IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.07.2025

PRONOUNCED ON : 28.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.A.Nos.1381 and 1382 of 2022,
W.P.No.13027 of 2021, W.P.No.12955 of 2022 and
W.P.No.24729 of 2018 and Cont.P.No.367 of 2020
and
C.M.P.Nos.8850, 8851, 8852 and 8853 of 2022,
C.M.P.Nos.2094, 2095 and 9449 of 2024,
C.M.P.Nos.10439 and 10445 of 2025 and
W.M.P.Nos.12433 and 12434 of 2022,
W.M.P.Nos.29537, 32323 and 32480 of 2018,
W.M.P.Nos.10147 and 11037 of 2024 and
Sub.Appl.Nos.305, 314 and 315 of 2021

W.A.No.1381 of 2022:

P.B.Rajahamsam ... Appellant

Vs.

1.S.Narayanan

2.The State of Tamil Nadu
Rep. by its Secretary,
Tourism, Religious and Charitable Endowments Department,
Chennai.

3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai – 600 034

4.The Assistant Commissioner/Executive Trustee
Arulmigu Devarajaswamy Thirukkovil
Sannadhi Street
Kanchipuram – 631 501.

5.T.A.Ranganathan ... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022, dated 17.05.2022.

For Appellant	:	Mr.Vijaya Narayan, Senior Counsel Mrs.Hema Sampath, Senior Counsel Mr.Srinivasa Raghavan, Senior Counsel Mr.A.K.Sriram, Senior Counsel Mr.P.V.Balasubramaniam, Senior Counsel Mr.K.B.S.Rajan, Senior Counsel for M/s.M.V.Swaroop
For R1	:	Mr.G.Rajagopalan, Senior Counsel for M/s.Abhinav Parthasarathy
For R2 and R3	:	Mr.N.R.R.Arun Natarajan Special Government Pleader Assisted by Mr.K.Karthikeyan Government Advocate
For R4	:	Mr.R.Bharanidharan, Standing Counsel
For R5	:	Mr.R.Palaniandavan and M/s.Varuni Mohan

W.A.No.1382 of 2022:

T.A.Ranganathan ... Appellant

Vs.

1.S.Narayanan

2.The State of Tamil Nadu
Rep. by its Secretary,
Tourism, Religious and Charitable
Endowments Department, Chennai.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department
Nungambakkam, Chennai – 600 034

4.The Assistant Commissioner/Executive Trustee
Arulmigu Devarajaswamy Thirukkovil
Sannadhi Street
Kanchipuram – 631 501.

5.P.B.Rajahamsam ... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.05.2022 passed in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022.

For Appellant	:	Mr.R.Palaniandavan and M/s.Varuni Mohan
For R1	:	Mr.G.Rajagopalan, Senior Counsel for M/s.Abhinav Parthasarathy
For R2 and R3	:	Mr.N.R.R.Arun Natarajan Special Government Pleader Assisted by Mr.K.Karthikeyan Government Advocate
For R4	:	Mr.R.Bharanidharan Standing Counsel
For R5	:	Mr.M.V.Swaroop

W.P.No.13027 of 2021:

P.B.Rajahamsam ... Petitioner

vs.

1.The State of Tamil Nadu
Rep. by the Inspector of Police,
B-2 Vishnu Kanchi Police Station
Nethaji Nagar, Kanchipuram – 631 501

2.The Assistant Commissioner/Executive Trustee
Arulmigu Devarajaswamy Thirukkovil
Sannadhi Street
Kanchipuram – 631 501.

3.K.N.Krishnan

(R3 Impleaded vide order dated 25.08.2021 made in WMP.No.14219/2021 in WP.No.13027/2021)

4.S.Narayanan

(R4 Impleaded vide order dated 25.08.2021 made in WMP.No.14243/2021 in WP.No.13027/2021)

5.S.R.Ramesh

6.T.S.Krishnan

(R5 and R6 Impleaded vide order dated 25.08.2021 made in WMP.No.14319/2021 in WP.No.13027/2021)

7.A.K.Satakopan/Suresh

(R7 Impleaded vide order dated 25.08.2021 made in WMP.No.14360/2021 in WP.No.13027/2021)

8.PV.Devarajan

9.R.Srivatsan

(R8 and R9 Impleaded vide order dated 25.08.2021 made in WMP.No.14409/2021 in WP.No.13027/2021)

10.T.A.Ramanujan

(R10 Impleaded vide order dated 25.08.2021 made in WMP.No.14838/2021 in WP.No.13027/2021)

11.P.B.V.Sudharsan

12.K.B.Srinivasan

(R11 and R12 Impleaded vide order dated 28.09.2021 made in WMP.Nos.20776 and 21395/2021 in WP.No.13027/2021)

13.Dr.M.A.Venkatakrishnan (Party-in-Person) ... Respondents

(R13 Impleaded as per order dated 30.01.2025 in WMP.No.3200/2024 in WP.No.13027/2021)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st Respondent to provide adequate protection to the Petitioner and other Thengalais and take all such required action to ensure that petitioner can render service of prabandham recitation in front of the deity of the Devarajaswamy Temple Kancheepuram by taking action against and removing any persons interfering with such recitation or acting contrary to the judgments in Appeal No.175 of 1910 dated 15.01.1915 and in Appeal No.283 of 1963 dated 24.03.1969 passed by this Court and as per the Notices issued by the 2nd Respondent dated 23.12.2020 and 19.04.2021.

For Petitioner	:	Mr.Vijaya Narayan, Senior Counsel Mrs.Hema Sampath, Senior Counsel Mr.Srinivasa Raghavan, Senior Counsel Mr.A.K.Sriram, Senior Counsel Mr.P.V.Balasubramaniam, Senior Counsel Mr.K.B.S.Rajan, Senior Counsel for M/s.M.V.Swaroop
For R1	:	Mr.R.Muniyapparaj Additional Public Prosecutor
For R2	:	Mr.R.Bharanidharan Standing Counsel
For R3	:	Mr.S.Parthasarathy, Senior Counsel for M/s.S.Victor Prasath
For R4	:	Mr.G.Rajagopalan, Senior Counsel for M/s.Abhinav Parthasarathy
For R5	:	Mr.S.R.Rajagopal, Senior Counsel for M/s.N.V.Narayanan
For R6	:	Mr.N.V.Balaji
For R7	:	Mr.V.Raghavachari, Senior Counsel for M/s.Nittilakshan
For R8 and R9	:	Mr.Sathish Parasaran, Senior Counsel for M/s.Rahul Balaji
For R10	:	Mr.C.Santhosh Kumar
For R11	:	Mr.R.Palaniandavan and M/s.Varuni Mohan
For R12	:	M/s.R.Meenal
For R13	:	Dr.M.A.Venkatakrishnan (Party-in-Person)

W.P.No.12955 of 2022:

S.Narayanan ... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Tourism, Religious and Charitable Endowments Department,
Chennai.

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

3.The Assistant Commissioner/Executive Trustee,
Arulmigu Devarajaswamy Thirukkovil
Sannadhi Street,
Kanchipuram – 631 501.

4.T.A.Ranganathan

5.P.B.Rajahamsam ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order, styled as Notice bearing ITMS Code : 1864, dated 14.05.2022, issued by the 3rd Respondent and quash the same as illegal, illogical, arbitrary and unconstitutional.

For Petitioner : Mr.G.Rajagopalan, Senior Counsel
for M/s.Abhinav Parthasarathy

For R1 and R2 : Mr.N.R.R.Arun Natarajan
Special Government Pleader
Assisted by Mr.K.Karthikeyan
Government Advocate

For R3 : Mr.R.Bharanidharan, Standing Counsel

W.P.No.24729 of 2018:

A.K.Suresh @ Satagopan ... Petitioner

vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
College Road, Nungambakkam
Chennai – 600 034.

2.The Assistant Commissioner/Executive Officer,
Sri Devarajaswamy Devasthanam,
Kancheepuram.

3.K.B.Srinivasan ... Respondents

(R3 impleaded as per Court order dated 26.09.2018 in WMP.No.29406/2018 in W.P.No.24729/2018)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to arrange for the rendition of Prabandam of Acharya Vedanta Desika at Sri Devarajaswamy Devasthanam, Kancheepuram on his 750th Birth day which falls on 21.09.2018.

For Petitioner : Mr.B.K.Kannan

For R1 : Mr.N.R.R.Arun Natarajan
Special Government Pleader
Assisted by Mr.K.Karthikeyan
Government Advocate

For R2 : Mr.K.Hariharan

Cont.P.No.367 of 2020:

T.A.Ranganathan ... Petitioner

vs.

1.Mr.N.Thiyagarajan,
Executive Trustee/Assistant Commissioner
Sri Devaraja Swamy Devasthanam,
Sannadhi Street, Kanchipuram.

2.T.A.Ramanujan ... Respondents

(Respondent No.2 is impleaded as per order dated 30.04.2021 in Sub.Appl.No.168/2021 in Cont.P.No.367/2020)

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to initiate contempt proceedings against the respondent, enquire and punish him for wilfully and deliberately disobeying the judgments of this Court dated 15.01.1915 in Appeal No.175 of 1910 and in Appeal No.283 of 1963 dated 24.03.1969.

For Petitioner : Mr.R.Palaniandavan
and M/s.Varuni Mohan

For R2 : Mr.C.Santhosh Kumar

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COMMON JUDGMENT

(Judgment of the Court was delivered by S.SOUNTHAR, J.)

Heard Mr.Vijaya Narayan, learned Senior Counsel, Mrs.Hema Sampath, learned Senior Counsel, Mr.Srinivasa Raghavan, learned Senior Counsel, Mr.A.K.Sriram, learned Senior Counsel, Mr.P.V.Balasubramaniam, learned Senior Counsel and Mr.K.B.S.Rajan, learned Senior Counsel for M/s.M.V.Swaroop, learned counsel appearing for the appellant in W.A.No.1381 of 2022, petitioner in W.P.No.13027 of 2021 and 5th respondent in W.A.No.1382 of 2022, Mr.R.Palaniandavan and M/s.Varuni Mohan, learned counsel appearing for the appellant in W.A.No.1382 of 2022, petitioner in Cont.P.No.367 of 2020, 5th respondent in W.A.Nos.1381 of 2022 and 11th respondent in W.P.No.13027 of 2021, Mr.G.Rajagopalan, learned Senior Counsel for M/s.Abhinav Parthasarathy, learned counsel for the petitioner in W.P.No.12955 of 2022, 1st respondent in W.A.Nos.1381 and 1382 of 2022 and 4th respondent in W.P.No.13027 of 2021, Mr.B.K.Kannan, learned counsel appearing for the petitioner in W.P.No.24729 of 2018, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader Assisted by Mr.K.Karthikeyan, learned Government Advocate appearing for respondents 2 and 3 in W.A.Nos.1381 and 1382 of 2022, respondents 1 and 2 in W.P.No.12955 of 2022 and 1st respondent, Mr.R.Bharanidharan,

learned Standing Counsel appearing for the 4th respondent in W.A.Nos.1381 and 1382 of 2022, 2nd respondent in W.P.No.13027 of 2021 and 3rd respondent in W.P.No.12955 of 2022, Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the 1st respondent in W.P.No.13027 of 2021, Mr.S.Parthasarathy, learned Senior Counsel for Mr.S.Victor Prasath, learned counsel appearing for the 3rd respondent in W.P.No.13027 of 2021 and impleading petitioner in Sub.A.No.305 of 2021, Mr.S.R.Rajagopal, learned Senior Counsel for M/s.N.V.Narayanan, learned counsel appearing for the 5th respondent in W.P.No.13027 of 2021, Mr.N.V.Balaji, learned counsel appearing for the 6th respondent in W.P.No.13027 of 2021, Mr.V.Raghavachari, learned Senior Counsel for M/s.Nittilakshan, learned counsel appearing for the 7th respondent in W.P.No.13027 of 2021, Mr.Sathish Parasaran, learned Senior Counsel for M/s.Rahul Balaji, learned counsel appearing for the respondents 8 and 9 in W.P.No.13027 of 2021, Mr.C.Santhosh Kumar, learned counsel appearing for the 10th respondent in W.P.No.13027 of 2021 and 2nd respondent in Cont.P.No.367 of 2020, M/s. R.Meenal, learned counsel appearing for the 12th respondent in W.P.No.13027 of 2021, Dr.M.A.Venkatakrishnan (Party-in-Person) in W.P.No.13027 of 2021, Mr.B.K.Kannan, learned counsel appearing for the petitioner in W.P.No.24729 of 2018, Mr.K.Hariharan, learned counsel apearing for the

2nd respondent in W.P.No.24729 of 2018, Mr.K.K.A.Ananthalwan (Party-in-Person) in C.M.P.Nos.2094 and 2095 of 2024, Mr.K.V.Babu, learned counsel appearing for the petitioner in C.M.P.No.9449 of 2024, Mr.Rangarajan Narasimhan (Party-in-Person) in W.M.P.No.10147 of 2024, Mr.Prakash Adiapadam, learned counsel appearing for the petitioner in C.M.P.No.10439 and 10445 of 2025 and Mr.T.S.Vijaya Raghavan, learned counsel appearing for the petitioner in W.M.P.No.11037 of 2024 and perused the materials available on record.

