravikumar to the Executive Officer though may not be clear and specific, the HR & CE Department as well as the Government were sure about what the writ petitioner demands in his representation. In fact, in the representation of Mr.Parmsivam, the petitioner in W.P.No.33197 of 2025, the request is clear and specific. Despite knowing the demand made in the representation, the Executive Officer, instead of placing it before the Board of Trustees, who are the true representatives of the Devasthanam, had rejected the representation of Rama.Ravikumar. The HR & CE Department pre-closed and determined, hence they have lost the credibility of being true custodians of the Temple and its properties. They by taking sides, lost the confidence of the public. Therefore, going to them under section 63(e) of the Act, is likely to be going from “Ceasar to Ceasar’s wife”.

(iv)(e)Lighting lamp is an one day affair in a year, at a Deepathoon located within the property of the Devasthanam. This requires no serious contemplation. If truly the State and the HR & CE Department, which is controlled by the State,



wishes to consider the request, it could have been considered much earlier within a reasonable time. By inventing reasons, the State and its instrumentalities desire to

**WEB COPY** divide and ensure people not to carry their religious practice harmoniously.

Through it is the District Administration heads like District Collector and Commissioner of Police, the State is projecting a tenacious plea of disturbance to public order. Since the protector has failed to protect, there is no meaning in going back to the Joint Commissioner, HR & CE Department, under Section 63 of the Act, particularly after the Commissioner of HR & CE Department, in his counter, had negated and pre-closed the option of lighting the Mahadeepam lamp elsewhere in the hill. The State instead of protecting the Tamil Culture of lighting lamp at the hilltop on the evening of Karthigai Deepam festival, which is prevalent in other part of the State, tries to curtail and destroy the said culture. Unwilling to honour the right guaranteed under Constitution by citing 'disruption to public order' which is not really in existence.

(iv)(f)From the past experience, the lesson learnt was, whenever there is a call to retreat and engage in dialogue, worshippers obliged. However, the administration under the guise of peace meeting used to assure that the request of the worshippers will be considered in the ensuing year and permitted the trustees of Dharga to commit creeping encroachment into the un-occupied area, which is



declared as the property of the Devasthanam. After encroaching, the Dharga

representatives, without any hesitation, used to retract claiming that the decision in

**WEB COPY** the peace meeting will not bind them. Even at present, the intention of the Dharga

representatives is to put up flagstaff at the Kalathi tree located outside the Dharga

area. This is contrary to the civil Court decree passed in O.S.No.04 of 1920 and

the direction of this Court in W.P. No.18884 of 1994, which ensured the right of

worshippers to seek for lighting lamp at any other place on the hill. The mandate

to the Devasthanam to consider such request, if received in future, is blatantly not

exercised by the Devasthanam. The State expects the Temple devotees to

surrender for existence. Despite, mandate by the Court as early in the year 1996,

the silence of authorities clearly indicates that they are not acting as per the

Constitution. In the said facts and circumstances, the State having failed to uphold

the Constitution, the Judiciary has stepped in and issued the writ of certiorified

mandamus.

(iv)(g) In this case, the order passed by the Executive Officer of the Temple without jurisdiction and the tangible non- exercise of power by the Commissioner of HR & CE ,had warranted the Court to issue writ of Certiorified Mandamus and this is a classic text book case for entertaining a writ of Certiorified Mandamus.



(iv)(h) The 'Sikkandar Dharga' is not a notified Dharga or mosque under the Waqf Act. The entire Tiruparankundaram hill is monumental site and declared so under the Act as early as in the year 1905. Further, after the amendment to the Waqf Act, the Waqf has no role in this matter. However, the waqf was impleaded as a respondent and allowed to participate in the proceedings. Shockingly, in the course of the argument, the Learned Counsel representing the Waqf claims that the 'Deepathoon' belongs to Waqf. Even the Dharga representatives, who claim right over the entire top of the hill, had not claimed any right except the top of the hill, whereas the Waqf Counsel, who was not able to produce the records to show that the Dharga is duly notified under the Waqf Act, however, makes a disturbing plea claiming right over the 'Deepathoon'. This clearly disclose that the offer of the Waqf for mediation is not *bona fide* to rely and act upon.

(v)(a) Mr. Sriram, learned Senior Counsel further submitted that, after the Waqf (Amendment) Act, 2025, under Section 3-D of the Ancient Monument and Archaeological Sites and Remains Act, 1958, any declaration under the previous Waqf Act is void, if the property is a protected area under the Ancient Monument and Archaeological Sites and Remains Act, 1958. Thirupankundram hill, as a whole, is a protected area under Ancient Monument and Archaeological Sites and Remains Act, 1958. Therefore, even if there is any notification in respect of



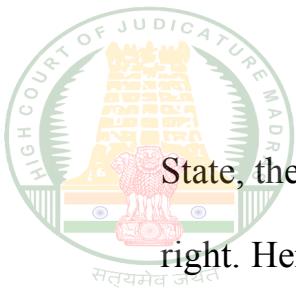
Sikkandar Dharga under the previous of Waqf Act, it is not valid. The challenge to the Waqf (Amendment) Act, 2025 is pending before the Hon'ble Supreme Court.

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The Hon'ble Supreme Court, while granted interim stay of few other provisions, had declined to stay Section 3-D assigning reasons. It is a conscious decision of the Apex Court allowing Section 3-D of the Ancient Monument and Archaeological Sites and Remains Act, 1958 to be in force. Therefore, the Waqf Board has no role or say in this matter.

(v)(b) Mr. Sriram, on instructions, submitted that, relegating the matter to HR & CE Department to consider the request under Section 63(e) of the Act is not preferable for the reason that it is not a matter falling within the purview of Section 63(e) of the Act, even otherwise, the authorities have already pre-determined and pre-closed by taking side in the issue. By multiple voices, they are apparently colluding with the contesting Appellants. Therefore, resorting to Section 63(e) of the Act, which is offered by the Senior Counsel representing HR & CE Department is an afterthought. The offer is not with open and neutral mind.

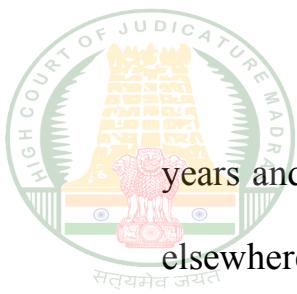
(v)(c) Regarding the option to refer the matter for the Court-monitored Mediation, citing the past conduct as precedents, Learned Counsel expressed strong reservation for referring the matter for mediation. According to him, for the



State, the expression 'peaceful co-existence' means complete surrender of religious right. Hence, with the present model of Governance in the State, mediation will be

**WEB COPY** a farce exercise. As far as the Waqf Board, which has no locus, their offer for settling the dispute through mediation is a strategy to protract the dispute and pressurize the Government to yield for their illegitimate demands at the costs of the Devasthanam right.

(vi)(a)Mr.Valliappan, learned Senior Counsel, referring about the religious and spiritual significance of lighting deepam at the hilltop, submitted that as far as Thiruparankundram Temple is concerned, the custom followed during the Karthigaideepam day is first to light the Baladeepam inside the main Temple, then the Chokkapanai (made of natural flammable materials predominantly dry palm leaves and dried cow dung) outside the Temple and then the Mahadeepam on the top of the hill. Section 63 (e) of the Act is not meant to decide the disputes of this nature. The expression 'any other matter' used in this Section has to be read 'ejusdem generis'. The Deepathoon is located at a peak lower to the Dharga. The Government has not taken any steps through its Department to ascertain the age of the Deepathoon and when it was erected, since it is not convenient to the stand they have taken. In the peace committee meeting held on 01.12.2005, it is mentioned that deepam is lighted at the Uchipillaiyar Temple only for the past 11



years and before the next year Karthigai deepam, the location of lighting deepam elsewhere will be decided. However, that never happened.

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(vi)(b)The Thirupangkundram hill is about 1048 feet spread over 172 acres. The Nellithope is measured and it is 33 cents. Dharga with flagstaff is not yet surveyed, but it is certainly less than 50 cents. Even according to the proforma shown by the Waqf Counsel, it is only about 50 cents. Excluding the foot steps from Nellithope to Dharga, the rest of the hill belongs to the Devasthanam. The Civil Court had declared the title in favour of the Devasthanam and also granted permanent injunction in favour of the Devasthanam regarding rest of the hill. The foot steps from base to Nellithope belongs to Devasthanam. Neither the Devasthanam nor the Hindu residents at the foothill had stopped or prevented the Muslims passing through the foot steps of Devasthanam to reach Nellithope or the Dharga. The Muslims cannot have any objection for the Hindus through the representatives of the Devasthanam to climb the foot steps and lighting deepam at the Deepathoon during the Karthigai Deepam festival. It is a fake reason invented by the Government and the District Administration that Muslims object Hindus using the flight of the steps. The earlier judgments cannot be '*res judicata*' for considering the present issue of lighting the lamp at the specific place, where there is already a pillar with a provision to light lamp.



(vi)(c)The earlier writ petitions were not specific to the Deepathoon. The order of this Court in W.P.No.18884 of 1994 has left open the place of lighting the lamp at the hill, for the future. The lighting of Deepam on the particular day at the top of the hill, is not merely a custom and it is blended with faith, belief and sentiments. When persons of other faith is not going to be affected anyway by lighting the lamp at the Deepthoon, which is located within the Davesthanam property, the resistance shown by the contesting appellants is to create division. While the State to be blamed for escalating the problem through the district administration, it conveniently blames the worshippers to deprive their constitutional right of practicing religion of their choice.

