

Department, Deputy Commissioner, H.R. & C.E.(Admn.)

Thanjavur.

1st day of December, one thousand nine hundred and seventy-four.

Present:- Thiru M. Suryaraj, B.A. B.L.,

Deputy Commissioner.

O.A. No. 79/72.

Petitioner.

Vs

Respondents.

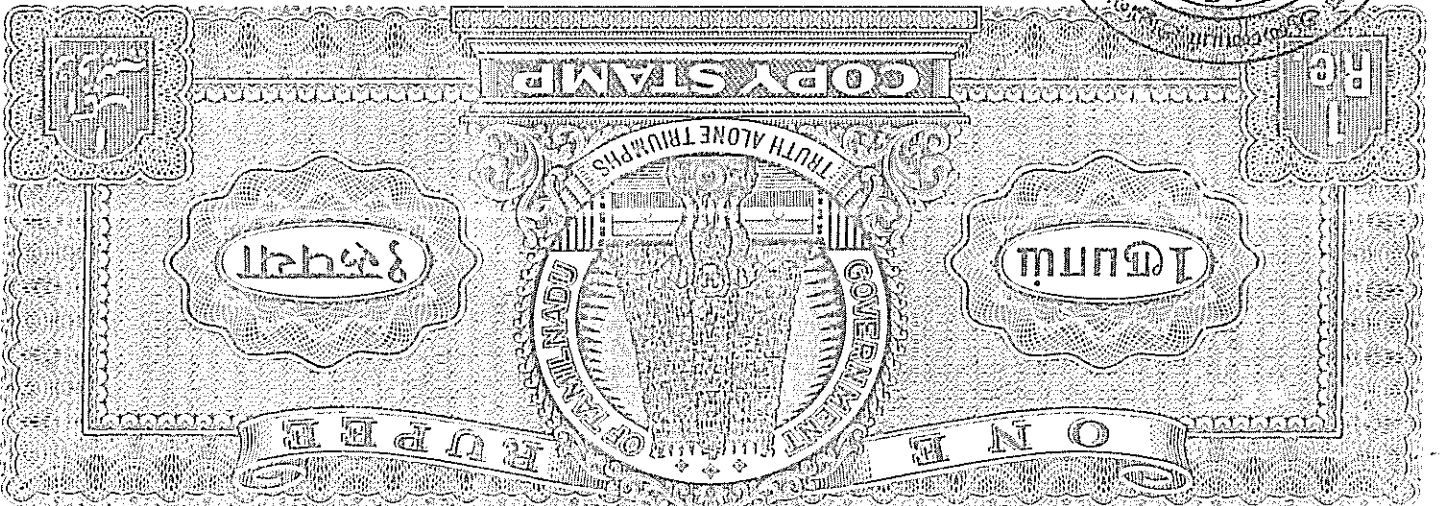
*R.V. Chitambara Velalar and others

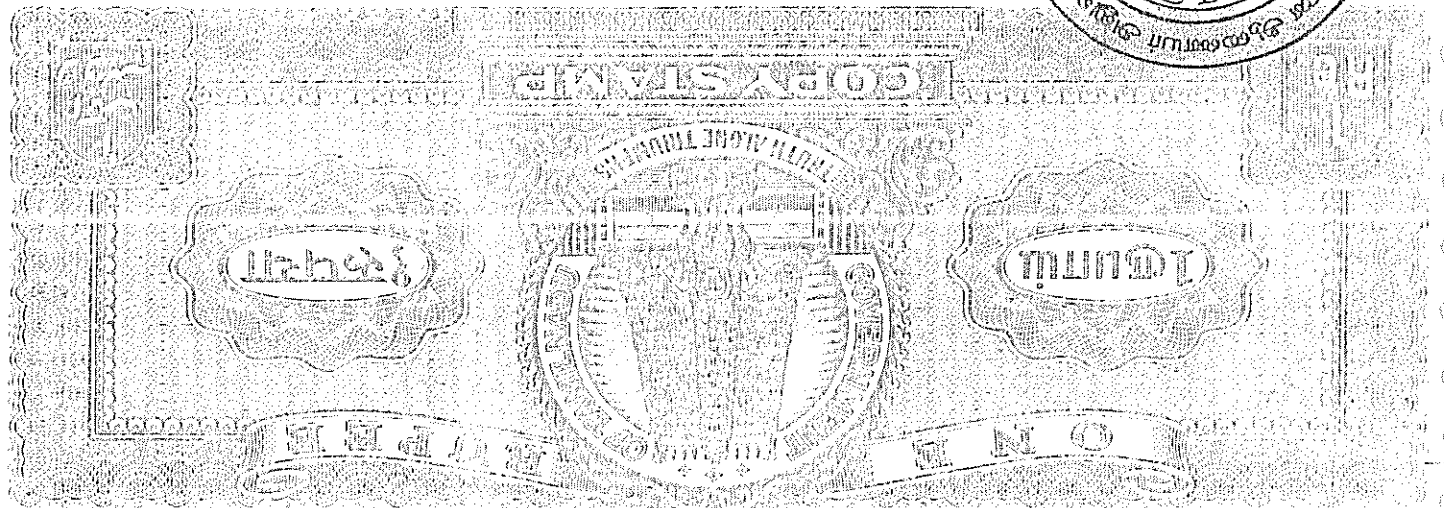
In the matter of Sri Subramanyaswamy temple, Vendakottai village, Pattukkottai taluk, Thanjavur District.

Application under Section 63 (b) of the Tamilnadu H.R. & C.E. Act, 1959 (Tamilnadu Act 22 of 1959) for a declaration that the petitioner is the Hereditary Trustee of the suit temple.

This case having come on for hearing before me to-day in the presence of Thiru T.R. Srinivasan, Counsel for the petitioner and Thiru P.N. Cahdrasekara Iyer, Counsel for the Respondents. After having heard the arguments of the Counsels, perused the connected records placed before me and stood over till this day for consideration, I pass the following order:-

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No of corrections : Nil





ORDER.

be and is hereby dismissed. It is ordered that the petitioner is
of the declaration as sought for and he is not the Hereditary Trustee of

(Sd) M. Suryaraj.

Deputy Commissioner.

/l.c.l.b.o/

Manager

Note:- The annexure to order containing the grounds of the above decision will be
furnished on receipt of a regular copy application duly affixed with court fee stamp
of 25 paise together with copy stamps to the value of 70 paise each.