(I) **Introduction**:-

2. The present *lis* arising out of sectarian dispute between two religious groups called 'Thengalai' (hereinafter referred to as 'Southern Cult') and Vadagalai (hereinafter referred to as 'Northern Cult'), regarding Ceremonial Worship in famous Temple called 'Sri Devaraja Swamy Temple' at Kancheepuram. The sectarian dispute between Southern and Northern Cults has got a long history of over 200 years. The rights of the respective cults were determined and adjudicated upon by this Court in various decisions. Inspite of the same, the differences between them continued and the present litigations are only the offshoot of earlier litigations. The dispute between Southern Cult and Northern Cult revolves around the duties attached with office (known as Adhiapaka

Mirasi) or official performance of certain services to the Deity at the time of Ceremonial Worship in the Temple and at the time of Ceremonial Procession of the Deity inside and outside the Temple. The Members of Southern Cult claims that they have got right to Office of Adhiapaka Miras in the Temple of Sri Devaraja Swamy and as a necessary consequence, only their Mantram in praise of their Guru 'Sri Manavala Mamunigal' namely Sri Sailesa Dayapatram shall be sung before commencement of recitation of *Nalayira Divya Prabandham* during Ceremonial Worship of Deity in the Temple. They also claim that at the time of conclusion of Puja, only their Vazhi Thirunamam referring to Sri Manavala Mamunigal shall be recited. The said claim of Southern Cult is opposed by members of Northern Cult by claiming that they are also entitled to recite their Mantram Ramanuja Deyapatram praising their Guru namely Vedanta Desigan. It is also claimed by the Northern Cult that at the time of conclusion of Puja, their own Vazhi Thirunamam referring to their Guru namely 'Vedanta Desika' shall be recited. This is the crux of the dispute between the Members of the two cults.

3. Both Southern Cult and Northern Cult are followers of Ramanuja. However, they claim under different spiritual Gurus. The Members of the Southern Cult are following the teachings of Manavala

Mamunigal. The Members of the Northern Cult are following the teachings of Vedanta Desikan. They also use different Insignia (நாமம்). The Southern Cult uses 'Y' shaped Insignia and the Northern Cult uses 'U' shaped Insignia. Though both the Cults are followers of Ramanuja, during Ceremonial Worship of God, they wanted to invoke their respective Guru and conclude the same by reciting verses in praise of their respective Guru. Therefore, there has been a continuous friction between these two factions and there were lot of litigations. Series of judgments passed by different Hierarchies of Courts including this Court right from the beginning of 19th Century did not stop these rival groups from continuing the litigation in one form or other. The present litigation is arising out of the latest friction between these two groups.

(II) **History of Earlier Litigations**:-

4. A close scanning of typed-set of papers filed by the parties would establish that litigations began between these two groups even in 18th Century. In order to understand the background of litigations, only important decisions involving these two religious groups are discussed in this chapter.

5. The first landmark decision was rendered by Division Bench of this Court in ***Krishnasami Tatachaaryar and others vs. Krishnamacharyar and others*** reported in ***(1882) ILR 5 Mad 313 = MANU/TN/0085/1882***. The said decision arose out of suit filed by Members of Southern Cult seeking declaration of their right to Adhiapaka Mirasi Office and for injunction restraining the Members of the Northern Cult from introducing their Mantram during Ceremonial Worship in Sri Devaraja Swamy Temple and taking part in the service during ceremonial worship. The said suit was resisted by Northern Cult on the ground that Adhiapaka Miras belongs to few families of Southern Cult and not to all the Members of Southern Cult. It was also asserted by them that they were entitled to recite their own Mantram and to join recitation of Prabandham during Puja Service. This Court declared that Adhiapaka Miras, with the exception of the *Thodakam* (call for ceremonial worship) was the exclusive right of Members of Southern Cult residing at Kancheepuram. It was also declared that Members of Southern Cult were entitled to discharge the duties on all occasions during performance of Ceremonial Worship or services in the Temple and also during processions. The Members of the Northern Cult were injuncted from reciting their Mantram (Ramanuja Dayapatram) or Prabandham. It was clearly observed that Members of Northern Cult can join the Worship and

repeat Prabandham as recited by Southern Cult office holders and they have no right to invade the Office of the Tenkalai (Southern Cult) Adhiapaka Mirasidars.

6. The next landmark case was made in ***Tirumalai Eachambadi Thiruvengadachariar vs. Royadurgam Krishnasami Thathachariar*** reported in ***1915 MWN (Civil) 281 = MANU/TN/0840/1915***. In this case, it was also reiterated by Division Bench of this Court that during Ceremonial Worship of God in Sri Devaraja Swamy Temple at Kancheepuram, only the Southern Cult Mantram of Sri Sailesa Daya Patram shall be recited by the Office Holders namely the Members of Southern Cult and the Members of the Northern Cult, as ordinary Worshippers, can join and repeat what was recited by the Southern Cult Office Holders. It was also clearly held that from the commencement of Puja till the distribution of Theertham and Prasadam, the Members of Northern Cult could not recite any Mantram or Prabandham of their own, but they were only entitled to join the Members of the Southern Cult as Worshippers by reciting the very same Prabandhams. It was also held that processions of Deity within the Temple and also outside the Temple was also a part of the Ceremonial Worship and therefore, the Members of Northern Cult cannot form any separate group or congregation (goshti) of

their own and recite Mantram or Prabandham, which were different from the one recited by Office Holders namely the Members of the Southern Cult. It was also held that the Members of the Southern Cult are entitled to form goshti and proceed in front of the Deity and sing Prabandham in their own way. The Members of the Northern Cult were entitled to join them and repeat what they recite. It was further held that the Members of Northern Cult can form a separate congregation and recite Vedas behind the Idol. In the said decision, it was also reiterated that the Adhiapaka Mirasi Rights during Ceremonial Worship of Deity vested with Members of Southern Cult residing at Kancheepuram.

7. The next important decision was made in ***M.Appadorai Aiyangar and others vs. P.B.Annangaracharia r and others*** decided by learned Single Judge of this Court, reported in ***AIR 1939 Mad 102 = MANU/TN/0027/1938***. In the above mentioned case law, the right of Members of Southern Cult to form the front two rows in the congregation in front of the Deity was upheld and it was reiterated that the Members of the Northern Cult could only join the service as ordinary Worshippers without interfering with the right of Members of Southern Cult to conduct the Puja Service.

8. The next important decision was made in ***V.Srinivasachariar vs. Thatha Desika Thathachariar and others*** reported in ***(1970) ILR 2 Mad 146 = MANU/TN/0586/1969***. This matter was decided by Division Bench of this Court wherein the right of Members of Southern Cult to recite their Mantram and Prabandham in their own way during Puja Service was upheld and the assertion of Member of Northern Cult to recite their own Mantram was negatived. Infact, the above mentioned appeal arose out of a statutory suit filed by one of the Members of Northern Cult. After coming into force of Madras Hindu Religious and Charitable Endowments Act, 1951, by invoking jurisdiction vested with Deputy Commissioner, a Statutory Authority constituted under the said Act to decide the questions relating to custom and usage in a Religious Institution, under Section 57(e) of the said Act. They filed an application seeking declaration that there was an established custom and usage of reciting Tamil verses composed by Spiritual Guru of Northern Cult 'Sri Vedanta Desikar' in front of Sri Varadaraja Swami. The said application was dismissed by the Deputy Commissioner. The statutory appeal filed by the Member of Northern Cult was also dismissed. Aggrieved by the same, a statutory suit was filed before the Civil Court challenging the dismissal order. The Trial Court dismissed the suit. Aggrieved by the same, an appeal was filed before the Division Bench of this Court and it

was held that the plaintiff failed to establish the custom and usage pleaded by them and the pronouncement in the earlier decisions were reiterated.

(III) **Present Litigations and Pleadings of the Respective Parties**:-

9. The Writ Petition in W.P.No.12955 of 2022 was filed by one of the Members of Northern Cult challenging the notice issued by Executive Trustee of Sri Devarajaswamy Temple, dated 14.05.2022 wherein following the earlier decisions of this Court, he directed that only Sri Sailesa Dayapatram (Manthram of Southern Cult) and Manavala Mamunigal Vazhi Thirunamam (concluding verses of Southern Cult) alone shall be recited during Puja Service in the Temple and the Members of Northern Cult should not occupy the first two rows in the Divya Prabandha Goshti. It was also stated in the said notice that Manthra of Northern Cult namely Desika Prabandham shall not be recited. The notice also wanted to regulate the numbers of the right holders and ordinary worshipers joining the group at the time of Puja Service. The said notice was challenged by a Member of Northern Cult mainly on the ground that the order of the Executive Trustee violated fundamental right

to worship available to the Members of Northern Cult under Articles 25 and 26 of the Constitution of India. It was further averred by the petitioner that judgments rendered by this Court mentioned above were all pre-constitutional judgments and in the light of the fundamental rights guaranteed under Constitution of India, the law laid down in the above mentioned judgments were unconstitutional. It was the specific case of the Member of the Northern Cult that if Members of Northern Cult were not permitted to sing in praise of their Guru, it would amount to violating their fundamental right to worship.

10. The Writ Petition in W.P.No.24729 of 2018 was filed by one of the Members of the Northern Cult seeking direction to Officials of Tamil Nadu Hindu Religious and Charitable Endowment Department (hereinafter referred to as 'HR and CE Department') to arrange for rendition of Prabandham of Northern Cult Guru 'Acharya Vedanta Desika' in Sri Devarajaswamy Temple on his 750th Birthday. It was the specific case of the petitioner therein that a Member of Southern Cult being Adhiyapaka Miras Holders cannot choose what should be rendered on the 750th Birthday Celebrations of spiritual guru of Northern Cult and any such interference by Members of Southern Cult would go beyond the Mirasi Rights available to them. It was also stated that rendition of

Prabandham of Acharya Vedanta Desika would not come in conflict with the practice of temple rituals or worship.

11. W.P.No.13027 of 2021 has been filed by one of the Members of Southern Cult (Adhiapaka Rights Holder) seeking direction to local police to provide adequate police protection to the petitioner and Members of Southern Cult to render Prabandham Service in front of Deity and to remove any persons interfering with such recitation service contrary to the earlier judgments of this Court. It was his specific case that the Members of Northern Cult wilfully flouted the judgments of this Court mentioned above and interfered with the rights available to the Members of the Southern Cult as Office Holders. It was also stated that the Members of Northern Cult attempted to recite their own Manthrams, Prabandhams and Vazhi Thirunamam and physically and verbally assaulted the Members of Southern Cult and several First Information Reports have been registered. In such circumstances, the petitioner sought for police protection.

12. Contempt Petition No.367 of 2020 was filed by one of the Members of Southern Cult having permanent residence at Kancheepuram (one of the Members of the Adhiapaka Mirasi Holder) complaining wilful

disobedience to the judgments passed by this Court in Appeal Suit No.175 of 1910, dated 15.01.1915 and Appeal No.283 of 1963, dated 24.03.1969 by the Executive Trustee of Sri Devarajaswamy Temple at Kancheepuram. According to him, the Members of Northern Cult violating the earlier Court orders, recited their Manthram Ramanuja Dayapatram and also Desika Prabandhams on 21.09.2018 during festival. It was also alleged that during celebration of Desigan's Mangalasasanam festival at Nammalvar Sannadhi, certain honors like Satari and Theertham were offered to Northern Cult congregation in violation of the earlier Court orders. Hence, according to him, the Executive Trustee of the Temple by permitting the recitation of Northern Cult Manthrams and Prabandhams committed an act of contempt. The above said contempt petition was closed by the learned Single Judge by order dated 24.02.2020 by issuing following directions:-

> *"32. In view of the facts and circumstances and in the interest of the public at large and in the interest of the Temple administration, this Court is inclined to issue the following directions:*
>
> *(i) The first respondent / Executive Trustee / Assistant Commissioner is directed to invite Thengalai Sect firstly during Pooja festivals and on such invitation the Thengalai Sect shall be permitted to recite the first two lines of Srisaila*

Dayapathram (initial recital) and on completion of the said initial recital by Thengalai Sect, the first respondent shall permit Vadagalai Sect to commence the first two lines of Sri Ramanuja Dayapathram (initial recital) and on their completion of initial recital, then both Vadagalai and Thengalai Sectors shall be permitted to recite Prabandhams jointly. On completion of Prabandhams, the Thengalai Sect shall be permitted to recite the concluding Mantram "Manavalamamunigal Vaazhithirunamam" and thereafter, Vadagalai Sect shall be allowed to recite their concluding Matram "Desikan Vazhi Thirunamam" and accordingly the process of recitals shall be concluded.