(vii)Mr.G.Karthikeyan, Learned Senior Counsel, submitted that for several decades, the worshippers wanted to light the Deepam at the elevated place in the hill, which is the normal practice followed in all other places. Strangely, in Thiruparankundram Hill, the devotees are not permitted to light the Deepam on the top of the hill. Earlier when an attempt was made to light the lamp at the top of the hill, the writ petition with negative prayer was filed by one Thyagrajan and in his writ petition in W.P.No.18884 of 1994, the learned Single Judge of this Court after passing interim orders for the year 1994 and 1995, passed final order on



21.11.1996. In the said order, he permitted the worshippers to request the

Devasthanam for lighting the lamp at a place other than the place where the lamp

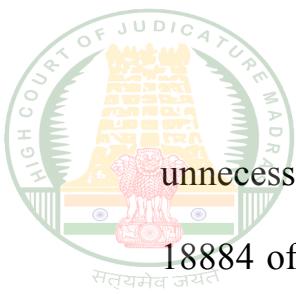
**WEB COPY** is lighted usually. Later when the writ petition was filed seeking permission to light the lamp on the top of the hill and near 'Kuthirai Sunai', no doubt, the same was not considered positively by the Courts. But, that does not take away the right of a devotee to seek for a direction to light the lamp on the Deepathoon, which stands separately on a peak lower than the hilltop, on which the Dharga is constructed. The present set of writ petitions does not suffer *res judicata*. The prayer is not contrary to the civil Court decree or the liberty given by the learned Judge in W.P.No.18884 of 1994. Observations to dispose the writ petitions, leaving open the issue of fixing an alternate place for lighting Karthigai Deepam cannot fit in the definition of *res judicata*.

(viii)By terming the Deepathoon as 'granite stone', or a 'survey stone' put by Britishers or it is a 'Lamp post' used by Jain monks when they used to meet at night for discussion or it is a structure belongs to waqf Board, the contesting respondents in different voice had not spared anything to hurt the religious sentiment of the worshippers. Earlier Muslims attempted to shift the flagstaff outside the Dharga premises. They tied the flag in the Kalathi tree which is the stalavirucham of the Subramaniyaswamy Temple. They painted the Jain caves in



green and vandalized it. The State administration had remained as a mute spectator. It was restored back only after objections by the devotees and intervention of ASI. The act of vandalism committed by the Dharga trustees in connivance with the State, had never been protested by the Devasthanam. The intention of the trustees of Dharga to ameliorate all the remains in the hill, which are sacred to Hindus is obvious. The right of the Devasthanam, inspite of permanent injunction passed by the Civil Court and confirmed by Privy Council, had not been protected. The impugned order of the Learned Single Judge is only retrieval of old custom and not invention of new custom.

(ix) Mr. Palanivel Rajan, learned Senior Counsel, Smt. Anandavalli and Mr. M.R. Venkatesh appearing for the respondents made their oral submissions impressing upon us why the impugned judgement of the Learned Single Judge should be confirmed. The gist of their arguments is that, the judgement of this Court dated 21.11.1996 is a complete order, in which, the Court has directed to choose a new place in the hill to light the deepam in future and while choosing the place due regard to the nearness of the Dharga and the properties of the Dharga to be taken care and a buffer distance of 15 meters was also suggested by the Court. Without choosing a suitable place to light the lamp at the hill top and comply the order, the State as well as the Temple Devasthanam is drifting the issue



unnecessarily and designing communal disharmony. The prayer in the W.P.No. 18884 of 1994 is only to forbear lighting of Deepam on the top of the Hill where the Dharga is located. This issue cropped up when the Hindu Munnani Leader Rama.Gopalan, announced that he is intended to light deepam on the top of the hill, where the Sikkandar Dharga is located. In the said contest, this Court said in future the Devasthanam can consider lighting the lamp at any other place on the hill, but not within 15 meters from Dharga. The argument that there can be one hill and only one deepam is contrary to the judgment of this Court dated 21.11.1994 relied by the contesting appellants for all other purposes.

(x)(a)Mr.P.S.Raman, the Learned Advocate General, by way of reply, made clear the stand of the Government that as on today there is no empirical data available about the origin of the structure called 'Deepathoon'. The Revenue Department through its survey division, had initiated proceedings to know about stone pillars in Tirunelveli District and for the other parts of the State. In respect of Tiruparangudnram Hill, similar proceedings will be taken up in future. There is no evidence when the pillar was put up, by whom it was put up and for what purpose it was put up. In the Judgement, in O.S.No.04 of 1920 dated 25.08.1923, the learned Judge, Subordinate Court, had not mentioned anything about this pillar though he made inspection of the Hill. The only structure he noticed at the top of



the hill is the Dharga and the same is mentioned in paragraph No.41 of the judgment. He has specifically mentioned that the only sacred place is up to flight

**WEB COPY** steps on the summit of rock consisting of the mosque and its adjuncts. While so, the Learned Single Judge is not correct in observing that, '*the rejection letter of the EO saying there is no custom of lighting deepam at pillar is illegal*'.

(x)(b) The judgement of this Court reported in *AIR 1945 Mad 234* and cited by the Learned Judge only say, the worshippers are entitled to take part in usual manner in the festivals conducted usually at usual place. This judgement does not say anything about the power of the Court to direct the Temple authorities to conduct a ceremony or festival in an unusual manner. The Learned Judge strangely had ventured to find out 'what ought to be' thereby gone out of the domain of his jurisdiction.

(x)(c) Though there is no bar for filing writ petition, resorting to Section 63 (e) of the Act is the correct and only remedy for the respondents. The said act provides for 4 tier remedy and the Act being a build in code, it is appropriate for the respondents to ascertain the customary right through the law established.



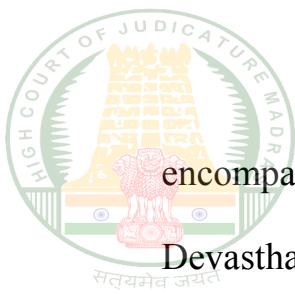
## 96. The summary of the oral and written submissions made on behalf of the respondents:

**WEB COPY** a) 'worshipper' means any person having interest within the meaning of Section 6(15) of the Act. The right of worshippers is protected under Article 25, 19(1)(a) and 29 of the Constitution of India. Hence, writ petition by any person interested in the affairs of the Temple is maintainable. He can file writ petition in his personal interest and need not file the writ petition as Public Interest Litigation.

b) The Learned Judge has not invented any new custom by directing the Devasthanam to light the lamp at Deepathoon. The order impugned is restoration of the custom already in existence.

c) The Deepathoon is not an ordinary granite stone pillar or survey stone as contended by the appellants. Neither it is Jain lamp pole. The Deepathoon has a cavity carved in such a way to hold the cotton stick (કર્પા) and oil (ગાંધોળા). The pillar has always been identified as 'Deepathoon' or 'Seegara thoon'.

d) Section 63(e) of the Act can be resorted only in case where any honour, emolument or perquisite is in dispute. The expression 'any other matter' cannot



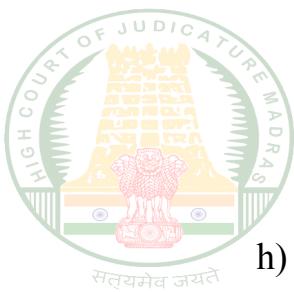
encompass the restoration of custom, deliberately failed to be followed by the Devasthanam for years together, despite Court's direction.

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e) The provisions of the Temple Entry Act, 1947 has no application to the dispute under consideration, since the Deepathoon is not within the Temple but in the open space on the hill.

f) The previous writ petitions and observations made there will not act as *res judiciata*. Regarding title and possession, the decree passed in the civil suit always prevail over the judgments passed in the writ petitions. None of the previous judgments have denied the right of a worshippers to seek an alternate site for lighting the deepam. The earlier writ petitioners were decided only upon the plea of the parties before it and the place those writ petitioner had chosen to light the lamp. The present writ petition alone is specific about the place of lighting the lamp.

g) None of the earlier judgements had reversed the direction of the single Judge passed in W.P.No.18884 of 1994. Whiles, the writ petitions filed to implement the said direction is well maintainable and the relief granted by the learned single judge is well within the power of a writ Court.



h) The relief sought in this writ petitions and the relief sought in the earlier **WEB COPY** writ petitions are different. The place to light deepam in the earlier writ petitions is not the same place, which is the subject matter of the writ petitions and the appeals thereof. The relief in W.P(MD)No.2277 of 2025 is entirely different. Taking animal to hill top and sacrificing it in the area protected under Ancient Monuments and Archaeological Sites and Remains Act, 1958 was the subject matter of W.P(MD)No.2277 of 2025. There is a specific bar under the Act prohibiting animal sacrifices. While so, in the writ petitions, which is the subject matter of the appeals, the relief is to light lamp on the pillar, which will be visible to the devotees residing around the hill. Such act does not fall under the list of prohibition mentioned in Ancient Monuments and Archaeological Sites and Remains Act, 1958.

i) The unreasonable and absolute restrain imposed by the state depriving the worshippers from lighting lamp at a place of choice owned by the Temple Devasthanam is violation of fundamental rights of the worshippers.

j) The Deepathoon meant for lighting lamp to the visibility of surrounding villages, is the most appropriate place to light the lamp during Karthigai Deepam



festival. In fact, lighting Maha Deepam at the motchadeepam pole, is against Agamasstra. It is always appropriate to light the mahadeepam during Karthigai

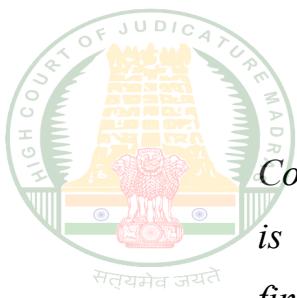
**WEB COPY** month at a vantage point visible to nearby villagers as far as possible.

k) Lighting deepam outside the Temple on one of the peak in the hill is not in violation of any ‘Agamasstra’. It is well settled by judicial pronouncements, that the essential practices and non-essential practices for a religion has to be considered, when faith and belief of worshippers is involved.

**97.** Before we pass on further, we feel it appropriate to recollect what the Hon’ble Judge of the Supreme Court in the Landmark judgement in “**Bandhua Mukti Morcha vs Union Of India & Others**” (1984 AIR 802), case said after citing the famous case in *Marbury v. Madison* as an example:

*“I do not mean to say that the Court should hesitate or falter or withdraw from the exercise of its jurisdiction. On the contrary, it must plainly do its duty under the Constitution. But I do say that in every case the Court should determine the true limits of its jurisdiction and, having done so, it should take care to remain within the restraints of its jurisdiction.*

*This aspect of Court action assumes especial significance in public interest litigation. It bears upon the legitimacy of the judicial institution, and that legitimacy is affected as much by the solution presented by the*



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*Court in resolving a controversy as by the manner in which the solution is reached. In an area of judicial functioning where judicial activism finds room for play, where constitutional adjudication can become an instrument of social policy forged by the personal political philosophy of the judge, this is an important consideration to keep in mind.”*

### **98. Efficacy of Alternate Remedy:**

(a) As rightly said by the Learned Advocate General, Mr.P.S.Raman, the Writ Petitions are maintainable, unless expressly barred under law. When no alternate relief is available or the alternate relief is not efficacious, the aggrieved person can seek for issuance of a order or direction in the nature of writ, however in this case when there is efficacious alternate four tier relief, writ petitions ought not to have been entertained.