To:-

1. The petitioner through Thiru T.R.Srinivasan, B.Com., B.L., Advocate,
Thanjavur.

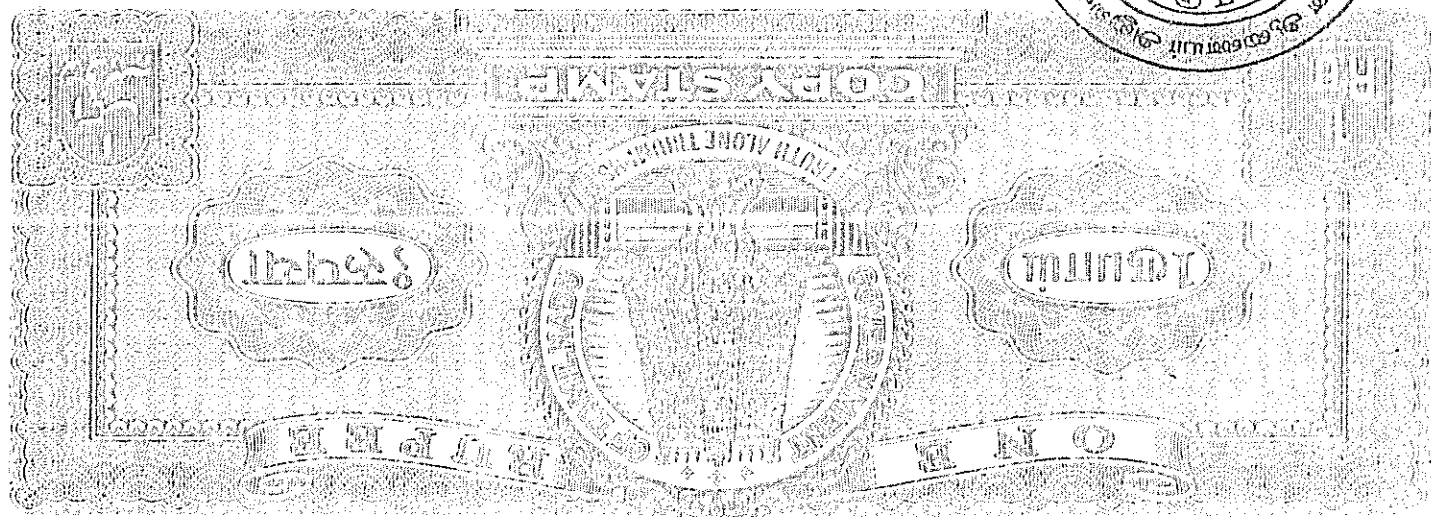
2. The Respondents through Thiru P.N.Chandrasekara Iyer, M.A. B.L.,
Advocate, West Main St., Thanjavur.

3. Copy submitted to the Commissioner, H.R.&C.E., Madras-34 with
annexure to order.

4-5. Copies to the Asst. Commissioner, H.R. & C.E., Tanjore with a copy of
annexure and with addl. copy for affixture on the notice board of his office
and report.

6-7. Copies to the Inspector, H.R. & C.E., Pattukottai for affixture and report.

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No of corrections : NIL



10. Copy to the Bench clerk for his file
10. Copy to the stock file.
10. Copy to the notice board of this office for affixture.

11-12. Extras

NS.

&&&

- Objector, Respondents (Implead on 13.3.73).
- #1) R.V. Chidambara Velalar,
 - 2) Singaravelu
 - 3) S. Veerappan.
 - 4) R.Ramalingam.
 - 5) A.Adaikalam.
 - 6) S.Palanivelu.
 - 7) A.Namasivaya Velalar
 - 8) S.Natesa Velalar.
 - 9) C.Arumugam
- No of word : 30
No of corrections : NIL

No of Words	12
No.Of Correction	NIL
No.of.Total words	242
No.OF.Total Correction	NIL
Typed by	M. WITAYA
Read by	R. SUBRAMANIAM
Compared by	H. SETHI KANI

28/4/73
 Govindarajan
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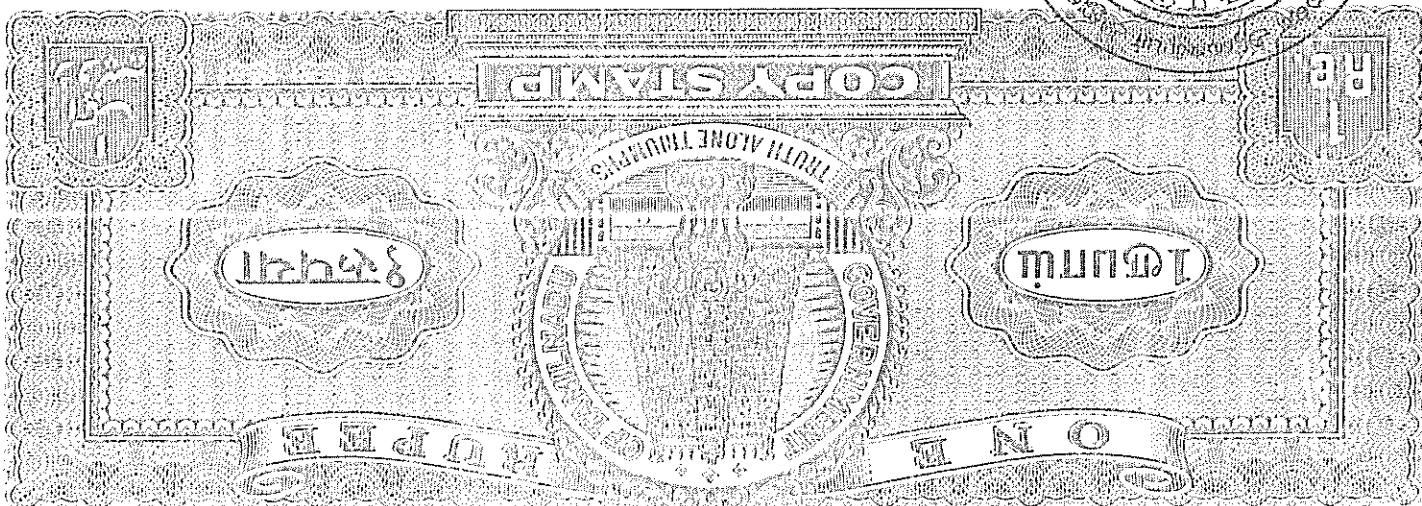
13) M. Govinda Velalar.

12) N. Govinda Velalar.

11) M. Chinnakannu Velalar

10) V. Rengaya Velalar.

Impleaded by order in I.A 21/73
 dt.11.7.73.



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No of corrections : NIL

This is an application under Section 63(b) of the Tamilnadu H.R. & C.E. Act, 1959 (Tamilnadu Act 22 of 1959) for a declaration of hereditary trusteeship in the temple.

Annexure to order dt. 31/12/74.

Application under Section 63(b) of the Tamilnadu H.R. & C.E. Act, 1959 (Tamilnadu Act 22 of 1959) for a declaration that the petitioner is the Hereditary Trustee of the suit temple.

In the matter of Sri Subramanyaswamy temple, Vendakkottai village, Pattukkottai taluk, Thanjavur District.
(Respondents/Objectors as in decretal order)

R. V. Chitambar Velalar & others
P. Dharmaraja Velalar.
...Petitioner.
...Respondents/Objectors.

O.A. No. 79/72.