(ii) If any one of the sect namely Vadagalai or Thengalai, not willing to recite their Mantrams and Prabandhams, as per the directions issued by this Court as above, then the first respondent shall permit anyone of the willing sect to recite the Mantrams and Prabandhams during Pooja festivals.

(iii) With reference to other religious practices, during Pooja festivals the first respondent is directed to implement the approved scheme scrupulously by issuing suitable guidelines / directions to all concerned.

(iv) The first respondent is directed to register a Police complaint in the event of any law and order problem or otherwise during performance of the Pooja festivals. On such complaint, jurisdictional Police shall register a complaint and investigate the same, and initiate appropriate actions in accordance with law.

(v) In the event of violation of any of these directions issued in this Contempt Petition, will be treated as Contempt of Court and the first respondent Executive Trustee / Assistant Commissioner is directed to file an application before this Court.

33. The said procedures are to be followed in all the Pooja festivals with effect from 1st March 2020."

13. Challenging the said order, contempt appeals were filed in Contempt Appeal Nos.6 and 8 of 2020. The said appeals were allowed by the Division Bench of this Court and contempt petition was remitted back to the file of learned Single Judge. Thereafter, by virtue of the order passed by Hon'ble Acting Chief Justice, the contempt petition was tagged along with above mentioned writ petitions and W.A.Nos.1381 and 1382 of 2022 pending before the Bench. Hence, the contempt petition is posted before us.

14. The writ appeal in W.A.Nos.1381 and 1382 of 2022 were filed by Members of Southern Cult challenging the interim order passed by the learned Single Judge in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022, dated 17.05.2022 issuing following directions with regard to conduct of Puja Service in Sri Varadaraja Swamy Temple:-

"22. In view of the facts and circumstances, this Court is inclined to pass following interim orders:

(1) The Thengalai sect shall be permitted to sit in first two or three rows inside the Temple and behind them, the Vadagalai sect and ordinary devotees shall be permitted to sit in the remaining available space inside the Temple. The seating arrangements shall be regulated by the 3rd respondent/ Assistant Commissioner / Executive Trustee in such a manner without affecting discipline and decorum of the rituals and pooja activities.

(2) The Thengalai sect shall be permitted to commence their initial recital namely Srisaila Dayapathram and thereafter, Vadagalai sect shall be permitted to chant initial recital namely Sri Ramanuja Dayapathram within 10 to 12 seconds each and thereafter, both the Thengalai sect, Vadagalai sect and ordinary devotees shall be permitted to jointly chant Naalayira Divya Prabandham in an uniformed manner without disrupting the rituals and poojas and without causing any inconvenience or nuisance to the other devotees and worshippers, who all are present in the Temple.

(3) On completion of chanting of Naalayira Divya Prabandham by Vadagalai sect, Thengalai sect and ordinary devotees, jointly the final ritual namely Vazhithirunamam may be firstly chanted by Thengalai sect i.e., "Manavalamamunigal Vaazhithirunamam" and thereafter, the Vadagalai sect shall be allowed to recite their concluding Mantra i.e., "Desikan Vazhi Thirunamam" and

accordingly, the entire process of rituals shall be concluded.

(4) The third respondent / the Assistant Commissioner / Executive Trustee is directed to Monitor the observance of rituals both by the Thengalai sect and Vadagalai sect and in the event of any violations of discipline and decorum, initiate all appropriate action in the manner known to law including penal actions.

(5) The third respondent / the Assistant Commissioner/ Executive Trustee is directed to make the above arrangements with immediate effect and videograph the events and produce the same before this Court during the next hearing, on 25.05.2022.

(6) The third respondent / the Assistant Commissioner/Executive Trustee is directed to file a Compliance Report on 25.05.2022."

15. In W.P.No.13027 of 2021, the Executive Officer of the Temple filed counter affidavit narrating facts leading to the filing of the writ petition. A specific stand was taken by the Executive Officer that the dispute between the two cults regarding the recitation of their Manthra and Prabandhams shall be decided in the Contempt Petition No.367 of 2020 and till then, the parties are bound by the findings rendered by this Court in A.S.No.175 of 2010, dated 15.01.1915.

(IV). **Arguments of Respective Parties**:-

16.(i) **Salient Features of the Arguments Advanced by the learned Senior Counsel/Counsel Appearing for the Southern Cult**:-

- The Exclusive Right of Southern Cult to the Office of the Adhiapaka Mirasi has been recognised by earlier decisions of the Division Bench of this Court and the same has attained finality.
- The Members of Southern Cult has got exclusive right to recite their invocation verse or Manthra praising their Guru Manavala Mamunigal namely Sri Sailesa Dayapatram followed by recitation of *Nalayira Divya Prabandham* and Vazhi Thirunamam in the name of their Guru during Puja Service in Sri Devaraja Swamy Temple as recognised by the earlier judgments of this Court.
- The Southern Cult has got exclusive right to form goshti and recite Prabandham in front of Deity during procession inside and outside the Temple.
- When the Members of the Southern Cult perform their right attached to their Office (Mirasi Rights) by reciting Sri Sailesa Dayapathram, Prabandham etc., the Members of the Northern Cult are not entitled to interfere or recite their own Manthra in praise of their Guru Vedanta Desikar or Prabandham in their own style. As

per the earlier decisions of this Court, the Members of Northern Cult are entitled to participate as a Worshipper and repeat what was recited by Southern Cult's Members, who are Mirasi Holders.

- The Members of Southern Cult are entitled to form first two rows at the time of Puja Service reciting their Manthra and Prabandhams.
- The earlier decisions of this Court are rendered in a representative suit as clarified in ***V.Srinivasachariar vs. Thatha Desika Thathachariar and others*** reported in ***(1970) ILR 2 Mad 146 = MANU/TN/0586/1969***) and therefore, the judgments are binding on all the individual Members of the Northern Cult. Only one Manthra can be recited in a Temple and in respect of the Sri Devaraja Swamy Temple, Manthra recognised by binding precedent is Sri Sailesa Dayapatram (Manthra of Southern Cult). In this regard, the learned counsel relied on the judgment of ***Srinivasa Thathachariar and others vs. Srinivasa Aiyangar and others*** reported in ***1899 9 MLJ 355***. The interim direction issued by the learned Single Judge, which was subject matter of challenge in the writ appeals would go against the earlier binding decisions of this Court and hence, the same is liable to be set aside. The reasoning given by the learned Single Judge for issuing new

directions contrary to the earlier decisions on the ground that the decisions recognising exclusive Mirasi Rights of Southern Cult are all pre-constitutional judgments is untenable in law.

- In view of continuous interference by the Members of the Northern Cult with regard to the Mirasi Rights of the Southern Cult, writ petition has been filed seeking police help to prevent the violation of the earlier decree. The writ petition filed by the Northern Cult challenging the communication of Executive Trustee of the Temple for enforcement of the earlier binding precedent would amount to challenging the correctness of the Civil Court's decree, which had attained finality and the same is not permissible.

16.(ii) **Salient Features of Arguments made by the Learned Senior Counsel/Counsel Appearing for the Northern Cult**:-

- Right to recite Manthra in praise of their own Guru Vedanta Desika is part of fundamental right to worship available to the Members of the Northern Cult.
- The earlier judgments rendered by this Court injuncted the Members of Northern Cult from reciting their Manthra invoking their Guru and Prabandham in their own way would amount to

violation of constitutional right available to the Members of the Northern Cult under Articles 25 and 26 of the Constitution of India.

- The prayer in the writ petition filed by the Member of Southern Cult seeking police protection would amount to executing the decree for injunction and hence, the Members of Northern Cult are entitled to question the executability of the decree on the ground it violates Article 25 of the Constitution of India.
- Under Article 182 of Old Limitation Act, 1908, the decree for injunction shall be executed within three years, hence, execution of decree for injunction was barred as early as 1918.
- The judgments rendered in earlier cases are not *in rem* and it was only in favour of 7 families of Southern Cult and all the Members of Southern Cult cannot take advantage of it.
- It is submitted that the followers of Ramanuja were recognised as a separate denomination as per the law laid down by the Apex Court in famous ***Shirur Mutt*** case reported in (1954) 1 SCC 412 and the Members of Southern Cult, being a sub-sect of followers of Ramanuja can be treated as a part of denomination and hence, the earlier judgments of this Court offend Article 26 (b) of the Constitution of India.

- It is also submitted that if there is a conflict between the custom and usages on one hand and fundamental rights on the other hand, the later will prevail over the former.
- It is also submitted that the earlier judgments of this Court only declared the Mirasi Right of Members of Southern Cult residing at Kancheepuram and hence, the said right cannot be claimed by all Members of Southern Cult irrespective of their residential status.
- After abolition of Hereditary Rights by amendment to Tamil Nadu HR and CE Act, the Mirasi Rights given to the Members of Southern Cult got extinguished.

16.(iii) **Submission made by the Government Pleader appearing for the Official Respondents**:-

- It is submitted on behalf of the Official Respondents that as on today, the judgments rendered by this Court in earlier decisions are binding on the parties and in any event, the Executive Trustee of the Temple will abide by the orders of this Court and obliged to implement the same.

(V). **Points Arising for Consideration**:-

17. (i) Whether the judgments rendered by this Court prior to coming into force of Constitution of India declaring Adhiapaka Mirasi right of Southern Cult runs contrary to right to worship/freedom of religion available to the Members of Northern Cult under Article 25 of Constitution of India?

(ii) Whether decree granted in earlier litigation injuncting Northern Cult from reciting their Manthra invoking their Guru violates right to worship available to Members of Northern Cult under Article 26(b) of Constitution of India?

(iii) Whether Judicial Orders can be challenged on the ground of violation of fundamental rights?

(iv) Whether relief sought for by Southern Cult in their writ petition would amount to execution of time barred decree?

(v) Whether earlier judgments rendered by this Court declared the right of entire Southern Cult or restricted it to Members of Southern Cult, who are residents of Kanchipuram?

(vi) Whether abolition of hereditary servants by T.N. Act 2 of 1971 would have the effect of nullifying earlier judgments rendered in favour of Southern Cult?

(vii) Whether Writ Appeal Nos.1381 and 1382 of 2022 are to be allowed?

(viii) Whether Contempt Petition No.367 of 2020 needs to be allowed?

(ix) Whether W.P.No.12955 of 2022 and W.P.No.24729 of 2018 filed by a Member of Northern Cult are to be allowed?

(x) Whether W.P.No.13027 of 2021 filed by a Member of Southern Cult needs to be allowed?

(VI). **Discussion on the Points**:-

Discussion on Point No.1:-

18. It was vehemently contended on behalf of the Northern Cult that they have got freedom of religion under Articles 25 and 26 of the Constitution of India. Therefore, any injunction restraining the Members of Northern Cult from reciting their own Manthra invoking their Guru or restraining the Members of Northern Cult from reciting Nalayira Divya Prabandham in their own way would amount to interference with their freedom of religion and right to worship. It is no doubt true that all the persons have got fundamental right to freedom of conscience and worship. However, as seen from the wordings of Article 25(1) of the Constitution of India, the said right is subject to public order, morality

and health and also to the other fundamental rights recognised under Part-III of the Constitution of India. Right to freedom of conscience or profess religion is also recognised as essential human right under Article 18 of Universal Declaration of Human Rights, which reads as follows:-

> *"**Article 18**. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."*

19. Likewise, Article 18 (1) of International Covenant on Civil and Political Rights also recognised the freedom of religion, which reads as follows:-

> *"**Article 18 (1)**. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."*

20. Therefore, the freedom of conscience or right to worship is a basic human right recognised throughout the world and the scope of the

same is enshrined under Articles 25 and 26 of Constitution of India. Article 25 of Constitution of India explains the scope of individual's freedom of religion. Article 26 of Constitution of India explains the scope of freedom of religion collectively available to a religious denomination or a part of it.

21. A close reading of Article 25 of Constitution of India would make it clear that the right to freedom of religion enshrined therein is not an absolute right and the same is subject to the following exceptions i.e., public order, morality, health and to the other provisions of Part-III of Constitution. Therefore, exercise of freedom of religion or right to worship by one individual shall not affect the fundamental rights of other individuals or fundamental rights of other religious denomination or part thereof. Therefore, while examining the scope of right available to the individuals under Article 25 of Constitution of India, the Court shall be conscious of its limitation and the fundamental rights of other individuals and the delicate balance between the two shall be maintained.