(b) While considering the plea of alternate relief, the Hon'ble Supreme Court in *AIR 2023 SCC 781, in M/s. Godrej Sara Lee Ltd., V. Excise and Taxation Officer-cum-Assessing Authority and Ors.*, referring the earlier decisions reported in *(1977) 2 SCC 724 (State of Uttar Pradesh & ors. vs. Indian Hume Pipe Co. Ltd.)* and *(2000) 10 SCC 482 (Union of India vs. State of Haryana)* has held that:



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*.... a pure question of law is raised and if investigation into facts is unnecessary, the high Court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, Supreme Court would not interfere. In the latter decision, this Court found the issue raised by the appellant to be pristinely legal requiring determination by the high Court without putting the appellant through the mill of statutory appeals in the hierarchy'.*

(c) We find that, after a round of civil litigation regarding title and possession followed by few more ancillary civil litigations and several rounds of writ petitions, the issue in hand is intertwined by question of law, question of fact, faith, belief and customs.

(d) One of the prime contention on behalf of the appellants is that the prayer in the writ petition ought not to have been entertained. The issue regarding customs ought to have been decided as per the provisions of Act.

(e) Mr.P.S.Raman, Learned Advocate General for the State and Mr.A.K.Shriram, Learned Senior Counsel appearing for the HR & CE Department, referring to Sections 28 and 63 (e) of the Act, emphasized that, decision regarding change of custom to be taken only by the Board of Trustees. The writ petitioners



without impleading the Board of Trustees seek for change of custom. The remedy available to the writ petitioners is to first approach the Board of Trustees and then to file a petition before the Joint Commissioner of HR & CE Department. The Act being a complete code by itself and the act provides multi-tier remedy, the writ petitioners ought not to have rushed to the High Court invoking Article 226 of the Constitution of India.

(f) In support of this submission, they rely on the decision of a Division Bench of this Court in ***C.Rajamohan v. Commissioner & Another***, where a Public Interest Litigation filed by the petitioner, who wanted his representation regarding worship, came to be dismissed with the following observations:-

*“2. In the opinion of this Court, the Hindu Religious and Charitable Endowment Act is a self-contained Code and a mandamus of this nature in a public interest litigation cannot be issued. Hence, this Writ Petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. No costs. ’*

(g) Learned Advocate General for the State and Learned Counsel for the Commissioner of HR & CE Department referring the provisions of Act contended that the Act being a self-contained Code, the only and correct remedy is to invoke Section 63 (e) of the Act. Also, it is contended that under Section 28(1) of the



Act, the Board of Trustees (BoT) has to administer the affairs of the Temple in accordance with the terms of the Trust or the usage of the Institution. No request to the BoT for change of custom so far has been made.

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(h) Referring *Seshammal and Others Vs State of Tamil Nadu*, reported in **(1972) 2 SCC 11**, they contended that, when an amendment to Section 55 of the Act was brought in respect of appointment of Archagas, the Court upheld the amendment and held that the writ petition is not maintainable. The remedy lies under Section 63(e) of the Act. The amendment did away the hereditary right of succession to the office of Archakas and the same came to be challenged in the Writ petitions. In this case, the power of BoT envisaged under Section 28(1) of the Act has been discussed. In cases, which are essentially of religious nature and not secular, the power to decide is vested with the BoT. The decision of BoT can be challenged by petition to the authorities under Section 63(e) of the Act, further appeal to the Government and then Revision before the High Court.

#### **99. Section 28(1) of the Act says as follows :**

*"Subject to the provisions of the Tamil Nadu Temple Entry Authorization Act 1947, the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the*



trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own."

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**100.** In *Sessaammal's Case*, the Hon'ble Supreme Court, after considering the submissions of the then Advocate General for the Government of Tamilnadu, had observed that:

*"we have found no difficulty in agreeing with the learned Advocate General that section 28( 1 ) of. the Principal Act which directs the trustee to administer the affairs of the temple in accordance with terms of the trust or the usage of the institution, would control the appointment of the Archaka to be made by him under the amended section 55 of the Act. In a Saivite or a Vaishnavite temple the appointment of the Archaka will have to be made from a specified, denomination, sect or group in accordance with the directions of the Agamas governing those temples. Failure to do so would not only be contrary to section 28 (1) but would also interfere with a religious practice the inevitable result of which would be to defile the image. The question, however, remains whether the trustee, while making appointment from the specified denomination, sect or group in accordance with the Agamas, will be bound to follow the hereditary principle as a usage peculiar to the temple. The learned Advocate-General contends that there is no such invariable usage. It may be that, as a matter of convenience, an Archaka's son being readily available to perform the worship may have been selected for appointment as an Archaka from times immemorial. But that, in his submission, was not a usage. The principle of next-in-line of succession has failed when the successor was a female or had refused to accept*



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*the appointment or was under some disability. In all such cases the Archaka was appointed from the particular denomination, sect or group and the worship was carried on with the help of such a substitute. It, however, appears to us that it is now too late in the day to contend that the-hereditary principle in appointment was not a usage. For whatever reasons, whether of convenience or otherwise, this hereditary principle might have been adopted, there can be no doubt that the principle had been accepted from antiquity and had also been fully recognised in the unamended section 55 of the Principal Act. Sub-section (2) of section 55 provided that where the office or service is hereditary, the person next in the line of succession shall be entitled to succeed and only a limited right was given under-sub-section (3) to the trustee to appoint a substitute. Even in such cases the explanation to sub-section (3) provided that in making the appointment of the substitute the trustee should have, due regard to the claims of the members of the family, if any, entitled to the succession. Therefore, it cannot be denied as a fact that there are several temples in Tamil Nadu where the appointment of an Archaka is governed by the usage of hereditary succession. The real question, therefore, is whether such a usage should be regarded either as a secular usage or a religious usage. If it is a secular usage, it is obvious, legislation would be permissible under Article 25(1) (a) and if it is a religious usage it would be, permissible if it falls squarely under sub-section 25 (1) (b).”*

**101.** No one can have even an iota of doubt about the fact that lighting lamp at the hill on the full moon day of Tamil month, Karthigai is a religious usage and part of Tamil Culture. The said culture and usage is followed throughout the State and even in neighboring States from time immemorial. **Therefore we hold that,**



writ petitions seeking enforcement of a religious practice in protection of fundamental right deserve to be entertained.

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**102.** The prime reason to hold so is that the issue touches upon the religious freedom to profess and practice, which is protected under Article 25 (1) and also the freedom of expression protected under Article 19 (1) (a) as well as Article 29 (1) of the Constitution of India, which guarantees citizens of all sections, residing in the territory of India or any part thereof having a distinct language, script or culture of its own, shall have the right to conserve the same.

**103.** Learned Advocate General refers to an unreported judgment in ***W.P(MD)No.1133 of 2016 [The Government of Tamil Nadu, represented by its Principal Secretary, Tourism, Culture and Charitable Department, Chennai and others V.Saravana Pandian and others]***, a case related to the claim of the Temple poojari through a writ petition. The writ petitioner asserts his right over the proceeds of birds of animal offered to the deity as property of the poojari as per custom. The writ petition was dismissed holding that:

***” 76.The other grounds raised in the writ petitions are on the basis of the custom or practices that were in vogue. The Commissioner of Hindu Religious and Charitable Endowment Department and the third respondent namely the Fit***



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Person filed independent counter affidavits denying the contentions of the writ petitioner. The first respondent in his counter submitted that the third respondent decided to get permission from the Commissioner in order to augment the financial resources of the temple by selling the offerings of the devotees in the form of goat and cock to the deity of the temple through public auction-cum-tender from the fasli 1426. On the basis of the report submitted to the Commissioner through the Joint Commissioner who recommended the resolution of the Fit Person, the Commissioner by order dated 06.04.2016 permitted the Fit Person to conduct public auction-cum-tender for all four items including the item which relates to sell the goat and cock offered by the devotees to the deity of the temple. The first respondent specifically denied the contentions of the writ petitioner and submitted in his counter that all the offerings made by the devotees whether in cash or by kind belong to the deity of the temple concerned and that the poojari has no right in this offerings.

77. It was further submitted that similar contention of another poojari was negatived by this Court in W.P.(MD)No.9887 of 2016 with a liberty to the writ petitioner to work out their remedy under Section 63(e) of the Hindu Religious and Charitable Endowment Act, 1959. The Commissioner also relied upon some of the precedents defining the status of the poojari and the right of the temple to augment the financial resources of the temple by the process undertaken by the Fit Person in the impugned notification.

78. As contended by the first respondent in the counter affidavit, it is seen that the petitioner has no right to question the notification in his capacity as poojari. All the offerings made by the devotees whether in the form of cash or kind belong to the deity of the temple concerned and the writ petitioner as poojari has no right in any of the amount collected by way of selling the articles that were offered to the deity. It has been repeatedly pointed out by Courts that



*the offerings are only made to the deity and not to the poojaris or sevaks. The offerings that are made to the deities therefore cannot be the properties of the sevaks. Even if the petitioner has got any right, he can only approach the authorities to establish such right in terms of Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowment Act. Hence, the Writ Petition is wholly misconceived and liable to be dismissed. Accordingly, this Writ Petition (MD) No.10563 of 2016 is dismissed.”*

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**104.** Per contra, Thiru.Valliappan for the respondent/ writ petitioner referring the judgment reported in *(2007) 7 SCC 482, A.A.Gopalakrishnan V. Cochin Devaswom Board and Others*, contended that when the right or property of the Temple is misappropriated or getting ameliorated as in this case, alternative remedy is not efficacious and writ jurisdiction can be resorted. In the judgement cited, the Hon'ble Supreme Court has said:-

*“10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their Trustees/Archaks/Sebaits/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the concerned authorities. Such acts of 'fences eating the crops' should be dealt with sternly. The Government, members or trustees of Boards/Trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of Courts to protect and*

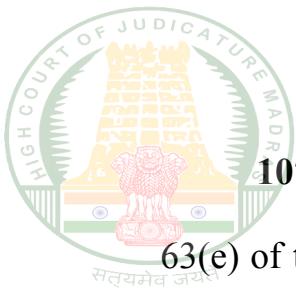


*safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation".*

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**105.**First of all, there is a conflicting view regarding the expression “any other matter” used in Section 63(e) of the Act. Whether it will include the issue of lighting deepam at the stone pillar is doubtful. Even if it so, the HR & CE Department and the Government having taken side expressly, will it not be a futile exercise to resort to Section 63(e) of the Act, particularly when the Department and the Government were not inclined to refer the matter for adjudication under Section 63(e) on all other previous occasion, when same or similar request emanated from the worshippers?.