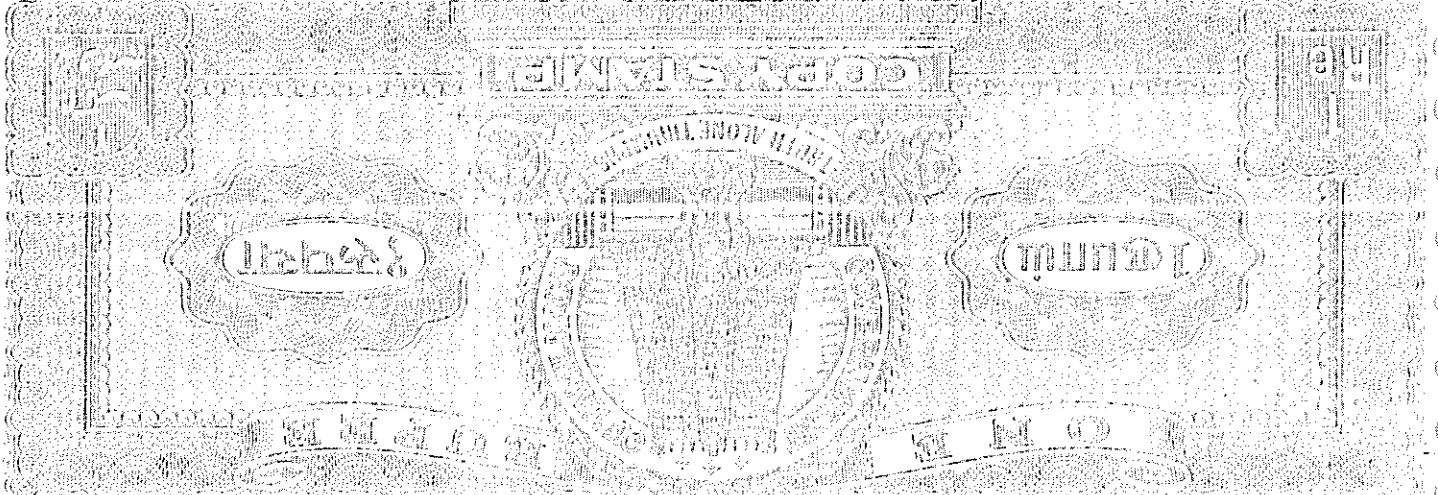
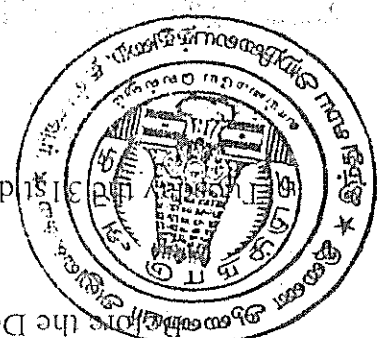
Deputy Commissioner.

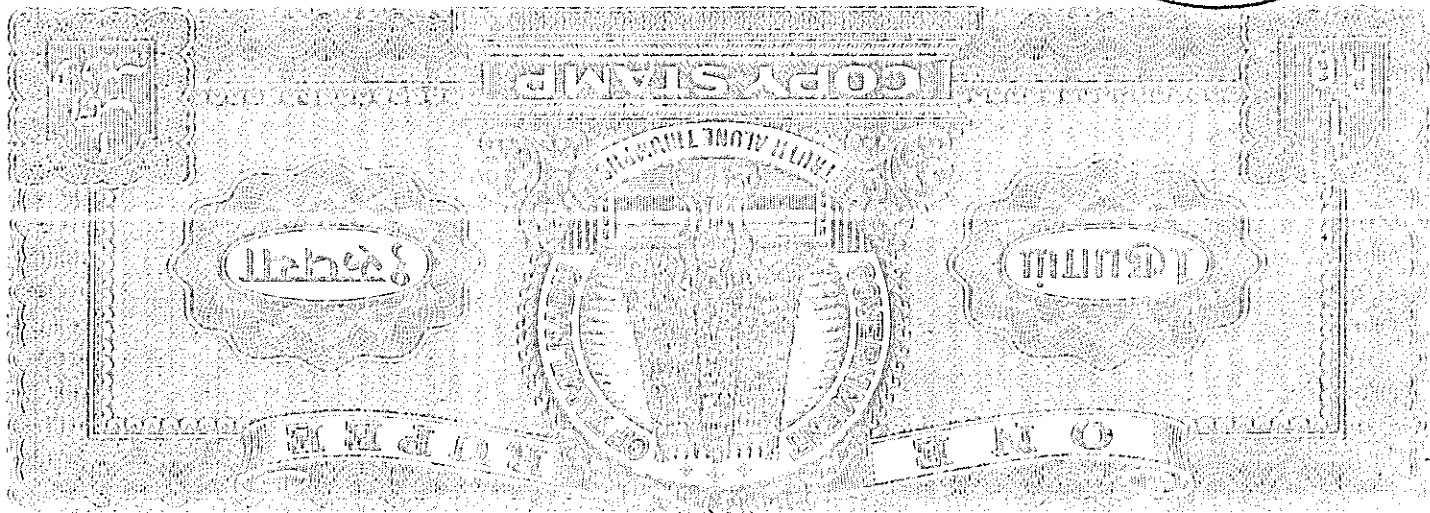
Present:- Thiru M. Suryaraj, B.A.B.L.,

31st day of December, one thousand nine hundred and seventy-four

Thanjavur.

Before the Deputy Commissioner, H.R. & C.E. (Admn.) Department,





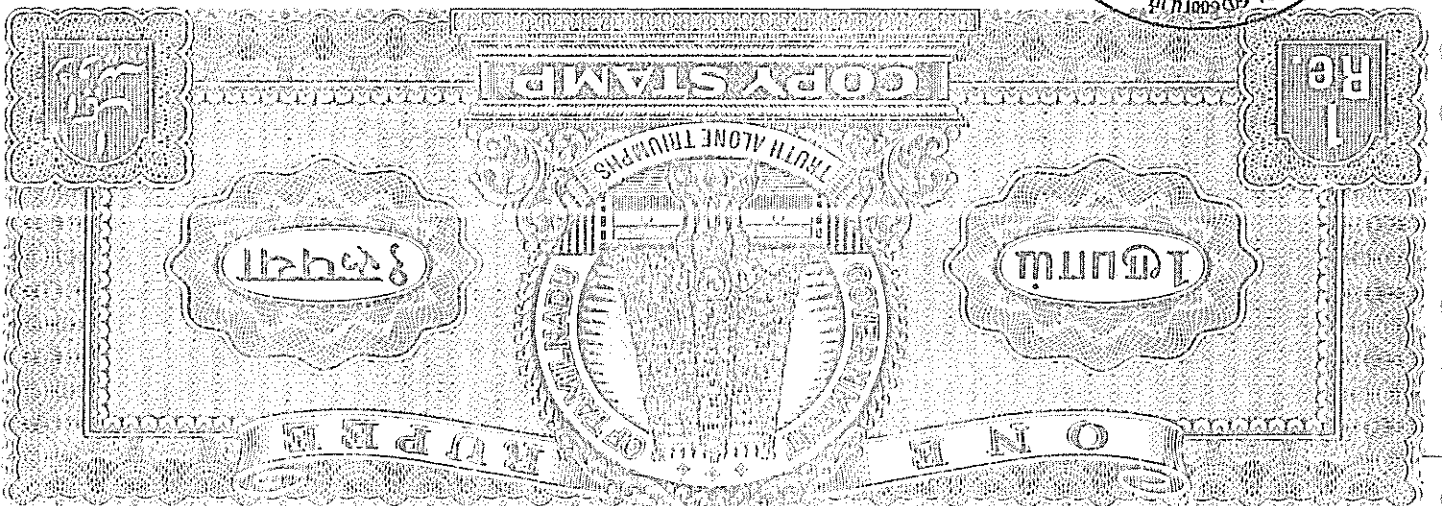
The mention of the petitioner is as follows:-