22. As discussed earlier, friction between the Members of Southern Cult and Northern Cult in offering prayers to Sri Devaraja Swamy Temple at Kancheepuram is more than 200 years old dispute. The right of

the respective parties have been defined by authoritative pronouncement of Division Bench of this Court in more than one occasion. In ***Krishnasami Tatacharyar*** [(1)] case, a Division Bench of this Court declared that the Members of Southern Cult got exclusive right to Adhiapaka Miras with exception of Thodakam and the said right was available to all the Members of Southern Cult residing at Kancheepuram. It was also declared that the said rights shall be exercised by Members of Southern Cult entitled to discharge the said duties at the time of Puja Service (Ceremonial Worship) in the Temple and also at the time of procession of Deity outside and inside the Temple. The Members of Northern Cult had been restrained from interfering with recitation of Manthram and Prabandham by Members of Southern Cult. However, the Members of Northern Cult were entitled to join as ordinary worshippers. The same can be gathered from the following observation in ***Krishnasami Tatachaaryar*** [(1)] case:-

> *"53. There is evidence to show that the members of both sects may join as worshippers in the Mantram and Prabhandam, but the Mantram above allowed is the Mantram, Sri Sailesa Dayapatram and, in joining as worshippers, the Vadakalais have no right to invade the office of the Tenkalai Adhiapaka Mirasidars.*

(1.(1882) ILR 5 Mad 313 = MANU/TN/0085/1882)

54. The deposition of Narasimacharyar (Exhibit 22), the report of the Tahsildar, 20th March 1839 (Exhibit Z), and the evidence of the second and fourth witnesses for the defendants show that the Mantaram and Sevakalam are recited by the Adhiapaka Mirasidars on the occasion of solemn processions as well as in the temples.

55. The plaintiff's are entitled then to be protected from interference with their office on this occasions also.

... ...

59. The decree of the Court of First Instance must be reversed in respect of the declaration that the office of Thodakam and its honours and emoluments belong to the Tenkalais. The declaration that the Adhiapaka Miras, with the exception of the Thodakam, is the exclusive right of the Tenkalais, and that it appertains to all the members of that sect residing at Conjeeveram, must be affirmed, and it must be declared that the Tenkalais are entitled to discharge the duties on all occasions in which the ceremony is performed, as well at the time of processions as at services in the pagodas, and the Vadakalai defendants must be enjoined to abstain from interfering with the Tenkalais in the recital of the Mantram and Prabhandam otherwise than as ordinary worshippers. ... ...”

(emphasis supplied by this Court)

23. In ***Tirumalai Eachambadi Thiruvengadachariar*** [(2)] case, while declaring various rights available to the Members of Southern Cult during ceremonial worship of God in the Temple and during procession

(2.1915 MWN (Civil) 281 = MANU/TN/0840/1915)

of Deity, a Division Bench of this Court made following observations:-

"8. It appears to be admitted that the Adhyapakam service consists of thodakam, mantram and the Tamil prabandhams. The thodakam is the call to prayer. ... ...

9. The dispute between the parties is whether the Vadagalais are entitled to repeat the Vadagalai mantram on any occasion within the temple and whether they are bound to repeat the same verses in the prabandhams as the Tengalais or whether they may repeat any portion of the prabandham though it may happen to be different from that which is at that time being repeated by the Tengalais. The dispute has been going on between the parties for a very long time.

... ...

... ...

12. After this we have the litigation started in 1879 between the Tengalais and the Thathachariars. In that case the final decision of the High Court was that the members of both the sects may join as worshippers in the mantram and the prabandham, but the mantram is the Sri Sailesa Daya Patram and in joining as worshippers, the Vadagalais had no right to invade the office of the Tengalai Adhyapakam mirasdars who have got the exclusive right of discharging the duties on all occasions in which the Adhyapakam ceremony is performed as well at the time of processions as at services in the pagodas, and those Vadagalais who were defendants in the suit were enjoined to abstain from

interference with the Tengalais in the recital of the mantram and prabandkam otherwise than as ordinary worshippers.

... ...

... ...

16 . These decisions supported by the documents to which we have referred place beyond all doubt that the Tengalais of Conjeevaram have got the Adhyapakam miras and that it consists of the right of chanting the mantram of Sri Sailesa Daya Patram and also the exclusive right of reciting the usual Tamil prabhandhams inside the temple. They establish that the Tengalais are entitled to discharge the duties on all occasions in which the ceremony is performed. ... ...

17. ... ... The judgment of the High Court in the Srivilliputhur case (Exhibit EEE), Srinivasa Thathnchanar v. Srinivasa Aiyangar and Srinivasachariar v. Srinivasa Thathachariar 9 M.L.J. 355, holds that only one mantram can be recited in a temple. This appears also reasonable. That the resident Tengalais have got a superior right to the Tengalais who do not reside in Conjeevaram and to all Vadagalais cannot be dented. They have got the mirasi, i.e., the office to recite the prayers in question and receive the emoluments of the office. It is not likely that other persons also would be entitled to perform the duties of the office. Recital of a different mantram or prabandham during any ceremonial worship or by any goshti would be performance of the duties of that office. That Sri Sailesh Daya Patram is the only mantram that is repeated appears also from the

evidence of the 4th witness for the defendants, who is a Vadagalai and a trustee of this temple. He said that this is being done on account of the agreements into which the parties had entered. We are, therefore, of opinion that it is only the Tengalai mantram of Sri Sailesh Daya Patram that may be recited within the temple during any ceremonial worship or by any goshti. We must accordingly modify the decree of the District Judge on this point.

18. So far as the prabandham is concerned at the time of the puja, the Tengalais being the mirasdars have the right to recite it and the Vadaglais are entitled to join in the recitation only as worshippers, that is to say, they must repeat the same portions of the prabandham as the Tengalais. ... ...

19. ... ... We can only decide the question whether any act would be an interference with the Adhyapakam miras of the Conjeevaram Tengalais. Any interference in the puja from its commencement with the ringing of the bells to its close with the distribution of the theertham and prasadam is, we have held, a violation of the plaintiffs' mirasi right. The processions are a part of the worship. Vadagalais cannot therefore form any goshti of their own and repeat any prabandham which is different from that portion of the prabandham which is being recited by the mirasdars. The right of any individual Vadagalai to worship the deity without interfering with others by the recital of any appropriate mantrams or prabandhams, etc., in a temple is very different from the right to form a goshti or

congregation of his own sect and recite anything different from the prabandhams which are recited by the mirasdars. ... ...

20. ... ... The right to go in procession has now been recognized by a series of decisions in India and the right has also been upheld by the Judicial Committee of the Privy Council. When the Tengalais, therefore, carry the idol in procession, they are entitled to do so without any disturbance. The drummers, etc., march at the head of the procession; then the Tengalais form what is called the prabandhams in which the Vadagalais are entitled to join as ordinary worshippers. But it is not denied that the Vadagalais are not entitled at that time to recite their own mantram or any other prabandham. This is in front of the idol. Behind the idol comes the Vadagalai Vedic goshti reciting the Vedas, etc. The Tengalais are entitled to join it as ordinary worshippers, subject to the same restrictions as Vadagalais when they join the prabandkam goshti in front.

... ...

... ...

22. As to the goshti in front, it stands on a different footing. The recital of the prabandhams in front of the idol is considered more appropriate than behind the idol, and the Vadagalais insist upon their claim to do soon that ground. But we think the Judge is right in holding that this should not be allowed. The recitation of the prabandhams and the mantrams in front of the idol can only be intended as a worship of the idol. If it is not intended as such, then there is

no reason for insisting that they must be allowed to march in front, and the right to carry on such ceremonial worship resides in the resident Tengalais. ... ...”

(emphasis supplied by this Court)

24. In ***M.Appadorai Aiyangar*** [(3)] case, while explaining the various stages of Adhiapakam Service, this Court observed as follows:-

> *“1. ... ... The learned judges pointed out that the service consisted originally of the Thodakkam or the invocation to prayer, followed by the Mantram in praise of the Guru, after which comes the main part of the service consisting of the recitation of the Prabandams in the Tamil language. The learned Judges observed that the Thodakkam office had been by consent entrusted to a particular family of Vadagalais, that no one was at that time performing the service and that if it be true that the family to which this service was entrusted had become extinct, the united sects should elect a common representative to the office of Thodakkadar, which office, it was held, had become severed from the main Adyapakam services, so that any right of the Thengalais as mirasdars to hold that office had been lost. Except the Thodakkam office it was declared that the Adyapakam miras belonged exclusively to the Thengalais residing at Conjeevaram who were entitled to discharge the ditties of the office both inside the temple and in processions outside the temple, the Vadagalais being restrained*

3. (AIR 1939 Mad 102 = MANU/TN/0027/1938)

from interfering with the Thengalais in the recital of the Mantram and Prabandams other wise than as ordinary worshippers. ... ...

2. The learned District Judge observes in paragraph 7 that the Adyapakam service consists mainly in the recitation of the Prabandam preceded by the recitation of the Mantram or hymn, and followed by the recitation of a stanza in honour of the saint who was invoked by the hymn chanted at the beginning. That is to say it is recognised that the Vazhi Thirunamam is the appropriate conclusion of the Adyapakam service and that the stanza recited must be in honour of the saint invoked in the Mantram which begins the service. ... ...

... ...

4. This judgment of the District Judge, Chingleput, was considered in appeal. The appellate judgment is reported in Thirnvengadachariar v. Krishnaswami Thathachariar (1915) M.W.N. 281. The High Court substantially confirmed the District Judge's decree and held that only one Mantram may be recited, namely, that of the Thengalai mirasdars, that the recital of a different Mantram or Prabandam during any ceremonial worship or by any ghoshti would be an interference with the duties of the office and that any interference in the Puja from its commencement with the ringing of the bells to its close with the distribution of Theertham and Prasadam is a violation of the plaintiff's mirasi rights. There is no specific reference in the judgment to the Vazhi Thirunamam and the decree as modified by the High Court runs as follows:

That it is only the Thengalai Mantram of Sri

Sailesa Daya Patram that may be recited within the temple during any ceremonial worship or by any Ghoshti and that Vadagalais are only entitled to join the Thengalai Adyapakam Ghoshti as worshippers by reciting the same portion of the Prabandam that is being recited by the Adyapaka mirasdars; that the defendants the Vadagalais be restrained from reciting their own mantrams and Prabandams during the Puja period, that is, from the commencement of the Puja to the close thereof by the distribution of the Thirtham and Prasadam, etc.

5. This decree though it does not in so many words prescribe the singing of the Thengalai Vazhi Thirunamam by the mirasdars does very clearly prescribe the conduct of the whole Adyapakam service right up to its termination by those mirasdars. It restrains the Vadagalais from singing their own sectarian hymns and chants or taking any part except by joining the Ghoshti as worshippers and reciting the Prabandams recited by the mirasdars.

... ...

... ...

13. ... ... Obviously, the mirasdars who have the duty to lead the service must be protected in the exercise of their duty. It has been recognised that the plaintiffs (Vadagalai-expression supplied by this Court) have the right to join in the service as ordinary worshippers without interfering in the conduct of the service by the mirasdars. ... ...”

25. In ***V.Srinivasachariar*** [(4)] case, a Division Bench of this Court while explaining the scope of right available to the Members of Southern Cult observed as follows:-

> *"22. ... ... The decree in Appeal Suit No. 175 of 1910, makes it clear beyond any doubt that during the pooja period the Vadakalais are entitled only to join the Thenkalais Athyapakam goshti or worshippers and recite the same portion of the prabhandham that is being recited by the Athyapakam mirasidars and that the Vadakalais are not entitled to recite their own mantrams and prabhandams during the pooja period.*
>
> *23. ... ... The prohibition against Vadakalais in the matter of reciting mantram or prabhandham of their own is absolutely unqualified and there is no room for the Vadakalais to contend that the prohibition does not extend to the recitation of Sri Desikar's Tamil prabhandham.*
>
> ... ...
>
> ... ...
>
> *27. On a consideration of the evidence, we have no doubt in holding that the custom and usage pleaded by the Plaintiff are not true. We have also no hesitation in holding, upon the authorities of the decisions binding upon the parties that the custom and usage pleaded by the Plaintiff go directly counter to those decisions. We have no doubt that*

(4. (1970) ILR 2 Mad 146 = MANU/TN/0586/1969)

the attempt of the Vadakalais in this litigation is to introduce and establish an innovation opposed to the decisions binding on them Mr. Venkatavaradachariar, appearing for Defendants 4 and 5, urged, with some amount of justification, that this attitude of the Vadakalais in putting forward some innovation or other in one form or another from time to time has been responsible for the series of litigations pertaining to this temple going on for the last two centuries. In Thathachariar v. Thirwvenkdtachariar 1915 M.W.N. 916 920. Sadasiva Ayyar J., had occasion to make some adverse remarks against the attitude of the Vadakalais wherein the learned Judge has pointed out that the litigation in that case was the result of the action of a small, though influential, faction of Vadakalai sectarians residing in Kancheepuram by introducing innovations in customary practices during the period of regular official worship in the temple. ... ...”