**106.**The dispute is not a just an enforcement of custom; it is sufficiently demonstrated that it concerns the enforcement of fundamental right of worship and expression, as well as protection of culture. In such circumstances, taking note of the silence of the the authorities exhibited, consistently ignoring the plea of the worshippers for several years, requires interference under Article 226 of the Constitution of India.

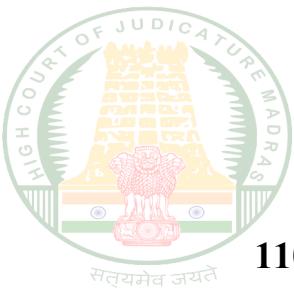


**107.** We find that, in this case, the alternate remedy of resorting to Section 63(e) of the Act, will only put the parties again to go through the mill of statutory

**WEB COPY** appeals in the hierarchy, which they have already undergone and fortified with a civil Court decree, which has determined their respective rights in the Thiruparankunram Hill and further protected by the observations of this Court in W.P.No.18884 of 1994. Hence, we hold that the issue, which has undergone judicial scrutiny in different forms for the past 100 years, needs to be resolved to maintain comity instead of keeping the fire live even without lighting the lamp. **Therefore, we hold that the alternate remedy of resorting to the provisions of Act is not efficacious.**

**108.** Whether the writ petitions suffer *res judicata* or constructive *res judicata*.

**109.** To ensure finality, to prevent vexatious litigation and to save judicial time, the principle of *res judicata* is incorporated under Section 11 of the Civil Procedure Code. The said principle is not restricted to civil disputes alone, but also applicable to other form of litigations including writs. As a public policy, fresh writ petitions on identical claims or issues that could have been raised earlier, are barred to restrict endless litigation and conflicting judgments.



**110. In *Kantaru Rajeevaru vs Indian Young Lawyers Association* reported**

**WEB COPY** in **AIRONLINE 2019 SC 1450**, the Hon'ble Supreme Court in the review petitions filed in connection with permitting women devotees of all ages to visit Iyyappan Temple in Sabarimala, Hon'ble Justice Nariman and Justice D.Y.Chandrachud, had held that:

*“as a matter of law, there is no doubt whatsoever that res judicata as a principle does apply to public interest litigation. However, this Court in *V. Purushotham Rao v. Union of India & Ors.*, (2001) 10 SCC 305, set out the law as stated in *Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp. (1) SCC 504, which it followed, and stated:*

*“We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the Court. Even if it is said that there was a final order, in a dispute of this type it would be difficult to entertain the plea of res judicata.*

*Thus even in the selfsame proceeding, the earlier order though final, was treated not to create a bar inasmuch as the controversy before the Court was of grave public interest. The learned counsel appearing for the appellants drew our attention to the decision of this Court in the case of *Forward Construction Co. v. Prabhat Mandal*, AIR 1986 SC 391, whereunder the Court did record a conclusion that Section 11 of the Civil Procedure Code applied to public interest litigation. In our considered opinion, therefore, the principle of constructive res judicata cannot be made applicable in each and every public interest litigation,*



*irrespective of the nature of litigation itself and its impact on the society and the larger public interest which is being served.”*

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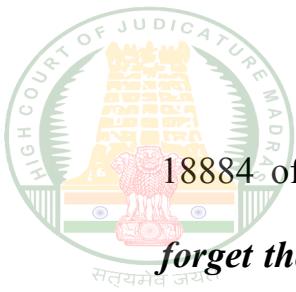
**111.** We, in this judgment under the caption, ‘**Previous litigations-Findings of the Courts**’, had at length, discussed and had the relief sought in the earlier litigations and the judgments rendered by the Courts, not a bar for the prayer sought in the present set of writ petitions. Avoiding repetition, we recapitulate that, the Suit in O.S.No.04 of 1920 is in respect of title, recovery of possession and injunction. In the said suit, the Court has identified Nelliithope, flight of steps, Dharga and flagstaff as properties of 'Dharga' and rest of the hill as property of 'Devasthanam'. The summit at the top of the hill is the area, where the Dharga is located. The stone pillar, upon which the deepam sought to be lit is on a different rock at the lower summit. The Sub-Court had excluded only the Dharga and flagstaff located on the top of the Hill. The rest of the unoccupied hill belongs to Devasthanam. Therefore, the finding of the civil Court in O.S.No. 04 of 1920 cannot be a bar for the present writ petitions, which are for enforcing the right declared in the suit.



**112.** The Learned Judge in the impugned order, had recorded the admission of the Learned Counsel for the Temple that the pillar is screened with cloth by the Devasthanam authorities to prevent devotees lighting lamp on it. To put it in other

words, it is a proof of the fact that the pillar is the property of the Temple and under the control of the Temple. Likewise, examining the earlier litigations one by one, we find that the prayer to light the lamp in the pillar owned by the Temple as a religious practice had never been decided in negative in any of the suits or writ petitions disposed earlier.

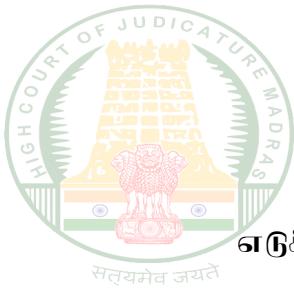
**113.** In W.P.No.18884 of 1994, prayer is to forebear the 7th respondent from lighting deepam at the top of the hill. This Court after recording the claim of the 7th respondent (Hindu Munnani) had given direction to light the deepam in the marked portion as usual, with liberty to the worshippers to request for lighting deepam at any other place on the hill in future. The judgement had fixed a corresponding obligation on the Devasthanam to consider any such request, if made in future. The 15 meters restriction, as a buffer, is to avoid any damage to the Dharga structure and is only a suggestive direction. This judgement in fact, is the cause of action for the present batch of writ petitions. The judgement in W.P.No. 18884 of 1994 had only given a temporary solution for the dispute and left open for the future to decide the place of lighting the deepam. In W.P.No.



18884 of 1994, the Learned Judge had recorded his hope saying, '***one cannot forget the fact that the Hindu and Muslim dispute is a historical one and it is a perennial dispute which only history can solve***'. He also further recorded that,

***"Court can only find superficial and temporary remedies. That is what I have attempted in giving the following directions in the writ petition". Therefore the 4 directions in the W.P.No.18884 of 1994 is absolutely a superficial and temporary remedy which cannot be equated to an order attained finality.***

114.W.P(MD)No.19171 of 2014 by one Ganesan is for issuance of certiorarified mandamus to quash the order of the Superintendent of Police, who declined permission to the writ petitioner Sabha to light deepam on the top of the 'Kuditrai sunai Thittu'. The said writ petition was dismissed upholding the impugned order of the Police refusing permission to light deepam at "Kuthirai Sunai Thittu." In this case, there is no plea by the writ petitioner that he requested the Devasthanam or Board of Trustees to light the lamp at the place of his choice or refusal by the Devasthanam or Board of Trustees. However, in this judgment at paragraph No.14, the Learned Judge had extracted the Peace Committee Meeting held on 25.11.2014 in connection with conducting the Karthigai Deepam festival on 05.12.2014, which is extracted hereunder for appreciation of rival contentions:



“இன்று 25.11.2014 நடைபெற்ற சமாதானக் கூட்டத்தில்

ஏடுக்கப்பட்ட முடிவுகள் வருமாறு:

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7. திருப்பரங்குன்றம் வட்டம் திருப்பரங்குன்றம் கிராமத்தில் உள்ள அ/மி. சுப்பிரமணிய கவாமி திருக்கோவில் மலையில் வரும் 05.12.2014 - ம் கேதி சென்ற ஆண்டில் தீபம் ஏற்றும் இடமான உச்சியிள்ளையார் கோவில் மண்டபத்தில் கடந்த ஆண்டுகளைப்போலேயே இந்த ஆண்டும் திருக்கார்த்திகை தீபம் ஏற்ற தீர்மானிக்கப்பட்டது.

8. அடுத்து வரும் ஆண்டில் மலை உச்சில் உள்ள தீபத்துரை தீபம் ஏற்றும் வகையில் 1996 - ம் ஆண்டு உயர்நிதிமன்ற தீர்ப்பின்படியும் இந்து முன்னணி மற்றும் பாரதிய ஜனதா கட்சியினர் மற்றும் பக்தர்களின் கோரிக்கை தொடர்பாகவும் அரசுக்கு ஒரு மாத காலத்திற்குள் தொல்வித்து ஒரு குழு அமைத்து மாவட்ட ஆட்சித்தலைவர் முலமாக இந்து சமய அறநிலையத்துறை ஆணையருக்கும் அரசுசெயலநூக்கும் அறிக்கை அனுப்பி அரசின் முடிவின்படி நடந்து கொள்வது என தீர்மானிக்கப்பட்டது.

115. The proceedings of the RDO, indicated that it had been resolved to take decision about lighting Deepam on the Deepathoon at the top of the hill from forthcoming year by constituting a Committee within a month and communicate to the Government through the District Collector. We note that even after a decade, nothing happened thereafter and no decision had been taken by the Government



about lighting of deepam during the Karthigai deepam festival at the Deepathoon

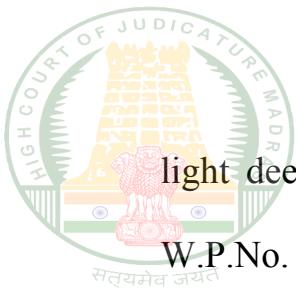
found on the hill top.