The temple is a small but ancient temple constructed more than 200 years ago by the ancestors of the petitioners with his own funds for the benefit of the temple and its posterity.

The temple was accordingly managed by the petitioner's ancestors and trustees hereditarily. So far as the petitioner could know from his parents and other persons in the village, the temple was managed by the petitioner's great grandfather Dharmaraja Velalar who was its hereditary trustee till his death. After his death, his son Govindasamy Velalar became trustee of temple on succession and he was managing the affairs of the temple for more than 50 years till he died in or about 1945. Afterwards his son Perumal Velalar (petitioner's father) became the trustee on succession and he died in 1956. Even while he was alive, as he was sickly, the petitioner was assisting him in the management of temple affairs. After the death of his father, the petitioner succeeded as the trustee of the temple and he is in management of the temple affairs in his capacity as its hereditary trustee till to-day.

The management of the temple has all along been vested in the family of the petitioner and his ancestors alone were actually acting as its hereditary trustees continuously without any break. No one other than the members of the family of the petitioner had ever managed the affairs of the temple at any point of time, though at times some respectable persons of the village also were allowed on permission by the petitioner's ancestors to participate in the temple functions along with them, out of respect and regard and also with a view to enlist of the co-operation of all the villagers in making the temple functions a grand success. But

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and these persons. Further none of them had any hereditary rights and they never held in the management of the temple. The petitioner is herewith filing affidavits relating to the temple to show that the management was always with the petitioner's family alone.

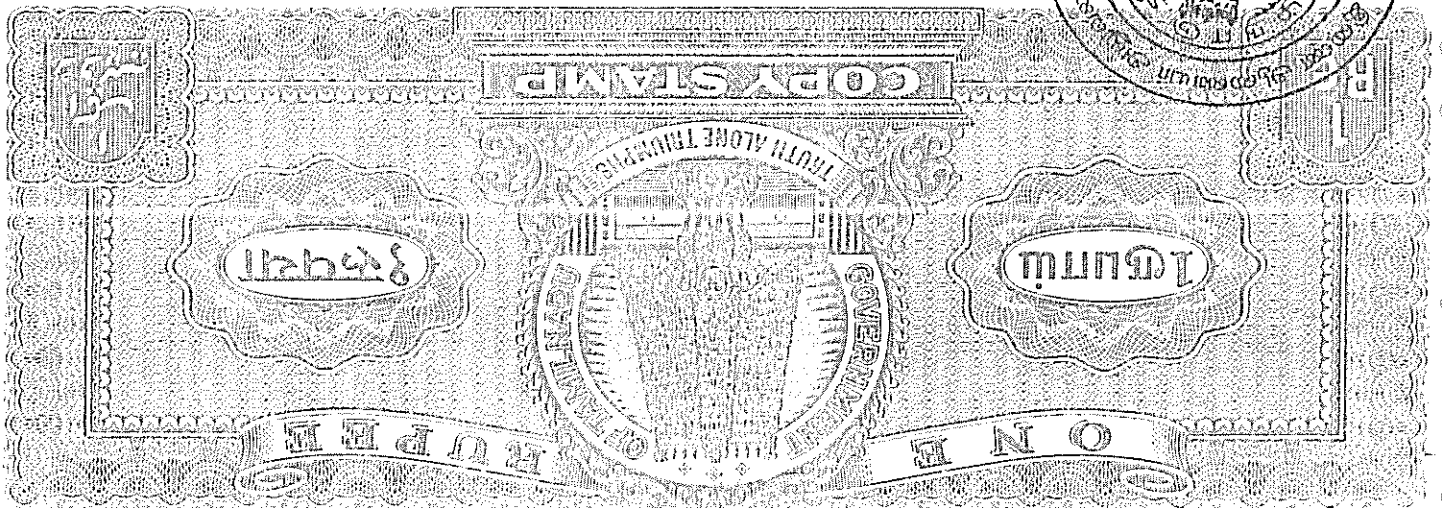
The temple owns 3 acres 31 cents of wet lands out of which only 6 acres 90 cents are under actual cultivation. The remaining Lands are river bond and hence not suitable for cultivation. The petitioner is paying the kist for the lands in his capacity as its hereditary trustee. He has leased out the lands to several tenants and he is collecting the rents from them every year. Out of the above said income from the lands, the petitioner is spending for the temple's maintenance.

Every day one Kala pooja is performed by a Gurukkal who is paid by the petitioner an annual salary of 40 kalams of paddy. Every year festivals are conducted during Visakam in the month of Vaikashi, Vijayadasami in the month of Purattasi, Karthigai in the month of Karthigai. The income from the lands are not sufficient for all these expenses and hence the petitioner used to spend out of his pocket apart from local contributions.

Recently, the petitioner has constructed a compound wall by his efforts and by contribution from the villagers at a cost of Rs.6,000/-. The work of renovation is not yet completed. The temple was also recently visited and inspected by the Special Inspector, H.R. & C. E., Pattukkottai.