26. The extract of observations and findings of this Court in the above mentioned decisions make it clear that the Members of Southern Cult, who are residents of Kancheepuram have got exclusive right to Office of Adhiapaka Mirasi. As Office Holders, they are entitled to recite their Manthram namely Sri Sailesa Dayapatram and invoke their Guru. Followed by the invocation, they are entitled to recite Nalayira Divya Prabandham in their own way. Finally, at the time of conclusion they are

entitled to recite their Vazhi Thirunamam praising their own Guru Manavala Mamunigal. This Adhiapaka Mirasi right shall be exercised by the Members of the Southern Cult during Ceremonial Worship (Puja Service) of Deity in the Temple. During Ceremonial Worship, when Members of Southern Cult perform their duties in their capacity as Office Holders of Adhiapaka Mirasi, the Members of Northern Cult are not entitled to recite their Manthra in praise of their Guru or recite their Prabandham in their own way. However, the Members of Northern Cult, in their capacity as ordinary worshippers of God are entitled to join by repeating the Manthras or Prabandhams recited by Members of Southern Cult, who are Office Holders. Therefore, it is clear that the right to worship available to the Members of Northern Cult is preserved. The restriction imposed on Members of Northern Cult with regard to the recitation of Manthra and Prabandham is restricted to the time, during which the Ceremonial Worship of Deity is going on in the Temple.

27. In our considered view, the right to worship or freedom of religion available to individual Members of Northern Cult are not affected by these decisions. The individual Members of Northern Cult or any other worshippers can very well participate in the Ceremonial Worship of God by repeating what is recited by Office Holders doing

Adhiapaka Service. This Court in earlier decisions declared the rights available to the Members of Southern Cult of Kancheepuram to perform certain duties in their capacity as Adhiapaka Service Office Holders. Performance of services like recitation of Manthra, recitation of Prabandham and recitation of Thiruvaimozhi etc., are all within the exclusive domain of Office Holders and ordinary worshippers or any Member of Northern Cult cannot infringe such rights. The Official Services shall be performed only by the recognised Office Holders. As far as Sri Devaraja Swamy Temple at Kancheepuram is concerned, these Official Services during Ceremonial Worship of God shall be performed only by the Office Holders namely the Members of Southern Cult, residing at Kancheepuram.

28. No ordinary devotee or non-office holder including the Members of Northern Cult are entitled to claim that they are also entitled to perform the official services in the Temple. For example, in every Temple in this part of the world, only the Official Priest of the Temple is entitled to enter "Sanctum Sanctorum" and perform Pujas. There are other Office Holders like Puja Assistants, who can render certain supplementary services during the period of Ceremonial Worship (கால

Puja). Likewise, only the person holding the office of Othuvar is entitled to recite holy verses in front of the God during Ceremonial Worship or official Puja. An ordinary worshipper, who is not an office holder, is not entitled to say that he can also perform the official services which are to be performed by Office Holders. An ordinary Devotee cannot emulate the role of Official Priest, Puja Assistants or Othurvar during performance of Official Puja by the Office Holders. The ordinary devotees are entitled to worship the God without interfering the performance of official duties by the Office Holders. When rendition of holy verses by Othuvars are going on, an ordinary worshipper in the guise of exercising his freedom of religion or right to worship cannot loudly recite his own poem as per his wish so as to interfere with the performance of official duties by the Office Holder. If such acts by individual worshippers are allowed during Ceremonial Worship time, the conducive atmosphere in the Temple during Ceremonial Worship will get vitiated and people will not be in a position to have peaceful worship of God. Therefore, by no stretch of imagination, we can say that an ordinary worshipper of a Temple is entitled to recite his own holy songs, poems etc., loudly, so as to vitiate the atmosphere or perform certain services to God exclusively reserved for office holders. The right to freedom of religion enshrined under Articles 25 and 26 of Constitution of India cannot be expanded to affect

the rights of Office Holders and to vitiate the peaceful atmosphere in the Temple. If such things are permitted, certainly it will affect the right to worship available to the other devotees.

29. As mentioned earlier, the right to freedom of religion or worship available to individuals are subject to restrictions mentioned under Article 25(1) of Constitution of India. Such right is subject to public order. In order to maintain the public order during Ceremonial Worship of God in Temple, only the Office Holders shall be allowed to perform their duties and services, the ordinary worshipppers can only have glimpses of God, if at all they can recite their holy verses within their mind without making any noise so as to affect the official service by Office Holders. The restriction imposed in the decree passed by this Court in earlier litigations injuncting the Members of the Northern Cult from reciting their own Manthra or Prabandhams in their own way during Ceremonial Worship of God will certainly come under the exception recognised under Article 25(1) of the Constitution of India namely the public order. The object is to preserve the peaceful atmosphere of the Temple to facilitate free worship by all Members of the public. Even though 3 out of 4 decisions mentioned above were delivered prior to coming into force of Indian Constitution, this Court recognised individual

right of ordinary worshippers including the Members of Northern Cult by permitting them to join the worship by repeating what was recited by the Office Holders namely the Members of Southern Cult. As we mentioned earlier, right to freedom of religion and worship is not only a fundamental right but it is also recognised as a basic human right, therefore, this Court while delivering judgments in the litigations between the Members of Southern Cult and Northern Cult was conscious of the individual rights of worshippers and preserved their right. It would be appropriate to extract certain observations in the earlier judgments, which reiterates the limited right of worship available to the individual worshippers as against the right of Office Holders. In ***Krishnasami Tatachaaryar*** [(1)] case, this Court observed as follows:-

> *"53. There is evidence to show that the members of both sects may join as worshippers in the Mantram and Prabhandam, but the Mantram above allowed is the Mantram, Sri Sailesa Dayapatram and, in joining as worshippers, the Vadakalais have no right to invade the office of the Tenkalai Adhiapaka Mirasidars."*

(1.(1882) ILR 5 Mad 313 = MANU/TN/0085/1882)

30. In ***Ayya Raghunatha Thathachariar and others vs. Thirumalai Echambadi Thiruvengadachariar and others*** reported in ***1915 MWN (Civil) 916 = MANU/TN/0443/1915***, while giving nutshell of the earlier decisions, a Division Bench of this Court observed as follows:-

> *"5. After hearing full arguments, I think that the learned Judges' decision involved the following findings and issues:*
>
> *(a) The Vadagalai defendants are entitled to recite any portion of the Tamil Vtdas, called Prabhandham either at the time of the processions within the temple or at other places in the temple of Varadarajah Swami at Conjeeveram where the Thengalais do not carry on the worship. There is nothing in the law to prevent any Vadagalai from worshipping the deities consistently with the equal rights of other worshippers. There is nothing to prevent any Vadagalai from reciting any portion of the Prabandham separately and as an act of personal devotion. But it would be an interference in the regular poojah or worship within the temple between the time of its commencement (with the ringing of the bells) and its close (with the distribution of Thirtham and Prasadham) and it would be a violation also of the Tengalai plaintiffs' mirasi Adyapakam office right if the Vadagalais form a goshti or a congregation*

of their own and repeat a portion of the Tamil Vedas which is different from that portion of the Tamil Vedas which is being recited as a part of the regular temple worship by the Tengalai mirasidars during the time of such worship within the temple.

(b) That when a procession is taken along the public streets outside the temple according to the temple customary practice, that procession is a compact organised procession from the front portion of that procession, which begins at the spot in front of the carved image of the deity where the Tengalai miras office-holders recite in a congregation the Tamil Vedas, up to the point behind the vehicle of the image where the Vadagalai office-holders recite the Sanskrit Vedas.

(c) That the Vadagalais are entitled to join the Tengalai goshti reciting the Tamil Vedas and join that chanting with the Tengalai office-holders but should not chant a different portion of the Tamil Vedas (similarly as regards the right of the Tengalais to join the Vadagalais' Sanskrit Veda, reciting goshti in the rear- subject to similar restrictions).

(d) The Vadagalais should not, however, form an organised congregation or ghosti of their own between the front end and back end of the religious procession and chant the Tamil Vedas as a separate group, as that

will be setting up a rival right as against Tengalai miras office-holders and will be an interference with such rights, whereas the recital by an individual Vadagalai devotee of a stanza or stanzas in the Tamil Vedas is a bona fide devotional act of private worship even when he has joined the procession as an individual worshipper, and it would not be an interference with the congregational recitalled by the Tengalai miras officials.

(e) There is nothing to prevent the Vadagalais from even forming an organised goshti and reciting Tamil Vedas or anything they like at a reasonable distance in front of the Tengalai Tamil Veda-reciting coshti which begins the procession, or at a reasonable distance behind the temple procession which ends with the Sanskrit Veda-reciting goshti.

... ...

"10. ... ... It is only the claim of this faction among the Vadagalais to introduce innovations into the customary practices during the period of the regular official worship in the temple and into and within the organised processional body during the carrying on of the customary processions outside the temple and ***their attempts to create disturbance to the public peace*** *that have been properly, if I may say so, restrained by the judgment."*

(emphasis supplied by this Court)

31. After holding so, the Division Bench of this Court dismissed the application filed by the Members of Northern Cult seeking leave to file an appeal against the decision mentioned in ***Tirumalai Eachambadi Thiruvengadachariar*** [(2)] case.

32. In ***M.Appadorai Aiyangar*** [(3)] case, this Court observed as follows:-

> *"13. ... ... Obviously, the mirasdars who have the duty to lead the service must be protected in the exercise of their duty. It has been recognised that the plaintiffs have the right to join in the service as ordinary worshippers without interfering in the conduct of the service by the mirasdars."*

33. The observations of this Court extracted above make it clear that even before coming into force of Constitution of India, this Court was conscious of the right to worship available to individual worshippers and held that the Members of Northern Cult, as ordinary worshippers, are entitled to join and repeat what was recited by the Office Holders at the time of Ceremonial Worship in Temple and Ceremonial Procession.

(2.1915 MWN (Civil) 281 = MANU/TN/0840/1915)

(3. AIR 1939 Mad 102 = MANU/TN/0027/1938)

Therefore, we have no hesitation in coming to the conclusion that the judgment and decree passed by this Court in the above mentioned decisions do not interfere with the fundamental right to worship or freedom of religion enshrined under Article 25 of Constitution of India.

34. The interplay between the right available to the Members of Southern Cult in their capacity as Office Holders of certain services and right to worship available to the individuals including the Members of Northern Cult can be considered in a different angle. The decision of the Apex Court in ***Commissioner, Hindu Religious Endowments, Madras, vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*** reported in ***(1954) 1 SCC 412*** has been pressed into service by the learned counsel for Northern Cult to claim that the Northern Cult is a section of denomination within the meaning of Article 26 of Constitution of India. The right of Southern Cult as a section of denomination will be dealt with while considering Point No.2. The relevant observation in ***Shirur Mutt*** case reads as follows:-

> *"16. As regards Article 26, the first question is, what is the precise meaning or connotation of the expression "religious denomination" and whether a Math could come within this expression. The word "denomination" has been defined in the Oxford Dictionary to mean "a collection of*

individuals classed together under same name : a religious sect or body having a common faith and organisation and designated by a distinctive name." It is well know that the practice of setting up Maths as centres of theological teaching was stated by Shri Sankaracharya and was followed by various teachers since then. After Sankara, came a galaxy of religious teachers and philosophers who founded the different sects and sub-sects of the Hindu religion that we find in India at the present day. Each one of such sects or sub-sects can certainly be called a religious denomination, as it is designated by a distinctive name - in many cases it is the name of the founder - and has a common faith and common spiritual organization. The followers of Ramanuja, who are known by the name of Shri Vaishnabas, undoubtedly constitute a religious denomination; and so do the followers of Madhwacharya and other religious teachers. ... ...”

35. Therefore, it is clear that the followers of Ramanuja are recognised as a Hindu Religious Denomination. It is not in dispute that both the Gurus' of Southern Cult and Northern Cult namely Manavala Mamunigal and Vedanta Desika were followers of Ramanuja. Therefore, if the Northern Cult is accepted as a sub-sect of larger denomination (followers of Ramanuja), out of same logic, the Members of Southern Cult shall also be treated as a sub-sect of a denomination. The right

available under Article 26 of Constitution of India is not only available to a religious denomination but the same is also available to any section thereof. Therefore, the right available to denomination or any section thereof recognised under Article 26 is also available to the Members of the Southern Cult. Hence, under Article 26(c) of Constitution of India, the Members of Southern Cult in their capacity as a section of denomination are entitled to own and acquire movable and immovable properties. It is settled law that right to office having beneficial interest is akin to right to property. The Mirasi Right of Members of Southern Cult is a perfect blend of religious right as well as property right. Therefore, the Members of Southern Cult, as recognised by earlier decisions of this Court are entitled to Office of Adhiapaka Service and the said office right is protected under Article 26 (c) and (d) of Constitution of India. When the right to office available to the Members of Southern Cult of Kancheepuram is protected under Article 26(c) and (d) of Constitution of India, the individual Members of Northern Cult in the guise of exercising their right to worship or freedom of religion cannot interfere with the right to office and duties attached thereto which are available to the Members of Southern Cult. Hence, the right to office recognised by the Civil Court decree in the earlier decisions are no less than fundamental rights available to individual worshippers. It cannot be treated as ordinary

right to property and by virtue of the fact that Southern Cult can be treated as a section of denomination, the right to office recognised by the Civil Court decree available to them is protected under Article 26 (c) and (d) of Constitution of India. Hence, the injunction granted by the Civil Court against the Members of Northern Cult from interfering with the right to office available to the Members of Southern Cult will no way offend the freedom of religion available to the Members of Northern Cult under Article 25 of Constitution of India. The Point No.1 is accordingly answered in favour of Members of Southern Cult.