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**116.**W.P(MD)No.19422 of 2014 is a contemporaneous writ petition to the above writ petition in W.P.(MD)No.19121 of 2014. This writ was disposed on the same day by the same Learned Judge. In this writ petition, the petitioner V.Subramanian, prayed for a direction to light the karthigaideepam at any other place other than at Motchadeepam, since lighting karthigaideepam at motchadeepam is contrary to Agamasashtra. This writ petition was dismissed by concluding that the petitioner has not established that he has a legal right, which entitles him to seek enforcement and further the Temple has made arrangements as per the procedure prevailing in previous years in regard to the lighting of deepam on 05.12.2014. He has not expatiated how the lighting of 'Deepam' is against 'Agamasastras'. As such the writ petition filed by the petitioner is devoid of merits and same fails.

**117.**In the appeal in W.A(MD)No.1524 of 2014 dated 07.12.2017 against the writ petition W.P(MD)No.19422 of 2014 filed by V.Subramanian, the Division Bench had only considered whether the place, in which the deepam is lighted presently, is in compliance of agamasashtra or not. The right of a worshipper to



light deepam at any other place in the hill, left open by the Learned Judge in W.P.No. 18884 of 1994 had never been discussed or decided. Similarly, in W.A. WEB COPY (MD)No. 1442 of 2014 filed against the order in W.P.(MD) No.19371 of 2014 filed by Ganesan, the Vice President of Akila Bharatha Hindu Sabha, the Division Bench in its order dated 19.07.2017, dismissed the appeal saying, “.... *It is for the Temple Authorities to appropriate action in compliance with the order passed by this Court in WP No: 18884/1994, dated 21/11/1996. Certainly law and order is an issue to be kept in mind while do so. After all, the object is to see that peace and tranquility is being maintained and for the aforesaid purpose the onus is on the respondents. Thus, the writ appeal stands disposed of by observing that the temple authorities namely the third respondent (Deputy Commissioner/ Executive Officer, A/M Subramaniya Swamy Thirukoil, Thiruparankundram) will take appropriate action to see to it communal harmony is maintained.*” The said observation again reiterates the fact that, the issue of lighting deepam at a alternate place never decided and left open for the Temple authorities to take a decision keeping in mind communal harmony.

**118.** W.P(MD)No.1001 of 2021 by one Y.Ozeer Khan is for mandamus to quash the proceedings of the peace meeting dated 25.06.2021. The writ petitioner alleging that on a false complaint by some Hindu Fanatic Organization, the



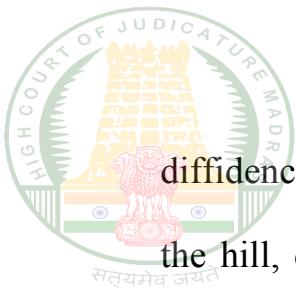
Revenue Divisional Officer had invited for a peace meeting and without giving opportunity, passed the impugned proceedings. The Assistant

**WEB COPY** Commissioner/Executive Officer of the Temple in his counter stated that the writ petitioner had put up iron pole to hoist flag in the area which belong to the Devasthanam. On coming to know about the act of aggression committed by the trustess of 'Dharga', complaint was given to the Police and after inspection, the police being satisfied about the illegal act of the writ petitioner, the flag pole was removed. A flag with crescent, tied to the tree by the Dharga Trustees. On subjective satisfaction to avert breach of peace, the impugned proceedings was issued. Recording the rival submissions, the Learned Judge vide his order dated 04.08.2021 had opined that the situs of the proposed place of erecting flagstaff of the Dharga is a contentious issue, so to prevent breach of peace, the impugned order been passed by the Inspector of Police. There is no illegality in the proceedings. The Learned Judge after noticing the fact the boundary of the Dharga area not surveyed and demarked, to settle the issue and set it at rest forever suggested to survey the Dharga portion. Though petitioner and the Devastahanam had agreed, the Learned Additional Advocate General representing the Government had expressed apprehension, that measuring the area may not be appropriate at this point of time, which may invite, so many litigations and controversy.



**119.** This writ petition by Mr. Y. Ozeer Khan is unconnected to the issue in hand. The finding in this case also not in respect of lighting deepam at the Deepathoon. However from this case, two vital facts necessary for a decision in this case had come to light. First, the attempt by Dharga representatives to change the physical feature of the Dharga area by shifting the flagstaff, by tying it with a near by tree. Next, the Government refusal to measure the area and demark it. This is a clear indication that the Government is not inclined to give a quietus to the perennial problem.

**120.** The Government failure to bring about comity among the two communities but to keep the line of separation is once again exhibited and recorded by this Court in the subsequent judgment rendered by the Third Judge after split verdict by the Division Bench. That Judgement is W.P(MD)No.2277 of 2014 filed by one M.Kannan @ Solai Kannan, the writ petitioner, on noticing attempt to carry animal sacrifice in the Thiruparankundram Hill, which is considered as a sacred place for Hindus, sought for issuance of writ of Mandamus directing the authorities to prevent any animal sacrifices in entire Thiruparankundram Hill and also from serving food prepared by animal sacrifice. The Third Judge, to whom the matter referred, had recorded the character of the hill and the role of ASI. Further, the Learned Judge had also recorded the



difference of the State Government to permit the ASI to conduct joint survey of the hill, despite repeated request. The observations of the Learned Judge speaks

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*“95.Two Notification issued by Archaeological Survey of India on 29.07.1908 and 07.01.2023 declare that 172.2 acres of land as protected monuments. In fact, it covers almost the entire hillock.*

*96.As per Rule 8(g) of Ancient Monuments and Archaeological Sites and Remains Rules 1959 bringing any animal for any purpose other than the maintenance of monuments is a prohibited act. As per Rule 8(c) of the said Rules, cooking or consuming of food is also prohibited except where it is permitted specifically.*

*97.The A.S.I Department has addressed a communication to the District Collector, Madurai on 25.01.2025 pointing out htat cavern with Pancha Pandava beds on the western slope of the hills and similar beds behind the Sikkandar mosque on the top and Rock cut cave at Thiruparankundram are protected monuments. The ASI Department had sought the attention of the District Collector to issue suitable directions for conducting a joint survey to demarcate as per the scheduled boundaries in the Gazette notification issued in the year 1908 and 1923. This letter has been followed up by another letter to the District Collector on 18.02.2025. Therefore, it is clear that so far the revenue officials have not co-operated with the ASI Department for demarcating the protected monuments area which spreads over more than 172 acres in the hillock which house two protected monuments. In such circumstances, even assuming that the Dhargah Administration is the owner of the Sikkantgar Mosque and Nellihippu area, in the light of Rule 8 of Ancient Monuments and Archaeological Sites and Remains Rules, 1959, the Dhargah*



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*Administration cannot be permitted to perform any animal sacrifice without the permission of the Archaeological Survey of India Department. Any such permission would be in violation of ASI Act. Therefore, as on today, there is a statutory bar against the traditional practice of animal sacrifice over the Thiruparankundram Hillock.*

*98. As per the judgment of the Civil Court, the traditional steps leading to Nellithoppu area belong to the temple Devasthanam. These footsetps cut across the Nellithoppu area to reach Kasi Viswanathar Temple. It is also brought to the notice of the Court that 'Vel' from Subramaniaswamy Temple Thiruparankundram is been taken, for dipping the same in Kovil Theertham at Kasi Vishwanathar Temple. It is carried through the traditional path across the Nellithoppu area during festival season. Therefore, Subramaniaswamy Temple and Kasi Vishwanathar Temple are connected to each other and hence, it clearly impinges upon the religious practice of one community, if animal sacrifice is permitted."*

**121.** No doubt, in the cases mentioned above there is reference about the civil Court decree passed in O.S.No.4 of 1920 and the judgement in W.P.No. 18884 of 1994, but that is not sufficient to declare the present writ petitions are hit by the principle of *Res judicata* or *constructive Res judicata*. The Supreme Court Judgment in the Sabarimala case cited supra, had clarified that, the principle of *res judicata* is applicable to writ petitions also, but when a matter of grave public importance is for consideration before the Court, technicality in the procedural law is not available as a defence. The Hon'ble Supreme Court had gone to the extend



of saying,” even in the selfsame proceeding, the earlier order though final, was treated not to create a bar inasmuch as the controversy before the Court was of

**WEB COPY** grave public interest. Thus, even if it is said that there was a final order, in a dispute of this type it would be difficult to entertain the plea of *res judicata*. Nonetheless, from the extracts of the prior litigation and the findings , it is demonstrated that there was no final order in any of the earlier proceedings passed in the matter of lighting deepam at a place other than the place traditionally lighted. Therefore by no stretch, the defence of *res judicata* available to the appellants.

## **122. Agama Sastra:**

The cave Temple of Arulmigu Subramaniyaswami at Thirparankundram foothill and the Kasiviswanathar Temple on the hill are Temples of Saivaites. For Shaivism, the source of Agamashastras are the sacred texts namely, Paniru Thirumurai (பாநிரு திருமுறை) and Maikanda Sasthiram (மெய்கண்ட சாத்திரம்). It is believed that they are the direct teachings of Lord Shiva; they are the scriptures that explain philosophies, worship methods, Temple construction, yogic practices, and the path to spiritual liberation. Paniru Thirumurai (12 sets of spiritual text ) is compilation of work by Saiva Saints lived at different period. Thirumurai 1 to 9 deals with prayers (தோத்திரம்). The 10th Thirumurai is ‘Thirumanthiram ‘by the



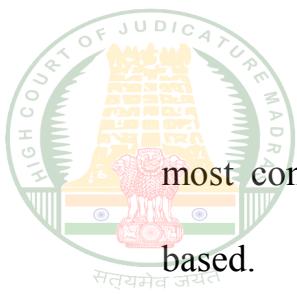
Saint Thirumoolar which speaks about Sastram (சாத்திரம்). ‘Mikanda Shstaram’ is a collection of 14 texts and important among it is ‘Sivagnan Botham’. These

**WEB COPY** texts in Tamil language speaks about prayers (தோத்திரம்) and customs (சாத்திரம்).

The Vedic canon of Shaivism contains four parts and they are Gnana neri, Yoga neri, Kriya neri and Charya neri .( ‘Neri’ in Tamil means ‘Principle’ or 'tenets' approximately)

**123. Gnana Neri** (Knowledge) explains philosophical wisdom about the nature of the universe and ultimate truth. **Yoga Neri** (meditation) describes the mental exercises and methods for mental purity necessary to understand wisdom and connect with nature. **Kriya Neri** (ritual), explains practical worship methods such as Temple construction, design of idols, consecration, and daily rituals and **Charya Neri** (daily rites), describes the rules and duties to be followed in initiation, devotion, social and domestic life. In Saiva Siddhantham, there are **28 Mula Agamas** and these Agamas of Shaivism incorporate various philosophies such as Dualism, Qualified Monism, and Monism.