As against this, the Respondents who have come in as objectors have objected to the claim of the petitioner and filed a counter. While denying any right

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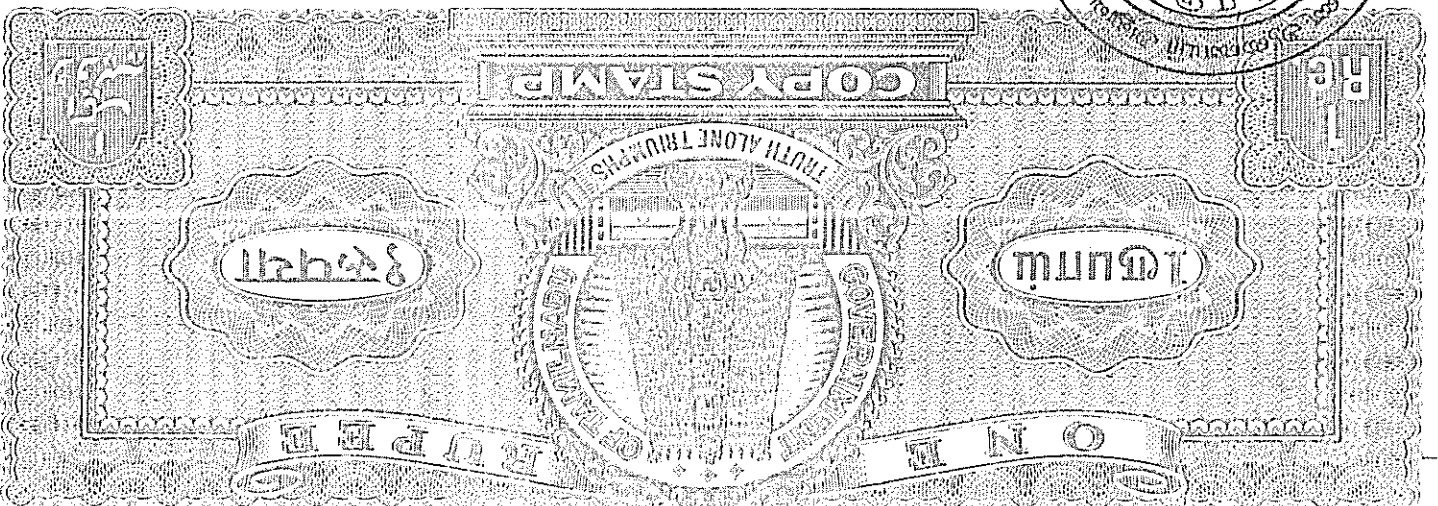
the petition, they have stated that the temple was not constructed by the persons' forefathers nor they were the trustees managing the affairs. In the year 1911, they have some dispute has came up in the year 1911, they have entered into a settlement as to how the management is to be carried on for the future. They have chosen 5 persons from among the 4 Karaidars in the village and they were nominated as trustees for a period of 10 years to carry on the management as per the settlement. Subsequent arrangements after the expiry of the settlement, the Karaidars representatives have to choose persons for the management of the temple. The petitioner's grandfather might have been one of such persons who was in management as nominated by the villagers. They have also claimed that there is no line of succession as claimed for by the petitioner. The petitioner in support of his case, examined himself as P.W.1 and he filed certain documents to support his case. He deposed on the averments in his petition. Ex.A.1 is a book published in the year 1934 by which he claims that his grandfather on the 7th line has been praised for having constructed this temple. That his grandfather in the 7th line was not traced by any genealogy in the subsequent statements or depositions. He admits that festivals are being conducted taking the villagers also in management of the same. Ex. A.2 are the series of copies of tenancy records wherein the owner of the land has been shown as Sri Subramanyaswamy temple. None of the name of the petitioner or his forefathers found in the same. Ex.A.3 and A.4 are claimed to be the notices received by his grandfather while he was in management. Ex.A.5 and A.6 are permission for irrigation of Cauvery water issued in favour of the temple. Nowhere the name of the petitioner or his grandfather or his forefathers has been mentioned. Ex.A.7 is the notice of the Director of

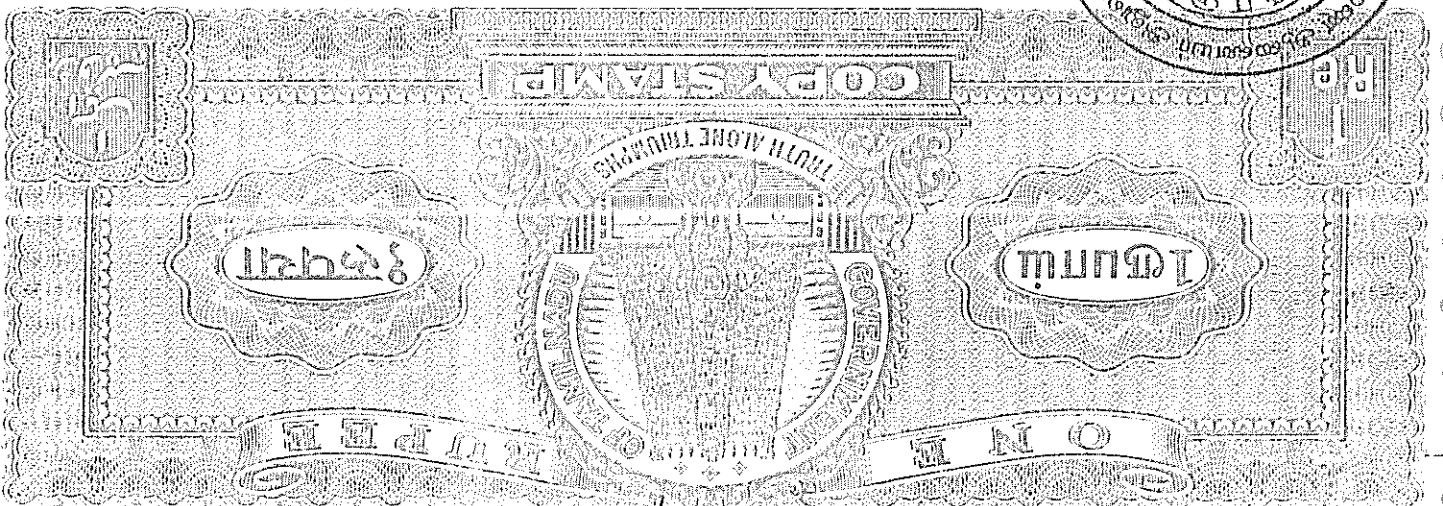
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It is an admitted fact by the petitioner that the festival is being conducted by collecting money from the public along with the villagers. He has not chosen to file

has also been issued to the trustees mentioning 5 of them as trustees of the temple. hereditary trustees. Ex.A.20 is another order of the Director of Settlement which the Asst. Commissioner Thanjavur inviting applications for appointing non- nothing to do with the management of the temple. Ex.A.19 is the notice issued by documents relating to the personal properties of the petitioner and as such, it has subsequent to the petition filed, it has no evidential value. Ex.A.16 to A. 18 are the contribution paid by the petitioner to the Department As this document is origin being subsequent to 1968 which has no evidential value. Ex.A.15 is the any indication that it relates to the temple. Even otherwise, it is only of a recent consumption. The electric connection is not in the name of the temple nor there remittance of electric charges to the Electricity Corporation towards the temple claimed therefor. Ex.A.14 is claimed to be the receipts in connection with the 13 are the series of kist receipts which does not contain the name of the trustees as the petitioner is not K.Dharmaraja Velalar but P.Dharmaraja Velalar. Ex.A.12 and Subramanyaswamy temples. At the time of cross examination, it was admitted that Velalar, Managing trustee of the temples namely Sri Ayyanar and Sri trustee. Ex. A.11 is a communication from the Tahsildar to one K. Dharmaraja notice of Director of settlement which also does not contain the name of the Subramanyaswami temple without mentioning anybody's name. Ex.A.10 is another and communicated and addressed to the trustee Sri Ex.A.9 is the compensation of the petitioner or his forefathers. Ex.A.8 is the order passed therein which does not in connection with the enquiry but the name of the trustee ax was