Discussion on Point No.2:-

36. As discussed earlier, in Shirur Mutt case, the followers of Ramanuja were held to be forming a separate denomination and therefore, the sub-sects of Ramanuja's followers namely the Southern Cult and Northern Cult respectively, can be treated as a section of denomination. In the earlier point, We have concluded that the rights to office declared in favour of Southern Cult by this Court in earlier decrees is a blend of religious and property right and the same is protected under Article 26 (c) and (d) of Constitution of India. If the Members of Northern Cult are allowed to recite their own Manthra or Prabandhams in

their own way during Ceremonial Worship in the Temple or during procession of the Deity inside and outside the Temple, it will certainly interfere with the rights available to the Southern Cult in their capacity as Adhiapaka Mirasi Office Holders.

37. A close reading of judgment rendered by this Court between two cults referred above would indicate that the Office Holders rendering Adhiapaka Miras Service are entitled to certain voluntary contributions and also a share in the rice cakes offered in the Temple. Therefore, the Office to which the Southern Cult are held to be entitled is not only attached with certain religious duties but they are also entitled to certain emoluments by virtue of their service. Hence, the Office of Adhiapaka Miras given to the Members of Southern Cult, a section of denomination, is a blend of religious rights and property rights. Therefore, the Adhiapaka Miras right recognised by this Court includes certain proprietary right which can be equated to property. Hence, it is entitled to protection under Section 26 (c) and (d) of Constitution of India. As mentioned earlier, the Civil Court decree does not prevent the Members of Northern Cult from exercising their individual right of worship but it only injuncted them from interfering with right of office available to the Members of Southern Cult during Ceremonial Worship and Ceremonial

Procession. Therefore, the right to manage affairs in the matters of religion available to the Members of Northern Cult is not at all affected. In any event, in order to maintain public order in the Temple at the time of Ceremonial Worship and at the time of Ceremonial Procession, this Court injunted the Members of Northern Cult from reciting their own Manthra or Prabandham in their own way. The said restriction imposed in the decree passed by this Court will certainly come within the exception recognised under Article 26 of Constitution of India. Therefore, we hold that right to worship available to the Members of Northern Cult under Article 26(b) of the Constitution of India is not at all affected.

38. A Constitution Bench of the Hon'ble Apex Court in ***Sardar Syedna Taher Saifuddin Saheb vs. The State of Bombay*** reported in ***AIR 1962 SC 853 = (1962) Supp (2) SCR 496 = MANU/SC/0072/1962***, while explaining the scope of Articles 25 and 26 of Constitution of India observed as follows:-

> *"38. The content of Arts. 25 and 26 of the Constitution came up for consideration before this Court in the Commissioner, Hindu Religious Endowments Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Matt (1); Mahant Jagannath Ramanuj Das v. The State of Orissa (2);*

Sri Venkatamana Devaru v. The State of Mysore (3); Durgah Committee, Ajmer v. Syed Hussain Ali (4) and several other cases and the main principles underlying these provisions have by these decisions been placed beyond controversy. The first is that the protection of these articles is not limited to matters of doctrine or belief they extend also to acts done in pursuance of religion and therefore contain a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of religion. The second is that what constitutes an essential part of a religious or religious practice has to be decided by the courts with reference to the doctrine of a particular religion and include practices which are regarded by the community as a part of its religion."

39. In the case on hand, in the earlier litigations, factually it was found by this Court that Members of the Southern Cult are entitled to recite their own Manthram followed by Prabandham and conclude it by reciting Vazhi Thirunamam of their Guru-Manavala Mamunigal. Performance of these services by Members of Southern Cult is a part of Ceremonial Worship of God in the Temple namely Sri Devarajaswamy Temple. The religious freedom guaranteed under constitution also extends to rituals, observances, ceremonies and modes of worship.

40. In these circumstances, we have already held following the judgment in Shirur Mutt case that Members of Southern Cult is a section of denomination. The right to rituals and ceremonies available to the Members of Southern Cult is blended with right to office of Mirasi. The duties performed by Members of Southern Cult as Mirasi Office Holders of Temple like recitation of Manthra, recitation of Nalayira Divya Prabandham, Vazhi Thirunamam etc., are purely religious in nature. It is all part of rituals and ceremonies in the Temple. The said right available to the Members of Southern Cult is purely religious in nature and therefore, it is protected under Article 26(b) of Constitution of India as held by Constitution Bench in ***Sardar Syedna Taher Saifuddin Saheb*** case cited supra. Right to worship available to the individuals cannot interfere with the right to ceremonies and rituals available to the Members of denomination or part thereof, by virtue of right to office available to the Members of Southern Cult. The said right is superior than the right to worship available to the non-members of Southern Cult including Northern Cult and hence, non-members of Southern Cult in the guise of exercise of their right to worship cannot interfere with official functions of Southern Cult during performance of Ceremonial Worship, which is protected under Article 26 (b) of Constitution of India.

Discussion on Point No.3:-

41. The learned Senior Counsel appearing for the Northern Cult primarily contended that the earlier decisions of this court referred above, violate their fundamental rights to worship and hence, the same cannot be enforced. The earliest decision relied on by the Members of Southern Cult is more than a century old. The latest judgment relied on by the Southern Cult delivered 55 years ago. All these decisions have attained finality as not being challenged in the manner known to law before the Superior Courts. In these circumstances, a question arises for consideration as to tenability of contention raised by the Members of Northern Cult that the judicial orders, which attained finality can be challenged on the ground of violation of fundamental rights. The said question is no longer *res integra* in view of law laid down by the Nine Member Bench of the Apex Court in ***Naresh Shridhar Mirajkar and others vs. State of Maharashtra and others*** reported in ***AIR 1967 SC 1*** and decisions of the Apex Court in ***Triveniben vs. State of Gurajat*** reported in ***AIR 1989 SC 1335 = (1989) 1 SCC 678 and Riju Prasad Sarma and others vs. State of Assam and others*** reported in ***(2015) 9 SCC 461 = MANU/SC/0722/2015***.

42. In ***Naresh Shridhar Mirajkar*** case, the Apex Court concluded that judicial orders passed by the Courts cannot be a subject matter of challenge in writ proceedings on the ground of violation of fundamental rights and no Writ of Certiorari would lie against the judicial orders. The relevant observation of the Apex Court reads as follows:-

> *"51. In this connection, it is necessary to refer to another aspect of the matter, and that has relation to the nature and extent of this Court's jurisdiction to issue writs of certiorari under Article 32(2). Mr Setalvad has conceded that if a court of competent jurisdiction makes an order in a proceeding before it, and the order is inter-partes, its validity cannot be challenged by invoking the jurisdiction of this Court under Article 32, though the said order may affect the aggrieved party's fundamental rights. His whole argument before us has been that the impugned order affects the fundamental rights of a stranger to the proceedings before the Court; and that, he contends, justifies the petitioners in moving this Court under Article 32. It is necessary to examine the validity of this argument.*
>
> ... ...
>
> ... ...
>
> *58. We have referred to these decisions to illustrate how the jurisdiction to issue writs of certiorari has been exercised either by the High Courts under Article 226 or by this Court under Article 32. Bearing these principles in mind, let us enquire whether the order impugned in the*

present proceedings can be said to be amenable to the jurisdiction of this Court under Article 32. We have already seen that the impugned order was passed by the learned Judge after hearing the parties and it was passed presumably because he was satisfied that the ends of justice required that Mr Goda should be given protection by prohibiting the publication of his evidence in the newspapers during the course of the trial. This matter was directly related to the trial of the suit; and in exercise of his inherent power, the learned Judge made the order in the interests of justice. The order in one sense is inter-partes, because it was passed after hearing arguments on both the sides. In another sense, it is not inter-partes inasmuch as it prohibits strangers like the petitioners from publishing Mr Goda's evidence in the newspapers. In fact, an order of this kind would always be passed after hearing parties before the Court and would in every case affect the right of strangers like the petitioners who, as Journalists, are interested in publishing court proceedings in newspapers. Can it be said that there is such a difference between normal orders passed inter-partes in judicial proceedings, and the present order that it should be open to the strangers are who affected by the order to move this Court under Article 32. The order, no doubt, binds the strangers; but, nevertheless, it is a judicial order and a person aggrieved by it, though a stranger, can move this Court by appeal under Article 136 of the Constitution. Principles of res judicata have been applied by this Court in dealing with petitions filed before

this Court under Article 32 in Daryao v. State of U.P. We apprehend that somewhat similar considerations would apply to the present proceedings. If a judicial order like the one with which we are concerned in the present proceedings made by the High Court binds strangers, the strangers may challenge the order by taking appropriate proceedings in appeal under Article 136. It would, however, not be open to them to invoke the jurisdiction of this Court under Article 32 and contend that a writ of certiorari should be issued in respect of it. The impugned order is passed in exercise of the inherent jurisdiction of the Court and its validity is not open to be challenged by writ proceedings."

(Emphasis Supplied by this Court)

43. In ***Triveniben*** case cited supra while considering the similar question, a Constitution Bench of the Hon'ble Apex Court followed the earlier decision of Nine Member Bench of the Hon'ble Apex Court in ***Naresh Shridhar Mirajkar*** case and observed as follows:-

"26. ... ... The judicial verdict pronounced by court in relation to a matter cannot be challenged on the ground that it violates one's fundamental right. The judgment of a court cannot be said to affect the fundamental rights of citizens. (See Naresh Sridhar Mirajkar case 1963 (3) SCR 744)."

44. Interestingly, in a subsequent judgment in ***Riju Prasad Sarma*** case cited supra, the Hon'ble Apex Court considered whether Judiciary can be included in the expression 'State' within the meaning of Article 12 of Constitution of India. The Apex Court concluded that while acting on judicial side, the Courts are not coming within the definition of expression 'State'. However, while functioning on administrative side, the courts will fall within the meaning of expression 'State'. The relevant observation of the Apex Court reads as follows:-

> *"60. On the related issue of the scope of Article 12 and whether for the purposes of issuance of writ, judicial decisions by the judiciary can be included in State action, we are in agreement with the submissions advanced by Mr. Rajiv Dhavan that definition of 'the State' under Article 12 is contextual depending upon all relevant facts including the concerned provisions in Part III of the Constitution. The definition is clearly inclusive and not exhaustive. Hence omission of judiciary when the government and Parliament of India as well as government and legislature of each of the State has been included is conspicuous but not conclusive that judiciary must be excluded. Relevant case laws cited by Mr. Dhavan are:-*
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> *(i)* ***Pradeep Kr. Biswas v. Indian Institute of Chemical Biology and Ors.*** *MANU/SC/0330/2002 : (2002) 5 SCC 111*
>
> *(ii)* ***Naresh Shridhar Mirajkar and Ors. v. State of***

Maharashtra And Anr. *MANU/SC/0044/1966 : (1966) 3 SCR 744*

(iii) ***Triveniben v. State of Gujarat*** *MANU/SC/0520/1989 : (1989) 1 SCC 678*

(iv) ***Poonam v. Sumit Tanwar*** *MANU/SC/0187/2010 : (2010) 4 SCC 460*

61. Hence, in accordance with such judgments holding that judgments of High Court and Supreme Court cannot be subjected to writ jurisdiction and for want of requisite governmental control, Judiciary cannot be a State under Article 12, we also hold that while acting on the judicial side the courts are not included in the definition of the State. Only when they deal with their employees or act in other matters purely in administrative capacity, the courts may fall within the definition of the State for attracting writ jurisdiction against their administrative actions only. In our view, such a contextual interpretation must be preferred because it shall promote justice, especially through impartial adjudication in matters of protection of fundamental rights governed by Part III of the Constitution." (Emphasis supplied by this Court)

45. A close scanning of above mentioned decisions of the Apex Court lead us to a definite conclusion that while exercising power on judicial side, the courts will not come under the definition of the word 'State' within the meaning of Article 12 of Constitution of India.