**124.** Exponents in Hindu Sastra say, *Japa, homa, dhyana* and *Archa* are the four methods of approaching the divine; and of these, the *Archa* (worship) is the



most comprehensive method. This is the faith on which the *Agama shastra* is

based.

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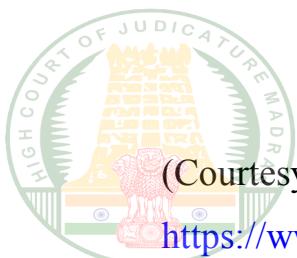
**125.** The worship of Gods is of two modes: iconic (*sa-murta*) and non-iconic (*a-murta*). The Yajna, the worship of the divine through fire, is *a-murta*; while the worship offered to an icon is *sa-murta*.. (Source: Sreenivasarao's blogs-  
<https://srenivasaraos.com.agama-shastra>), says:

Back to Thirumoolar – Thirumandiram verse 2860

சுத்தாம் சுத்தாம் சுதானந்தம் தானாகி  
சுத்திய ஞானத் தனிப்போடுள்  
ஆனந்தம் சித்தத்தில் நில்லாச் சிவானந்தப் பேராளி  
சுத்தப் பிரம துரியம் துரியத்துள்  
உம்த்து துரியத்து உறும் பேராளியே.

### English translation of verse 2860:

Satya-Jnana Bliss is He  
It is Sivananda light;  
That surpasses Thought;  
It is Pure Brahma Turiya;  
It is Turiya beyond Turiya;  
In it arises the Light Transcendental.



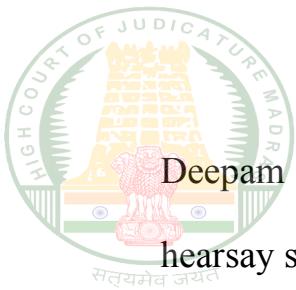
(Courtesy: Tamil Wisdom Library : at

<https://www.wisdomlib.org/hinduism/book/tirumantiram-by-tirumular-english-translation>

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The free translation of this rhyme is roughly, 'Sivam- is personification of Sat-Shid and anandam called Satchidanandam. For he who removes the dirt of maya from his thoughts, the Lord Siva will be seen by him as '**great light**'.

**126.**Therefore, the practice of lighting deepam at a conspicuous place for worship by Saivites on a auspicious day is not uncommon custom. From our limited research on this subject we are not able to find out any Agamasastram in Saiva Siddantha texts like Thirumandiram or Maikanda Sasthiram which says Deepam on auspicious day should be lit only straight on the top of the deity. The Government rely on the opinion of the Sthanikars to buttress its stand that the present place of lighting the lamp is according to Agama Sastra and lighting deepam elsewhere is contrary to Agama Sastra. Also, it is stated across the bar by some of the Counsels for the appellants that the present pillar near Uchipillaiyar Temple is straight up to the Sanctum sanctorum (Moolasthanam) of Subramaniyasamy deity. Therefore, this is the appropriate place to light the



Deepam and same is in practice for more than 100 years. We find that only hearsay statements are relied and no textual support for this argument.

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**127.**Contrarily, in Thiruvannamalai and Thiruchirapalli, deepam is lighted on the hill top, at a conspicuous place for the worshippers from the plain can see. The point of lighting lamp are not straight to the head of the deity at Moolasthanam. In fact, at Thiruvannamalai, the Mahadeepam is lighted on one of the five peaks, which is atleast  $45^{\circ}$  away from the Sanctum sanctorum. At Thiruchirapalli, the Thayumannar Swamy Temple is in the middle of the hill. Like, Thiruparankundram is also a cave Temple. Like Thirupankundram, even in Thiruchi Malaikottai, Jain rock beds are seen on the way to Uchipillaiyar Temple. On the top of the hill, Uchipillaiyar Temple is located. On a rock lower to the right of the Temple, the lamp pillar is erected to light lamp on auspicious day. This location is also not on the head of the deity in the straight Sanctum Sanctorum of Thayumanvar Sannathi.

**128.**What we stated above is only to demonstrate that the contention of the Government and Devasthanam that the present place of lighting the Mahadeepam is in tune with Agama Sastra since it fall straight on the top of the deity in the Sanctum Sanctorum is not a correct reasoning for refusal to consider the request of



the Worshipper for choosing a place in the Hill visible for the worshippers gather

at the Temple on the festival day also for the residences living around the hill. We

**WEB COPY** are also bound to record that the place at which presently the Devastham is lighting the Deepam , though called as Uchipillaiyar Temple. Admittedly, that place is not the Uchi ( Top of the hill ) nor there is any Pillaiyar idol

**129.**Even according to the Joint Commissioner, HR & CE Department in his counter affidavit filed in W.P.(MD)No.32317 of 2025, his response to the request of the writ petitioner to light the lamp at deepathoon is as under:

*“Thoon (Pillar): The deepam is not lit on a stone pillar. The legend of Karthigai Deepam itself is based on Lord Shiva appearing as an infinite, towering pillar of fire (Jyotirlinga) whose ends could not be found by Lord Brahma and Lord Vishnu. The actual lighting is done in the kopparai to physically manifest this divine fire on the hill.*

*The use of the kopparai for the main “Maha Deepam” is a specific ritualistic requirement for this grand temple festival, symbolizing the boundless nature of Lord Shiva's fiery form.*

*In ancient times, the tall deepastambham allowed devotees who were far from the temple to see the light and feel a connection to the deity, thus receiving the feeling of “darshan”.*



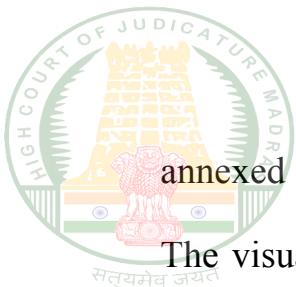
*The pillar structure is also considered a spiritual connector between the earth and the heavens, and sometimes used to absorb lighting, safeguarding the temple premises."*

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**130.**Therefore, we hold that there is no material to substantiate the existence of any Agamasstra, which prohibits lighting the Mahadeepam only at the place called as Uchipuillar Temple and not at any other place on the hill. The Devasthanam and the Government without any valid reason had pre-closed their mind and not inclined to choose a place on the hill which will serve the purpose of lighting lamp on the auspicious day. Their apprehension that change in place of lighting lamp other than the place identified by the Court in its order in W.P.No. 18884 of 1994 will lead to disturbance to public order is ill-found. The State administration had failed to take note of the observations made by the Learned Judge in clauses 2 and 4 of the judgment.

**131. Stone Pillar:Whether it is Survey stone or Lamp pillar (Deepathoon):**

The picture marked as 'A' and annexed to this judgment is the aerial view of the Thiruparankundram hill submitted by the Learned Counsel appearing for the District Collect. It is the google map taken recently. The picture marked as B and



annexed to this judgment is the stone pillar below the Dharga on a different rock.

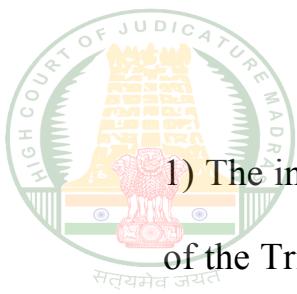
The visual clearly indicated it is a rectangular stone pillar chiselled with design.

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The pillar is pegged on a larger rectangle base of two layer granite slabs. All four corners as well as the bottom and top of the pillar is found with projected carved design.

**132.**Mr.Vanchinathan, who claims that the pillar is a survey stone, circulated selected pages from the Book published in the year 1879, titled Account of the operation of “ The Great Trigonometrical Survey of India” – Volume II, by Colonel J.T.Walker, Surveyor General Of India and Superintendent of the Survey and his Assistants, vididly explains how the survey was conducted across the country and the method adopted for different terrains for carrying out the survey work for mapping India from Himalayas to the southern tip of the peninsular. Below is the extract of relevant portions in that book which throw adequate information about the survey stones (mark sonde) laid by the team at different terrain particularly at hill stations. This clear all doubt about the nature of the stone pillar found in Thiruparankunram (***Pic. Annexure B***).

**133.(a)**Chapter II in this book speaks about the preliminary operations of selecting and constructing Stations. This chapter is divided into 4 sub headings viz



1) The influence of the Physical Geography and Climate of India on the operation of the Triangulation, 2) The designs of the parts of triangulations, 3) The selection of Stations and 4) The construction of the Stations.

(b) Under the 4<sup>th</sup> sub heading, Construction of the stations, the author says, for many years no structure were purposely fabricated for the stations of this Survey. Every station was marked by a dot with a concentric circle, which was engraved on solid rock *in situ*. Whenever practicable, and on the surfaces of the masonry Temples or other permanent buildings on which the instruments were occasionally set up; or mark was engraved on a substantial stone inserted in the ground, on hills and mounds and on the *terre-plains* of forts. where solid rock was not met with. The points thus marked were afterwards covered over with cairns of stones or piles of earth, which served the double purpose of protecting them from injury and indicating where they were to be found.