He has stated that the Karaidars but disputes their rights to the management. He has no lease deeds to show the management by him or by his Karaidars. At the time of cross examination, he categorically accepted that prior to 1928 there is no trace of any records to show the management of the temple by the petitioner's family. He denied the settlement of the year 1911. In support of his case, one Arunachala Thondaman, aged 77 was examined as P.W.2. He supported the versions of P.W.1 but he accepted that as per the R.S.R. in the year 1958, 5 trustees have been mentioned of which Arunachala Thondaman is one of the trustees of the temple is himself. According to him, the Karaidars have got the right of management but they are not the trustees of the temple. The festivals are being conducted by all the Karaidars in co-operation but he says that it is being done under the directions of the trustees. He admits that the temple is a public temple belonging to the villagers and is managed by all the 4 Karaidars in the village. He also admits that renovation of the temple has been done only by the villagers through contributions. He also denies the existence of settlement of the year 1911. According to him, the petitioner is managing the temple for the last 20 to 25 years. He denies the suggestion that in view of the dispute among the villagers, the lessees are paying the lease paddy to the Gurukkal.

One Rajappa Velalar was examined as R.W.1 and he claimed that he is one of the trustees of the temple. According to him, as per R.S.R. filed as Ex.B.1, Trustees have been mentioned as trustees for the temple. Dharmaraja Velalar mentioned in it has already expired. Rajappa Velalar mentioned therein is R.W.1. As per the Ex.B.1, the temple properties have been in the name of the temple represented by Trustees of which two from Velalar community and others from

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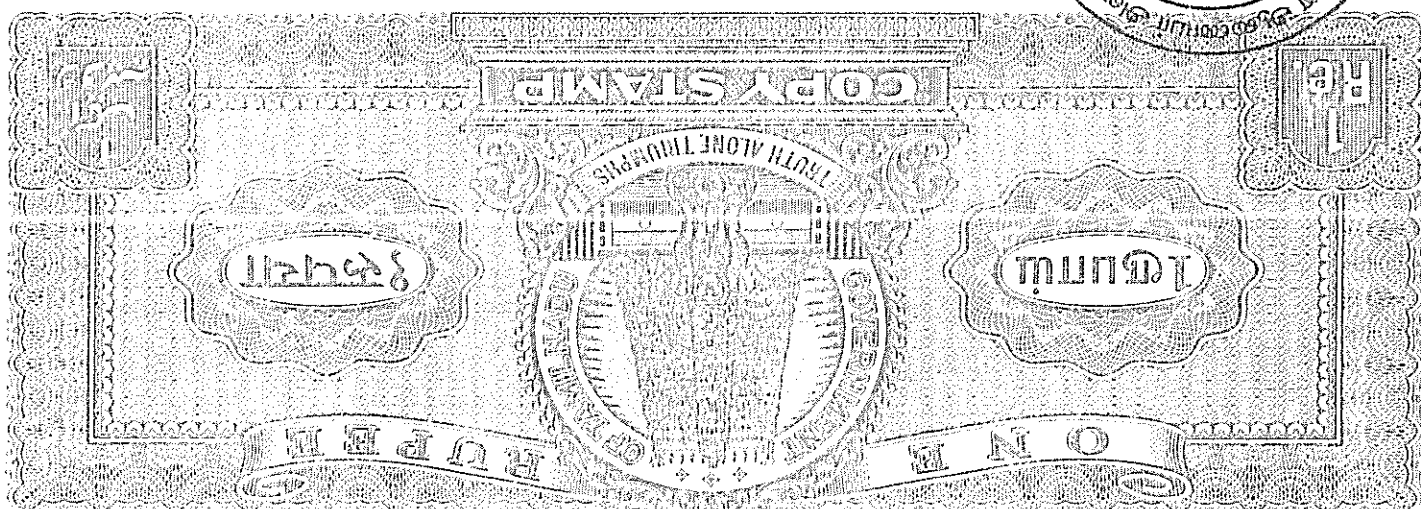


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One Govindaswamy Velalar was examined as R.W.2 on the side of the respondents. He is one of the tenants of the temple lands. He claims that there were always trustees from all the community who were in management of the temple.

other committees such as Rengasamy Chettiar, Ramaswamy Chettiar, This R.S.R. published in 1958, it is clear that in the year 1958, the petitioner was not in the management of the temple. He has also a copy of the settlement effected among the villagers in 1958, which is a copy of the settlement effected among the villagers in 1958, further arrangements have to be made according to their wishes as trustees then and there. It is also mentioned that there were some misunderstanding between the Karaidars as to the management of the temple at that time and ultimately the said settlement Ex.B.2 was effected. Ex.B.3 is the notice claimed to have been received by R. W.'s grandfather contrary to the claim of the petitioner. Ex.B.4 are the kist receipts which is said to have been paid by this R.W.1. According to him, in the year 1956, his father was in management and from the year 1956, he was in management and prior to 1956, the temple was under lock owing to the dispute among the villagers. He claimed that for more than 33 years, the temple was not opened. He claimed that electric lines were fitted by the Panchayat Board and not by the petitioner as claimed therefor. Ex.B.5 is claimed to be the letter written by R.W.1, the petitioner and another Ramaswamy Chettiar to one Subbaiayya Vanathiriyar. He denies any right for anybody to claim the hereditary trusteeship. He also traced the persons mentioned in Ex.B.1 to some extent. He denies the suggestion that he is giving false evidence owing to enmity with the petitioners.