However, while functioning on administrative side, the courts can be treated as a State and hence, its administrative decisions can be questioned on the ground of violation of fundamental rights. Therefore, it is very well settled by the decision of Nine Member Bench of Hon'ble Apex Court, which was followed consistently in the subsequent judgments, the judical orders passed by the Courts cannot be challenged on the ground of violation of fundamental rights and no Writ of Certiorari will lie against judicial orders. In case a person is aggrieved by judicial orders, aggrieved party, irrespective of the fact whether he is a party to the litigation or not, can challenge the same only in the manner known to law either before the very same Court which passed orders or before the Higher Forum. If he is a party to the *lis*, he can challenge it as a matter of right. If he is not a party to the *lis* and still aggrieved by the decision, he can challenge it after getting leave of the Court. Therefore, a judicial order which attained finality cannot be challenged on the ground that it is violative of fundamental rights. Point No.3 is answered accordingly against the Northern Cult and in favour of the Southern Cult.

Discussion on Point No.4:-

46. It is vehemently contended by the learned counsel appearing for the Northern Cult that the prayer sought for by one of the Members of

Southern Cult seeking police protection for exercising their right would amount to executing the decree for injunction which was already time barred. By relying on Article 182 of Old Limitation Act 1908, it was contended that the decree for injunction should have been executed within three years from the date of decree and the three years period was already over. In such circumstances, according to the learned counsel for Northern Cult, the prayer sought for by the petitioner is time barred. The Members of the Southern Cult filed a contempt petition to punish the Executive Trustee for disobedience to the order passed in the year 1915. The said petition was filed by invoking plenary power available to this Court to punish a person for contempt of Court for disobedience to the orders passed by this Court. Power to punish for contempt or violation of the order passed by this Court cannot be equated with execution of the decree. Therefore, this Court is not impressed by the submission made by the learned counsel appearing for the Northern Cult.

47. As far as decree for injunction is concerned, the same need not be executed or enforced unless it is violated. If the defendant complied with the decree promptly, there is no need to enforce it by seeking his arrest or attachment of property. The enforcement of decree for injunction will arise only in case of violation. Any violation at any distant point of

time will constitute a separate cause of action for seeking enforcement of the decree. If the argument made by the learned counsel for the Northern Cult on the question of limitation is accepted, every defendant in a suit for injunction will wait for three years and then will start violating the same. Therefore, on this ground also, the submission made by the learned counsel appearing for the Northern Cult on the question of limitation is negatived. Further, Article 136 of New Limitation Act, 1963 makes it very clear that enforcement of decree for injunction shall not be subject to any period of limitation. Therefore, the benefits of Article 136 of Limitation Act, 1963, will certainly enure to all the decree holders in injunction suit. In any event, in the case on hand, complaining violation of the decree, in the year 2021, the writ petition was filed seeking police protection. Every violation of the decree gives a new cause of action and therefore, the submission made by the learned counsel appearing for the Northern Cult on the ground of limitation is rejected. It was also submitted that the Members of Southern Cult shall be relegated to execute the decree as per provisions of Civil Procedure Code. Since the executability of the decree passed by this Court was questioned on the ground of violation of fundamental rights, the said issue can be decided only by this Court and hence, this Court is not inclined to relegate the parties to execute the decree before the Trial Court.

48. Though the Members of Southern Cult have got remedy of moving the Civil Court for execution of the decree for injunction, in the light of the arguments made by the learned counsel appearing for the Northern Cult that decree was unenforceable due to the violation of the fundamental rights guaranteed under Constitution of India, this Court feels that the writ petition for police protection is very much maintainable. The points urged by the Members of Northern Cult regarding the violation of fundamental rights cannot be decided by the Executing Court. Hence, the Point No.4 is answered against the Northern Cult and in favour of the Southern Cult.

Discussion on Point No.5:-

49. It was vehemently contended by the learned counsel appearing for the Northern Cult that declaration granted by this Court in the earlier decision was restricted to 7 families of Southern Cult and their descendants are not traceable. Therefore, the benefit of the decree cannot be extended to all the Members of Southern Cult. In ***Krishnasami Tatacharyar*** [1] case, it was clearly mentioned that declaration of Adhiapaka Miras is the exclusive right of Thengalai and that it appertains to all the Members of that sect residing at Kancheepuram.

(1.(1882) ILR 5 Mad 313 = MANU/TN/0085/1882)

Likewise, in ***Tirumalai Eachambadi Thiruvengadachariar*** [(2)] case also it was clearly held that Adhiapaka Miras right was given to the Thengalai (Southern Cult) residents of Kancheepuram. The relevant portions were already extracted in the previous paragraphs. Therefore, we do not want to extract it again. In view of the categorical pronouncement by this Court in the earlier judgments that the Mirasi Rights were available to the Southern Cult residents of Kancheepuram, we hold that the right to perform certain duties as mentioned above during Ceremonial Worship in the Temple and Ceremonial Procession is restricted to the Southern Cult residents of Kancheepuram. Any other non-resident Southern Cult Member can join the congregation only as a Member and they are not entitled to any better right as Office Holders. In this connection, at the risk of repetition, we would like to extract the observation of this Court in ***Tirumalai Eachambadi Thiruvengadachariar*** [(2)] case, the relevant observation reads as follows:-

> *"17. ... ... That the resident Tengalais have got a superior right to the Tengalais who do not reside in Conjeevaram and to all Vadagalais cannot be dented. They have got the mirasi, i.e., the office to recite the prayers in question and receive the emoluments of the office. It is not likely that other persons also would be entitled to perform the duties of the office. ... ..."*
>
> *(2.1915 MWN (Civil) 281 = MANU/TN/0840/1915)*

Therefore, we hold that the right to office or Mirasi right declared in the earlier judgments is restricted to Southern Cult residents of Kancheepuram alone. The Point No.5 is accordingly answered.

Discussion on Point No.6:-

50. It was vehemently contended by the learned counsel appearing for the Northern Cult that the Tamil Nadu Act 2 of 1971 abolished hereditary servants in the Temples under the control of the HR and CE Department and therefore, the Members of the Southern Cult, whose right to office was declared earlier would automatically loose their right to hold office, as the rule of next person in line of succession to enter the office on death of predecessor stood abolished. The validity of Tamil Nadu Act 2 of 1971 was upheld by the Apex Court in ***Seshammal and others vs. State of Tamil Nadu*** reported in ***(1972) 2 SCC 11***. If the right to office is declared in favour of individuals and their descendants, on death of said individuals, their descendant cannot enter the office due to the abolition of the rule relating to next person in line of succession entering the office. The deletion of Sub-Section 3 of Section 55 of Tamil Nadu Hindu Religious and Charitable Endowments Act, prevents the successor of the last office holder entering the office by virtue of hereditary right. However, even in the ***Seshammal*** case, it was clearly

held that the servants, who already entered office by virtue of hereditary right, were entitled to continue till their life time and succession to the office by their descendant alone was barred. The submission made by the learned counsel appearing for the Northern Cult can be accepted only in cases where right to office is given to individuals. Because on the death of such individual, his son or grandson cannot enter the office by virtue of hereditary right. In the case on hand, right to office is given to a collection of individuals namely Members of Southern Cult residing at Kancheepuram. Therefore, death of office holder will not arise in this case. Right to office conferred on collection of individuals is a perpetual one. Even if one of the member dies, there will be other member to continue the office. The son or grandson of deceased members will also be treated as resident Members of Southern Cult, provided they reside at Kancheepuram. They are entitled to perform the duties attached to the office by virtue of their status as members of Southern Cult of Kancheepuram, but not by virtue of their hereditary right. Therefore, the submission made by the learned counsel appearing for the Northern Cult, based on abolition of Hereditary Right, will not be applicable to cases where the right to office is conferred on body of persons and not to individuals. The Point No.6 is answered against the Northern Cult and in favour of the Southern Cult.

Discussion on Point No.7:-

51. The writ appeals in W.A.Nos.1381 and 1382 of 2022 were filed by Members of Southern Cult challenging the interim orders passed by the learned Single Judge in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022, dated 17.05.2022. The main writ petition was filed challenging the certain directions issued by Executive Trustee of the Temple so as to enforce the decree passed by this Court in earlier litigations. The learned Single Judge after giving a *prima facie* finding that denial of right to recite their own Manthram by Members of Northern Cult would amount to violation of their right to freedom of religion available under Articles 25 and 26 of Constitution of India, issued the following directions:-

> *"22. In view of the facts and circumstances, this Court is inclined to pass following interim orders:*
>
> *(1) The Thengalai sect shall be permitted to sit in first two or three rows inside the Temple and behind them, the Vadagalai sect and ordinary devotees shall be permitted to sit in the remaining available space inside the Temple. The seating arrangements shall be regulated by the 3rd respondent/ Assistant Commissioner / Executive Trustee in such a manner without affecting discipline and decorum of the rituals and pooja activities.*

(2) The Thengalai sect shall be permitted to commence their initial recital namely Srisaila Dayapathram and thereafter, Vadagalai sect shall be permitted to chant initial recital namely Sri Ramanuja Dayapathram within 10 to 12 seconds each and thereafter, both the Thengalai sect, Vadagalai sect and ordinary devotees shall be permitted to jointly chant Naalayira Divya Prabandham in an uniformed manner without disrupting the rituals and poojas and without causing any inconvience or nuisance to the other devotees and worshippers, who all are present in the Temple.

(3) On completion of chanting of Naalayira Divya Prabandham by Vadagalai sect, Thengalai sect and ordinary devotees, jointly the final ritual namely Vazhithirunamam may be firstly chanted by Thengalai sect i.e., "Manavalamamunigal Vaazhithirunamam" and thereafter, the Vadagalai sect shall be allowed to recite their concluding Mantra i.e., "Desikan Vazhi Thirunamam" and accordingly, the entire process of rituals shall be concluded.

(4) The third respondent / the Assistant Commissioner / Executive Trustee is directed to Monitor the observance of rituals both by the Thengalai sect and Vadagalai sect and in the event of any violations of discipline and decorum, initiate all appropriate action in the manner known to law including penal actions.

(5) The third respondent / the Assistant Commissioner/ Executive Trustee is directed to make the above arrangements with immediate effect and videograph the events and produce the same before this Court during the next hearing, on 25.05.2022.

(6) The third respondent / the Assistant Commissioner/Executive Trustee is directed to file a Compliance Report on 25.05.2022."

52. This Court already has rendered a finding that decree passed in the earlier litigations no way violate the fundamental rights of Members of Northern Cult and hence, the judgment and decree passed by this Court are binding on both the parties. Further, writ petition filed by a member of Northern Cult challenging the consequential notice issued by Executive Trustee of Temple cannot be treated as an appeal against Civil Court's decree which attained finality long back. Therefore, the interim directions issued by the learned Single Judge, which will have the effect of modifying the judgment and decree passed by this Court, which attained finality long back cannot be sustained. Accordingly, the writ appeals in W.A.Nos.1381 and 1382 of 2022 are allowed by setting aside

the interim directions issued in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022, dated 17.05.2022.

Discussion on Point No.8:-

53. The contempt petition No.367 of 2020 has been filed by the Members of Southern Cult complaining the wilful disobedience to the judgment and decree passed by this Court in A.S.No.175 of 1910 and Appeal No.283 of 1963 by the Executive Trustee of Sri Devarajaswamy Temple also known as Sri Varadaraja Swamy Temple at Kancheepuram. It was alleged that the Executive Trustee of the Temple by permitting the Members of Northern Cult to recite their own Manthram and Prabandhams committed an act of contempt.

54. Though the Executive Trustee of the Temple has not filed any counter in the contempt petition, from the averments made in the counter filed by him in W.P.No.13027 of 2021, it is clear that from the date of joining office, he had seen that the Southern Cult Adhiapaka Service Holders would start the recitation by reciting Sri Sailesa Dayapatram and then Prabandhams. The Members of the Northern Cult would also recite Parbandham along with Southern Cult Members. Finally, Vazhi

Thirunamam would be recited by Members of the Southern Cult. This practice appear to be in accordance with decree passed by this Court in earlier litigations. However, trouble started only after initiation of fresh litigation from the year 2018 and it was also stated that police complaint was preferred by him in the year 2020 and an FIR was registered in Crime No.3870 of 2020. In the light of the said averment and also pending litigation, this Court is not inclined to accept the averments made by the petitioner in the contempt petition that there was wilful disobedience by the Executive Trustee of the Temple to implement the earlier decree passed by this Court. Hence, the contempt petition is disposed of with direction to the 1st Respondent/Executive Trustee of the Temple to implement the decree passed by this Court in earlier litigations in its letter and spirit by permitting performance of Ceremonial Worship and Ceremonial Procession of Deity as per the judgment and decree passed by this Court in Appeal Suit No.175 of 1910, Appeal No.283 of 1963 and other earlier judgments. In case of difficulty in maintaining the public order and implementation of the decree, the Executive Trustee is at liberty to take necessary police help. With this direction, the contempt petition stands closed.