(c) Subsequently, the necessity arose for raising stations to a considerable heights above the level of ground, and then a mark-stone was inserted in the ground and a platform built over it up to the required height, when another mark-stone was inserted on the top, in the normal of one below. These structures were always made of such materials as were available on the spot, sometimes of blocks of stone, sometimes of dry earth, but more frequently of mud formed by mixing



water with the tenacious clay which abounds in many parts of India, after the manner of the natives in the construction of their mud forts, which are well known

**WEB COPY** to be exceedingly durable.

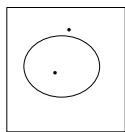
(d) After describing how stations at Meridional Arc of India was constructed by Colonel Everest and some of the details about structure of the station erected in various parts of India since the year 1852, he proceeds describing how stations built in Lower Bengal, which are always damp and humid and liable to heavy falls of rain during the working seasons. The construction used to be in a form of a hollow rectangular tower built of masonry, with the pillar resting on beams let into either of the two opposite walls, near their summit, while the platform for the observer rests on beams fixed at right angles to the former in the two other walls, the mark-stones being contained in a pillar in the ground placed vertically below that for the instrument. In other parts of Bengal, bamboos have been plentiful, while burnt bricks have been difficult to procure in the neighbourhood or to construct on the spot, bricks have therefore only been obtained in sufficient quantities for the construction of the pillar, and the surrounding platform has been fabricated of bamboos and matting. In the drier climates of the Panjab and the North-West Provinces, the platform is usually built of sun dried bricks, moulded on the spot; and occasionally clods of earth, faggots



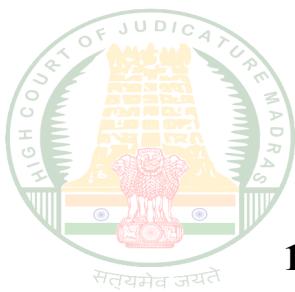
of wood, or any other materials which were serviceable and handy, have been employed.

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(e) Then comes his description about stations on hills. He says, "the stations on hills are usually much easier to construct than those on the plains, as their height is comparatively small; but on the other hand a considerable amount of labor has frequently to be incurred in widening the paths leading to the summits of the hills, and cutting down the branches of trees overhanging them, or in making new paths where none previously existed, for the great theodolites to be carried over.



(f) The station mark, viz, a dot surrounded by a concentric circle, has---it is believed---been employed at every station of this Survey, without exception, in the early operations under Colonel Lambton as well as in all the subsequent operations; it is invariably graven with a chisel on the solid rock in situ, whenever practicable, and on the mark-stones, or on the mark-bricks which are employed in parts of the country where stones are very scarce and valuable and consequently are liable to be stolen.



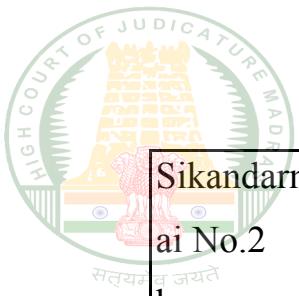
**134.** In Synopsis of the Results of the Operations of the Great Trigonometrical Survey of India, the Great Arc – section  $8^{\circ}$  to  $18^{\circ}$  or Series A of the Southern Trigon Volume XXIX, prepared in the office of the Trigonometrical branch, survey of India, by Lt.Col. St. G.C.Gore, R.E. Superintendent of Trigonometrical Surveys, in Charge published in the year 1899. Mentions two stations located in the subject peak and is describes it Geographical location and height as below:

Name of the station or point	District	Description	Latitude North °, ''	Longitude East of Greenwich °, ''	Height of station Height of Structure s, feet	No. of Triang le



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Sikandarmal ai No.1 h.s ..	Madura	On an isolated rocky hill about 550 to 600 feet high and on the high road from Madura to Sevalpati, at the E. end of a large tank, about a mile N. of the village of Nellayúr, 4 miles 8.W. of Madura, and 6 miles N.E. of the town of Tirumangalam: táluk Madura. The station is marked by a circle and dot engraved on the rock in situ, towards the N.W. side of the summit, and about 50 yards N.N.W. of the mosque on the top of the hill. 1871.	9 52 31 37	78 6'39 29	1052	599 600
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Sikandarmalai No.2 h.s..... Sekundarmanili S.	“	On a well-known rocky hill, about 53 yards S.E. of Sikandarmalai No. 1 hs.: taluk Madura. The station is marked nearly in the centre of the platform of the mosque on the summit of the hill. 1808-9.	9 52 29 95	78 640 04	1070	2005
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**135.** The two stations mentioned on this hill are 1) One an isolated rocky hill about 550 to 600 feet high marked by a circle and dot engraved on the rock in situ, and 2) on the centre of the platform of the mosque on the summit of the hill. Except circle and dot mark engraved on the rock in situ and the platform of the mosque on the summit of the hill, nothing mentioned about any mark stone pegged at the station. The kind of mark stones at hill stations is vividly described by the Author in his book which is the most authenticated record about the survey in India carried by Britishers. On comparing the said description of mark stones and the picture of the subject pillar found in The Thiruparankundram hill, it is apparently carries distinct features with carvings on either end in addition a bowl shape on the top. This eliminates the calculated campaign launched by some of the



private individuals that the pillar is only a mark stone left behind by the survey department of Britishraj.

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**136.** The Government and the Officials of HR & CE Department have a different theory to say about this pillar. One of the Senior Counsel appearing for the District Collector claims that it is a granite stone, but what purpose it stands there, the Government knows nothing. Another learned Senior Counsel appearing for the HR & CE Department claims that, it is no doubt a lamp post. However it was not used by the Hindus for lighting deepam during the Karthigaideepam, but it was a lamp post for the Jain monks who used to gather in night for discussion. Photograph of similar pillar at nearby Samanar malai shown to the Court by the Learned Counsel to buttress his submission. The Learned counsels for the respondents, produced few more photographs of stone pillars at various hill Temples in Tamilnadu where the devotees light deepam during festival days.

**137.** Thus, from the subsequent submissions of the State Administration as well as the HR & CE Department, we are certain that they don't subscribe the version projected by some of the private appellants that the structure is a mark stone. In fact, they cannot claim so, when the distinct features found in the subject



pillar does not tally with the mark stone described by the Surveyor General of India, who was the senior most official of the then survey Department.

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**138.** Though much said about the learned Judge more than his judgment, the core grievance of the appellant is, they were not given enough time to put forth their case. Hardly few days was given to them to file counter and substantiate their case. This is contrary to Rules. By affording opportunity and not refusing them to raise plea, which are not found in their counter affidavit in the Writ petitions, the grievance put forth before us is substantially redressed.

**139.** Nonetheless, Learned Senior Advocate Mr.T.Mohan in his inimitable style stated that, even if adequate opportunity is given at the appellate stage, it will not equate the deprived opportunity in the Court of first instance. We do agree with him to a limited extent, but this statement is more applicable for civil cases, where the trial Court frame issues based on pleadings and record evidence. Beyond pleadings nothing more can be canvassed in a civil suit. The trial Court records evidence with all restrictions under the Indian Evidence Act and the Court has the fortune of observing the demeanor of the witnesses. On appeal, nothing more is permitted to add or improve without leave. Therefore, if fair opportunity is denied by the trial Court, the prejudice is serious. Whereas in a writ jurisdiction, it



is the records placed in support of the affidavits are appreciated and even without affidavits, the records placed are considered. At the appellate stage also, new

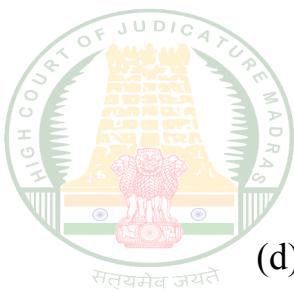
**WEB COPY** documents are entertained without much hassle. Appeal being continuation of the writ, in this case, we have entertained all the pleas and documents whether or not placed before the Single Judge and have considered the same afresh and at length. Hence, the appellants cannot have any grievance on this count.

#### **140. Conclusion:**

(a)The reliefs sought in the present writ petitions not determined in the earlier litigations. Hence, the writ petitions are not hit by res judicata.

(b)Petition to the Joint Commissioner, HR & CE Department under Section 63(e) of the Act, is neither an alternate remedy nor an efficacious remedy.

(c)Till the end, the appellants have failed to produce formidable evidence to show that Agama Sastra of Saivites prohibits lighting lamp at a place which is not straight on top of the deity in Sanctum sanctorum; nor it is the case of the Devasthanam or the Government that lighting deepam is not a custom prevailing in Thirupankundram Hill.



**WEB COPY** (d)It is ridiculous and hard to believe the fear of the mighty State that by

allowing representatives of the Devasthanam to light the lamp at the stone pillar near top of the hill located within its territory of devasthanam land, on a particular day in a year, will cause disturbance to public peace. Of course, it may happen only if such disturbance is sponsored by the State itself. We pray no State should stoop to that level to achieve their political agenda.

(e)The stone pillar with provision to light lamp, in Tamil called as 'Deepathoon'. The location of the pillar is in the portion of the hill declared by a competent civil Court as property of the Devasthanam. The Waqf Board, as on date have no locus in this matter. For the first time in the course of argument in the intra Court appeals, on behalf of the Waqf a mischievous submission was made that the lamp pillar belongs to Dharga. This plea we would say, had deterred and added yet another reason for the other side to be skeptical about the offer made by the Waqf Board for Court monitoring mediation.

(f)This Court in W.P.No.18884 of 1994 had given liberty to the worshippers to seek change of place for lighting Deepam at any other part of the hill owned by the Devasthanam with restriction of 15 meters from the Dharga property to ensure

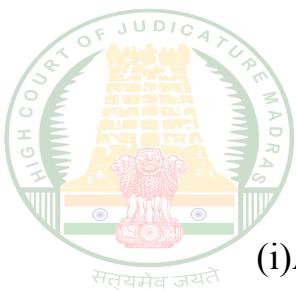


safety to the property. The spirit of the direction is to ensure safety. Therefore, we clarify that the distance restriction suggested by the Learned Judge is not a *sine*

**WEB COPY** *quo non* to fix the place of lighting the Deepam. The safety of the Dharga property alone is *sine quo non* while fixing the alternate or additional place of lighting the Deepam lamp.

(g) Being at vantage point, the stone Pillar called as Deepathoon, which is on the different rock summit and lower to the peak on which the Dharga located, is the ideal place to light Deepam. Religious practices always carry a purpose. The practice of lighting deepam at a elevated place during Karthikaideepam festival and other festivals is for the devotees at the foothill and its surrounding to see and worship.

(h) As Saint Thirumoolar say, the light is personification of Lord Shiva. When there is a custom of lighting lamp at the elevated place available and a place is available within the limits of Devasthanam property, there is no plausible reason for the Devasthanam to refuse to comply the wishes of its devotees, when such a request is not against morality or public policy. Ofcourse, any activity on the hill which is a protected site under the Statute, should be within the permissible limit as indicated by this Court in the earlier writ petition W.P.No. 2277 of 2025.