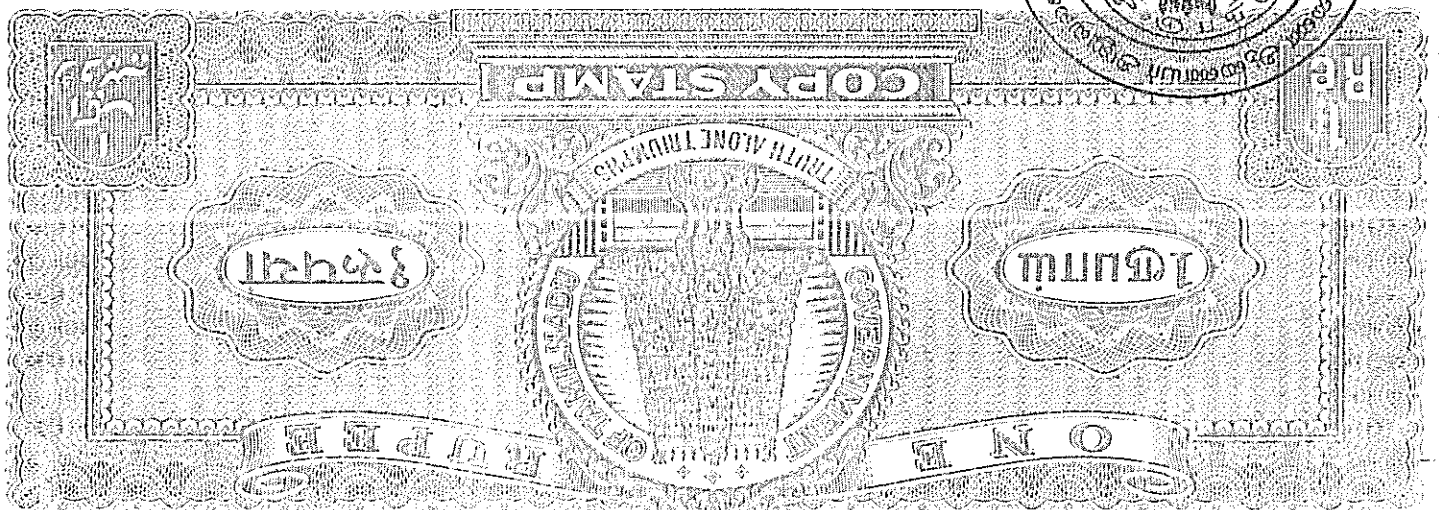
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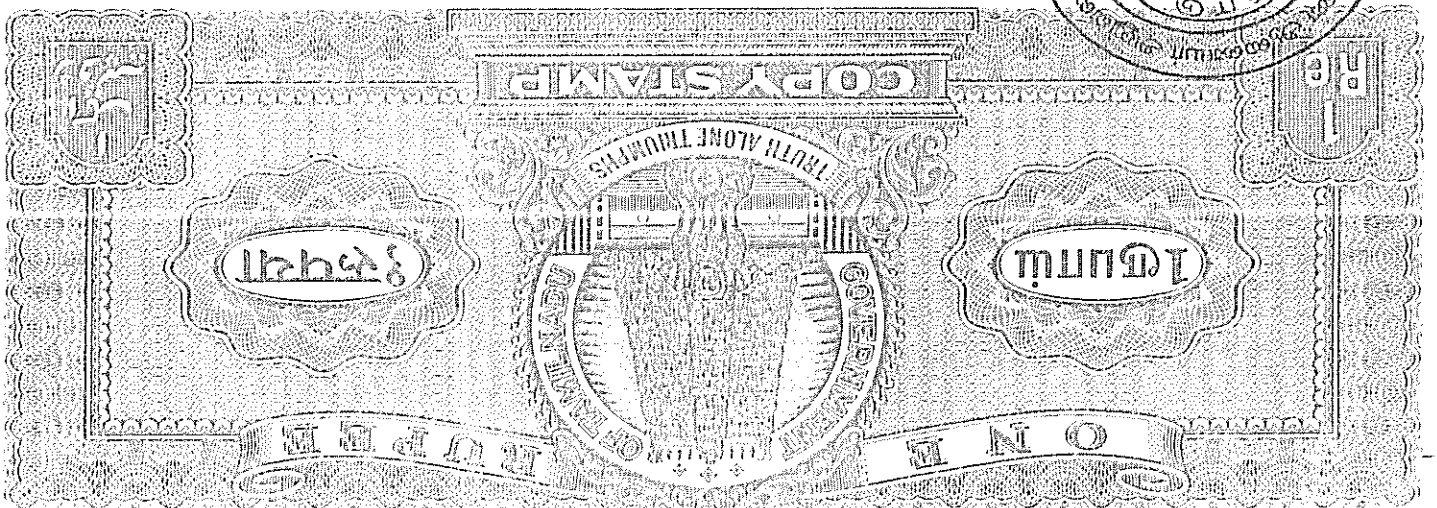
On the assessment of these facts, it is seen that the temple is a very old one and all along the villagers were taking keen interest in the management of the temple. Ex.B.1 and B.2 are the vital documents which shows that as no time the temple was under the management of any particular individual. All along the temple has been in the management of a set of trustees drawn from all the communities living in the village. The dispute between the villagers has resulted improper management of the temple all these years. Only when such a dispute as to

collected and construction has taken place in the temple.
One Arumugam Chettiar was examined as R.W.4. He claimed that his father was functioning as trustee in the year 1958. He has also stated that his brother one Ramaswamy Chettiar was a trustee mentioned in Ex.B.1 document. He claimed that for some period of management, he got the accounts with him. The temple has been all along in the hands of the villagers only and about Rs.7000/- have been

no festival owing to dispute among the villagers.
mentioned in Ex.B.2 was a trustee alongwith the others. According to him, there is nominated by the villagers then and there. One such Govinda Velalar has been were functioning an trustees of the temple. He claimed that all the trustees were says that his maternal uncle Govinda Velalar, another Govinda Velalar and others Another old man aged 68 was examined as R.W.3 (Kengaiyya Velalar). He

He says that he is paying kists to the lands from out of the income from his lands on behalf of the temple. He also says that the temple prakaram was constructed by one Arumugam Chettiar, grandson of Rengaswamy Mudaliar, Subbaiyya Nayaker, and another (name not known) through collections from the public. They rented the temple on behalf of the villagers.





the management of the temple from among the villagers have taken place, some selecting persons of the village from all the communities have joined together and effected a settlement in the year 1911. It is settlement as to the management to be that such an arrangement was continued from 1958 also and that at no time, the temple was under the management of any single individual and much less the petitioner's forefathers alone. It is evident from all these documents that the temple was under the management of the villagers only who were exercising their rights to nominate Trustees to carry on the administration of the temple.

In the circumstances, I have no hesitation to come to the conclusion that the temple has been in the management of the villagers all along who were nominating trustees every now and then. As and when dispute arose among the villagers, the administration of the temple has suffered.

So, the petition deserves to be dismissed as the petitioner has not only proved his case but the Respondents have clearly proved that the petitioner is not entitled to the declaration sought for.

In the result, the petition be and is hereby dismissed.

(Typed to dictation)

(Sd) M. Suryaraj,

Deputy Commissioner.