Discussion on Point No.9:-

55. W.P.No.24729 of 2018 has been filed seeking a direction to Commissioner and Assistant Commissioner of HR and CE Department to arrange for rendition of Prabandham of Aachariya Vedanta Desika at Sri Devarajaswamy Devasthanam, Kancheepuram during his 750th Birthday that fell on 21.09.2018. Since 750th birthday of Sri Vedanta Desika was already over, the prayer sought for by the petitioner technically has become infructuous. In any event, in earlier decisions, this court had categorically held that only one Manthram can be recited in a Temple and as far as Sri Devarajaswamy Devasthanam, Kancheepuram is concerned, Manthram to be recited during Ceremonial Worship is Sri Sailesa Dayapatram or Manthram of Southern Cult. In these circumstances, this Court is not inclined to issue a direction sought for in W.P.No.24729 of 2018 and the same is dismissed.

56. W.P.No.12955 of 2022 has been filed by a Member of Northern Cult challenging the notice issued by Executive Trustee of the Temple dated 14.05.2022, whereunder he had issued certain guidelines/directions

to the Members of both the Cults in order to implement the earlier decree passed by this Court. In the said notice, he directed as per decree passed in A.S.No.175 of 1910, the Manthra of the Southern Cult shall be recited and as per the decree passed in S.A.No.515 of 1934, the Members of Northern Cult shall not occupy the first two rows and at the end of Prabandham recitation, only the Manavala Mamunigal Vazhi Thirunamam shall be recited. He also reiterated that Desika Prabandham of Northern Cult shall not be recited as per the judgment and decree passed by this Court. Therefore, the guidelines issued by the Executive Trustee of the Temple, dated 14.05.2022 are in tune with the judgment and decree passed in the earlier litigation. The said notice was challenged by the Members of the Northern Cult on the ground that it violates their fundamental right to freedom of religion and the said question was already answered in favour of Southern Cult. In view of the same, the Writ Petition in W.P.No.12955 of 2022 deserves to be dismissed.

57. Whether judicial order passed by the Courts can be a subject matter of challenge in writ proceedings came up before the Nine Member Bench of the Hon'ble Apex Court in ***Naresh Shridhar Mirajkar and others vs. State of Maharashtra and others*** reported in ***AIR 1967 SC 1***. The Apex Court concluded that judicial order passed by the courts cannot

be the subject matter of challenge in writ proceedings and no writ would lie against the judicial orders. This point has been dealt with in extenso in Point No.3 (in Paragraph Nos.41 to 45).

58. In the case on hand, the judgment and decree passed by this Court had attained finality long back. The same has not been challenged by the petitioner or any other Member of the Northern Cult till date. However, in the present writ petition, a consequential order passed by the Executive Trustee of the Temple to implement the judicial order has been questioned. As mentioned earlier, the impugned order only wants to implement the directions issued by this Court in the earlier decisions. Therefore, challenging the impugned order on the ground it violates fundamental rights of the Members of the Northern Cult would amount to challenging the earlier judicial order passed by this Court, which is the foundation for the impugned order passed by the Executive Trustee. In view of the categorical pronouncement made by the Apex Court in the above mentioned decision, no Writ of Certiorari would lie against the judicial orders passed by the Courts, on that technical ground, the writ petition is liable to be dismissed. In any event, on merits, we already came to the conclusion that the fundamental rights of the Members of Northern Cult are not at all violated by the earlier decisions passed by

this Court. In view of the same, the writ petition in W.P.No.12955 of 2022 stands dismissed.

Discussion on Point No.10:-

59. W.P.No.13027 of 2021 has been filed by a Member of Southern Cult seeking direction to local Inspector of Police to provide police protection to the writ petitioner and other Members of the Southern Cult to ensure service of Prabandham recitation in front of Deity of Sri Devarajaswamy Temple as per the judgment in A.S.No.175 of 1910 and Appeal No.283 of 1963. The writ petition was mainly opposed by the Member of Northern Cult on the ground that the above said judgments rendered by this Court violates their fundamental right to freedom of religion. This Court already came to a conclusion that the judgment and decree passed by this Court upholding Office Holders' Right (Mirasi Right) of the Members of Southern Cult, who are residents of Kancheepuram, does not violate the fundamental right to freedom available to the Members of Northern Cult. Therefore, the Members of Southern Cult, who are all residents of Kancheepuram are entitled to exercise the Mirasi Right by reciting their own Manthram, followed by recitation of Prabandham and conclusion of the same by recitation of

Vazhi Thirunamam of Manavala Mamunigal during Ceremonial Worship of Deity in the Temple and during Ceremonial Procession. The Members of the Southern Cult are entitled to occupy the first two rows at the time of recitation of Manthras and Prabandhams as held in the decree. During procession, the Members of Southern Cult are entitled to form Goshti and proceed in front of Deity by reciting Prabandhams. The judgment and decree passed by this Court in the earlier litigations had already attained finality and the Members of the Northern Cult are not entitled to reopen the same.

60. It was argued by the learned counsel appearing for the Northern Cult that earlier judgments were rendered in a suit between individuals belonging to Southern Cult and Northern Cult and the said judgments will not bind all the Members of the Northern Cult. The said submission made by the learned counsel appearing for the Northern Cult cannot be accepted for the simple reason the Division Bench of this Court in ***V.Srinivasachariar*** [(4)] case clearly held that earlier litigations between the parties were in their representative capacity. The relevant observation reads as follows:-

> *"7. In the year 1903, there was a litigation between some*

(4. (1970) ILR 2 Mad 146 = MANU/TN/0586/1969)

Vadakalais and Thenkalais in their representative capacities with regard to certain rituals in the temple of Sri Devarajaswami. In the year 1906 there was another litigation between the two sects. The latter one may be examined first. That was a suit filed by some Thenkalais alleging that the only form of Athyapakam worship in the Devarajaswami temple and in all other temples attached thereto, whenever Prabandham was recited, was by invoking the Thenkalai saint at the commencement of the ceremonial by reciting Sreesailesa Dayapathram. They alleged that if any other Vaishnavite whether Thenkalai or Vadakalai, wanted to recite the Prabandhams either within the temple or in the course of the procession, he can join only the Thenkalai Mirasdars by invoking the Thenkalai saint and that the Vadakalais were not entitled to form a separate goshti or congregation. The Defendants, Vadakalais, contended that the Thenkalai Athyapakam mirasdars were only servants of the temple and were bound to recite the Naalayira Prabandham in consideration of the emoluments which they received from the temple, that the Vadakalais had the right to invoke their saint by reciting Ramanuja Dayapathram before the Prabandham which was common to both the sects and that they were entitled to form separate goshties of their own for reciting Prabandham in their own way and for invoking their own saint within the temple or outside it. The trial Court found that the permanent Thenkalai residents of Kanchipuram were exclusively entitled to conduct the Athyapakam service at the time of the pooja and when the idol was taken in procession within or outside the temple and that the Vadakalais may, when they chose, join the Thenkalais in

the Athyapakam service and that if they did so they must recite the same manthram, i.e., the Thenkalai manthram. The trial Court was also of the view that the Vadakalais may form a separate goshti and recite their own mantrams and prabandhams at other times than during the pooja time. As regards the processions, the trial Court found that Vadakalais were entitled to form a goshti behind the idol and before the Athyapakam goshti reciting their own mantrams and prabandhams taking care that by doing so, they did not disturb the Thenkalai Prabandham goshti in front of the deity. The trial Court, however, disallowed the claim of the Thenkalais to restrain the Defendants, Vadakalais, from reciting on some occasion their Vadakalai mantrams and prabanthams. Feeling aggrieved by this decision, the Plaintiffs, Thenkalais, preferred A.S. No. 175 of 1910, to this Court. The Vadakalais filed memorandum of cross objections in so far as the decree was against them. Sankaran Nair and Oldfield JJ., held that the Thenkalai residents had the superior right of reciting prayers and that it was only the Thenkalai mantram of Sreesailesa Dayapathram that could be recited within the temple during any ceremonial worship or by any goshti. As for the period of the pooja, the learned Judges held that the pooja began with the ringing of the bells and ended with the distribution of Theertham and Prasadam. The right of the Thenkalais to recite Prabandhams during the pooja period was recognized and it was held that during the pooja the Vadakalais cannot repeat any prabandhams of their own, but were entitled only to join the Thenkalais as worshippers by reciting the same prabandhams which the Thenkalais would

recite. The further question was considered whether the Vadakalais were entitled to recite their Prabandhams either at the time of the processions within the temple or at other places in the temple where the Thenkalais do not carry on the worship. It was pointed out that there was nothing in law to prevent any Vadakalai from worshipping the deities consistently with the equal rights of other worshippers. It was, however, held that any interference with the pooja from its commencement with the ringing of the bells, to its close with the distribution of Theertham and Prasadam, would be a violation of the Thenkalai mirasi rights and that inasmuch as processions are part of the worship, Vadakalais cannot form any goshti of their own and repeat any Prabandham different from the Prabandham recited by the mirasiholders. This decision is reported in Thiruvenkatachariar v. Krishnaswami Thathachariar 1915 M.W.N. 281. The decree of the trial Court was accordingly modified declaring the exclusive right of the Thenkalais to recite Sreesailesa Dayapathram within the temple during any ceremonial worship or by any goshti. It was further declared that the Vadakalais were entitled only to join the Thenkalai Athyapakam goshti or worshippers by reciting the same portion of the Prabandham that may be recited by the Athyapakam mirasidars and that the Vadakalais were restrained from reciting their own mantrams and prabandhams during the pooja period, which the learned Judges expressly specified as the period from the commencement of the pooja by the ringing of the bell to the close of the pooja by the distribution of Theertham and Prasadam and also during any ceremonial worship."

61. A close reading of the above finding would indicate that the right of Members of the Southern Cult, who are residents at Kancheepuram was declared and Members of Northern Cult have been injuncted from interfering with the said right. In these circumstances, the submission made by the learned counsel appearing for the Northern Cult that earlier judgments would not bind all Members of the Northern Cult cannot be accepted and the same is rejected.

62. The various documents filed in the typed-set of papers and the averment made in the pleadings of the Executive Trustee of the Temple would make it clear that there were attempts by Members of Northern Cult to interfere with the Adhiapaka Service right declared in favour of the Members of the Southern Cult. Therefore, the 2nd respondent in writ petition, the Executive Trustee of the Temple is directed to implement the decree passed in A.S.No.175 of 1910, dated 15.01.1915 and Appeal No.283 of 1963, dated 24.03.1969 in its letter and spirit, if necessary by taking adequate police help. The 1st respondent in the writ petition is directed to provide necessary police bandobast at the request of the 2nd respondent/Executive Trustee of the Temple to maintain public order and implementation of the decree. With these directions, the writ petition in W.P.No.13027 of 2021 stands disposed of.

63. Various impleading petitions were filed by the Members of Southern Cult as well as Northern Cult. The Members of Southern Cult asserted their right under the judgment and decree passed by this Court, which had already attained finality. The Members of the Northern Cult questioned correctness of the earlier judgment and decree passed by this Court mainly on the ground that it violates right to worship recognised under Constitution of India. These points were extensively considered by this Court in Point Nos.1, 2 and 3. Therefore, the connected impleading petitions and other miscellaneous petitions are closed.

(VII). **Conclusions**:-

64. (a) W.A.Nos.1381 and 1382 of 2022 stand allowed and the order passed by the learned Single Judge in W.M.P.No.12434 of 2022 in W.P.No.12955 of 2022, dated 17.05.2022 is set aside.

(b) W.P.Nos.24729 of 2018 and 12955 of 2022 are dismissed.

(c) W.P.No.13027 of 2021 is disposed of with direction to Executive Trustee of the Temple to implement the earlier decrees as stated above, if necessary with police help.

(d) Cont.P.No.367 of 2020 stands closed with observations as stated above.

(c) Consequently, the connected miscellaneous petitions are closed and all the connected sub applications are also closed.

(R.S.K., J) (S.S., J)
28.11.2025

Index : Yes
Speaking order : Yes
Neutral Citation : Yes
dm

To

1.The Secretary,
State of Tamil Nadu
Tourism, Religious and Charitable Endowments Department,
Chennai.

2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam,
Chennai – 600 034.

3.The Assistant Commissioner/Executive Trustee
Arulmigu Devarajaswamy Thirukkovil
Sannadhi Street
Kanchipuram – 631 501.

4.The Inspector of Police,
State of Tamil Nadu
B-2 Vishnu Kanchi Police Station
Nethaji Nagar, Kanchipuram – 631 501.

R.SURESH KUMAR, J.
and
S.SOUNTHAR, J.

dm

Pre-delivery Common Judgment made in W.A.Nos.1381 and 1382 of 2022, W.P.No.13027 of 2021, W.P.No.12955 of 2022 and W.P.No.24729 of 2018 and Cont.P.No.367 of 2020

28.11.2025