**WEB COPY** (i)At the risk of repetition, we reiterate again, the hill being declared as protected area under AMASR Act,1958, all are bound by the Act and Rules framed thereunder and the direction of this Court issued in W.P.(MD)No.2277 of 2025 vide order dated 10.10.2025 by Justice R.Vijakumar rendered on reference after the split verdict by the Division Bench.

(j)We find that the apprehension expressed by the District Administration regarding probability of disturbance to the public peace is nothing but an imaginary ghost created by them for their convenience sake and to put one community against other community under suspicion and constant mistrust. By allowing few persons from Devasthanam to the pillar for lighting the lamp and keep the devotees stay at the foothill and worship is not an un-manageable task. Projecting as if such congregation will cause disturbance to peace, stampede, disharmony among community etc., is either exposure of their incapacity to maintain law and order or hesitant to bring harmony among the communities.

(k)In our considered view the State through the District Administration should have taken this as an opportunity to bridge the difference between these two communities. They could have narrowed down the gap by peaceful and



meaningful negotiation. Unfortunately, due to lack of conviction, all these years the peace meetings have paved way only for widening the mistrust. We hope, by **WEB COPY** implementing the below directions, which can be suitably modified whenever festival of respective community falls, then there will be **only light and not any fight.**

**141.** In the result, the writ appeals are disposed of with the following directions:-

- 1) The Devastham must light the lamp at the Deepathoon. In addition to the prohibitions and restrictions as found in Ancient Monument and Archaeological Sites and Remains Acts and Rules, ASI shall impose conditions appropriate and necessary to preserve the monuments in the hill.
  
- 2) The Devasthanam through their team has to light the lamp in the Deepathoon (Annexure-B) on the event of Karthigaideepam festival falling in the Tamil month, Karthigai. No public shall be allowed to accompany the Devasthanam team and the number of the team members to be decided in consultation with the ASI and Police. The District Collector shall co-ordinate and supervise the event.



**142.**As an epilogue, we thank and appreciate all the Learned Counsels, irrespective of their age and standing, for their utmost cooperation rendered to us

**WEB COPY** during the hearing. The decorum observed by them inside the Court was also exemplary and heartening. The materials provided by them to understand the intrinsic nuances of the issue was of immense help for us to pen down this judgement to the best of our knowledge and ability.

**143.**The writ appeals are disposed, accordingly. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

**[G.J., J.] & [K.K.R.K., J.]**

**06.01.2026**

Index :Yes/No

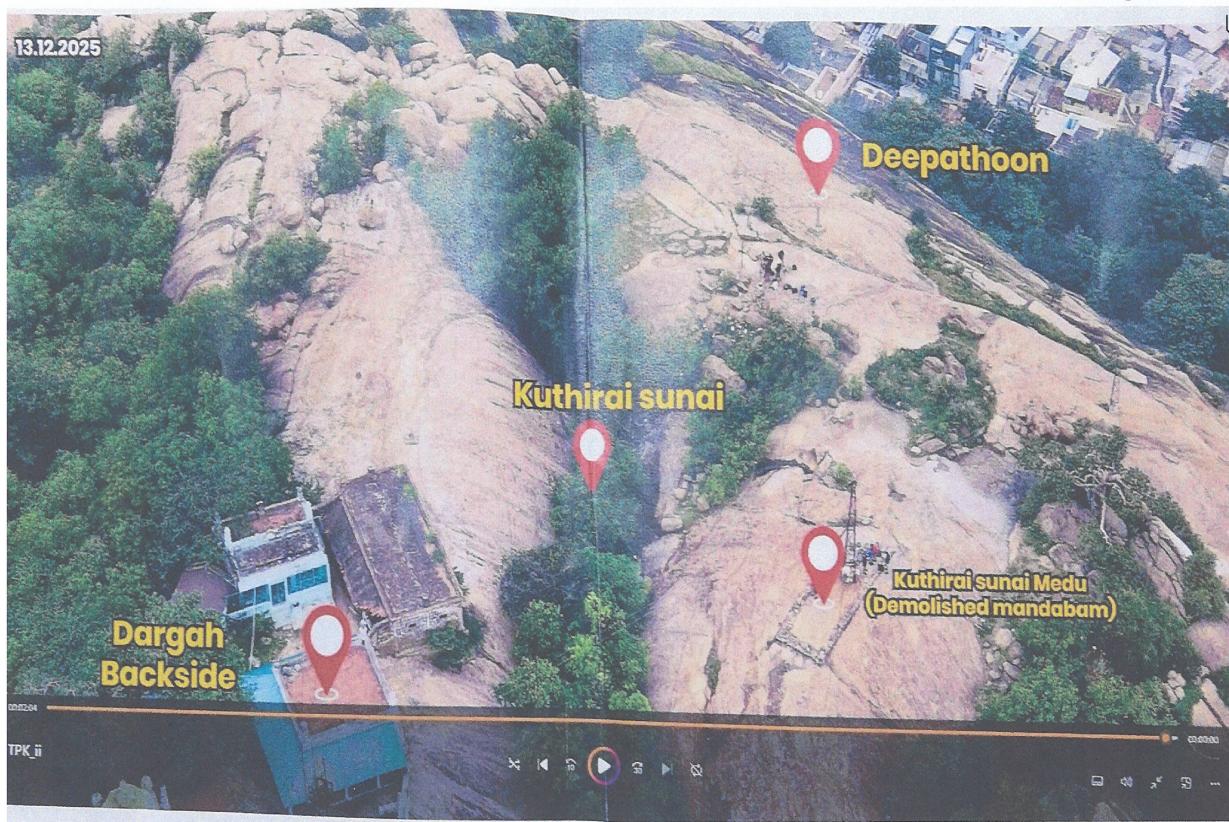
Internet :Yes

Ns/ta



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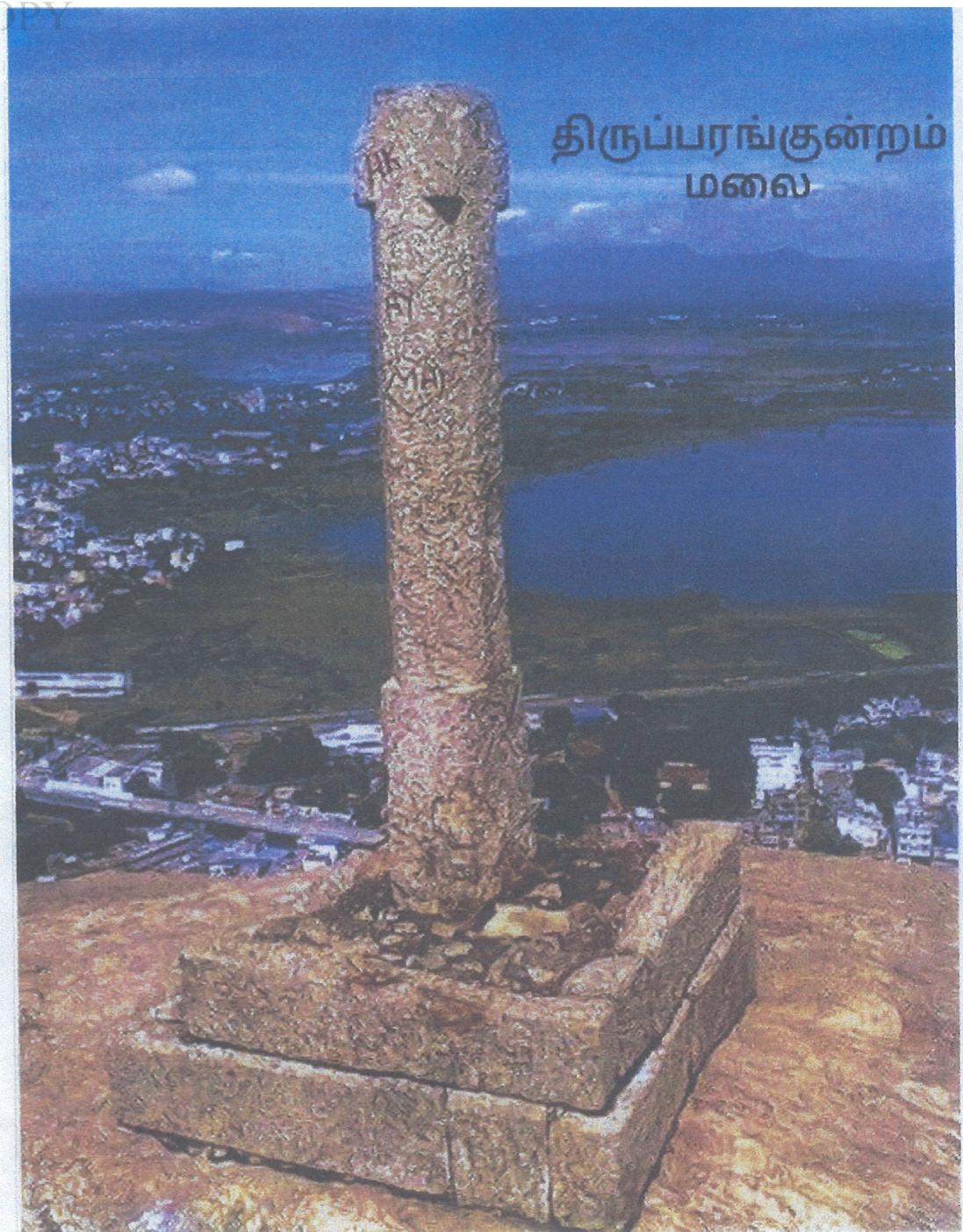
ANNEXURE - A





## ANNEXURE - B

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WEB COPY To

1. The Executive Officer

Arulmigu Subramanian Swamy Temple,  
Thirupparankundram, Madurai.

2. The District Collector

Madurai.

3. The Commissioner of Police

Madurai City.

4. The Joint Commissioner

HR & CE Department, Madurai.



DR.G. JAYACHANDRAN, J.  
AND  
K.K. RAMAKRISHNAN, J.

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Ns/ta

**W.A(MD)Nos.3188, 3189, 3204, 3211, 3212, 3213, 3217, 3218, 3219, 3220,**  
**3221, 3222, 3223, 3225, 3226, 3227, 3229, 3230, 3231, 3232 of 2025**

06.01.2026

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