/t.c.f.b.o./

Manager

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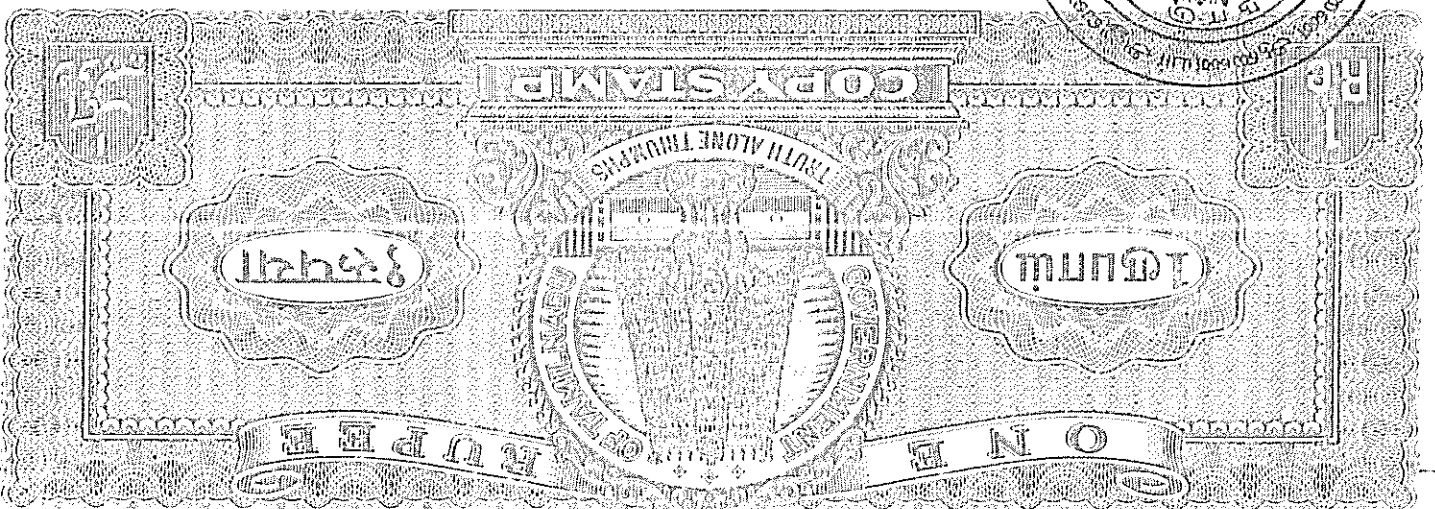
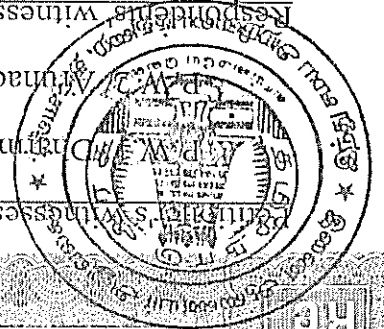


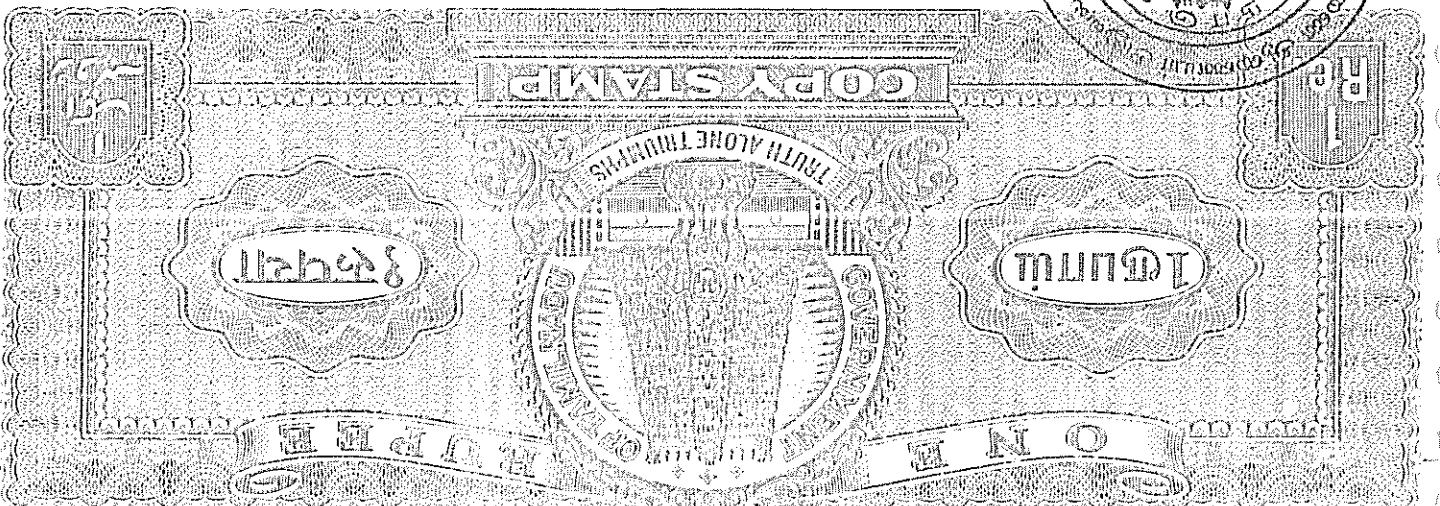
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Engineer on 22 Oct, 1934. (No.182852-A)
Ex.A.5/ Order of Irrigation of cauvery water issued by the Special Executive
Ex.A.4/ -do- -do- -do-
Ex.A.3/ Notice issued by the Special Deputy Collector, Pattukkottai.
Ex.A.2/ Series of copies of tenancy records.
Ex.A.1/A-book published in the year 1934. ((5)
Petitioner's documents:-

R. W.4: Arumugam Chettiar.
R. W.3: Rengaiyya Velalar.
Respondents' witnesses (Continued).
2. Govinda Velalar.
1. R.W.1/Rajappa Velalar.

Respondents' witnesses:-
D. Narayana Velalar.
D. Narayana Thondaman.





Order issued by the Director of Settlement, dt. 6.7.65.
 -do- -do- -do- (No.182853-A)
 Ex.A.8/ -do- -do- dt. 10.9.65.

Ex.A.9/ Compensation order in G.O.Ms.No.3451/dt.17.12.65.

Ex.A.10/ Order dt.29.11.65 issued by the Director of Settlements.

Ex.A.11/Communication in Rc.21740/66/B2 dt.4.10.66 from the Tahsildar
 Pattukottai.

Ex.A.12/ Series of kist receipts.

Ex.A.13/ -do- -do-

Ex.A.14/ Receipts of electric charges.

Ex.A.15/ Receipt for Contribution paid by the Petitioner (TR.No.15058
 dt.31.3.73, P.R.602 dt.11.4.73 and P.R.1946 dt.30.3.74)

Ex.A.16 } Documents relating to the personal properties of the petitioner.
 Ex.A.17/ }
 Ex.A.18/ }

Ex.A.19/ Communication dt.18.7.72 in The: 8234/72/A1 issued by the Asst.
 Commissioner, H.R. & C.E., Thanjavur.

Ex.A.20/ Order dt.14.6.59 in C.No.20753/58 (1.1) issued by the Director of
 Settlements, Madras.

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 No of corrections : Nil

