

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-07-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR JUSTICE B.PUGALENDHI

WP(MD) No. 18560 of 2026

Sivanupandian S/o.Shanmuganathan,
4,5 South Aranmanai Street,
Aanandha Vilas, Paabanasam,
Tirunelveli District.

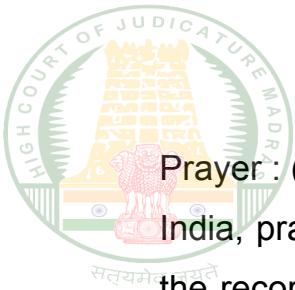
..Petitioner(s)

Vs

1. The District Collector, Tirunelveli District.
2. The Assistant Executive Engineer (WRO)
Upper Thamiraparani Sub-Division,
Cheranmahadevi, Tirunelveli District.
3. The Commissioner,
Hindu Religious and Charitable Endowment
Department, No.119, Uthamar Gandhi Salai,
Nungambakkam High Road,
Chennai - 600 034.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department, Kokkirakulam, Palayamkottai,
Tirunelveli - 627 002
5. The Executive Officer,
Arulmighu Papanasa Swamy Thirukoil,
Papanasam, Ambasamudram Taluk,
Tirunelveli District.

(R3 to R5 suo motu impleaded vide court
order dated 02.07.2026 in
WP(MD)No.18560 of 2026 by GRSJ and BPJ)

..Respondent(s)



Prayer: (Waterbody) Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the notice dated 23.06.2026 in Ref.No. Ko.27/2026-1/ issued by the 2nd respondent and quash the same and consequently directing the respondent not to interfere with the peaceful possession and enjoyment of the petitioner over Anandha Vilas Mandapam in 0.08.16 Hectares within total extent of 19.55.00 Hectare in Survey No. 876/1A, Vickramasingapuram Part - II Village, Ambasamudram Taluk, Tirunelveli District and pass such further or other orders as this Honble court may deem fit and proper in the circumstances of this case and thus render justice.

For Petitioner(s): Mr.Ramasamy S

For Respondent(s): Mr.B.Saravanan, Additional Advocate General
assisted by M.Kannan Govt Advocate for R1, R2,
R4 and R5

Mr.V.R.Shanmuganathan for R3

ORDER

The writ petitioner challenges the impugned notice issued by the Assistant Executive Engineer (WRO), Upper Tamirabarani Sub-Division calling upon him to remove the encroachment in question. The writ petitioner is in charge of 'Anandhavilas', a Mandapam (pavilion) situated in Papanasam Village on a bathing ghat of river Tamirabarani. A pillared hall without any enclosed walls was put up for the benefit of the pilgrims. This structure was in existence for a very long time. The petitioner appears to have made improvements and claims exclusive possession and management of the same. Fee is collected from the users of the bathing ghat. The question that



calls for consideration is whether the petitioner can resist the move of the authorities to evict him.

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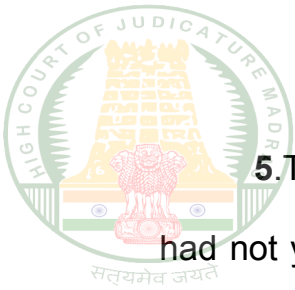
2.The second respondent herein had earlier issued eviction order on 24.01.2024. It was questioned by the petitioner herein in WP(MD)No.3059 of 2024. Vide order dated 30.09.2024, we relegated him to go before the appellate authority. The appellate authority was directed to dispose of the appeal within four months after the appeal memo was presented. Though the appeal memo was submitted on 27.12.2024, the appellate authority dismissed the appeal only on 15.07.2026 and that too after a strong nudging from us in these very proceedings. We may not blame the incumbent. His predecessors may have to take the blame. We consciously refrain from passing any strictures. We express the hope that in future, the authorities would act with alacrity while dealing with matters relating to environment.

3.On this sanguine note, we proceed to examine the facts on hand. The structure in question is located in Survey No.876/1A, South Vikramasinghapuram Village. As per the revenue records, it has been classified as river poramboke. The “A” Register categorically describes the survey number as “Tamirabarani River”. The character of the property as a water body is beyond dispute. We have held that the bund of a tank is also a part of the tank and encroachment on a bund is impermissible (*R.Manibharathi v. UOI WP(MD)No.31214 of 2023 etc., batch decided on*



07.03.2024). Applying the same principle, we hold that the banks of a river cannot be divorced from river proper. A river bank also has to be maintained free of any kind of encroachment. The writ petitioner cannot claim any title over what is actually an ancient monument. One should not tinker or alter its features. A 400 year old stone structure had been distorted beyond recognition by erection of walls. The authorities rightly called upon the petitioner to vacate.

4.The issue cannot be given a quietus by sustaining the eviction order alone. When the matter was taken up for hearing, the learned Government Counsel submitted that thousands of devotees flock to the bathing ghats of Tamirabarani river from Papanasam onwards to perform obsequies. The ceremonies invariably involve ritualistic discarding of used and unused garments, towels, clothes, slippers and articles associated with the deceased. On occasions such as Aadi Amavaasai, pilgrims arrive in huge numbers for offering homage to their deceased forefathers. We were informed that an activist by name Shri Moorthy is taking considerable interest in cleaning the river by removing such discarded items. We wanted to have a personal interaction with him to be appraised of the ground reality. Pursuant to our request, he appeared in person and outlined the measures being undertaken by him. While we were truly impressed by his activities, we were also utterly shocked at the prevailing state of affairs.

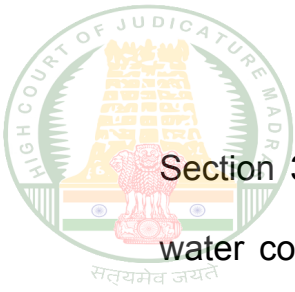


5. Thiru Moorthy informed us that efforts taken by the temple authorities had not yielded the desired results. He stated that the people are performing rituals at any and every point on the river bank from Gnanapalayam to Thalayanai. It is stated that every day, not less than a tonne of used garments and clothes are dumped in the river Tamirabarani. Thiru Moorthy has been coordinating with the local administration as well as the temple management, and by enlisting the services of the members of a community known as “Aripukarargal”, he has been able to clean up the river to some extent.

6. We had a look at a small booklet titled “Thamarabharani Nadhineer Thooimai Vizhipunarvu” authored by Smt. C. Kalavalli. Details of the waste discarded in the Thamarabharani river and collected during the period from 07.05.2026- 28.05.2026 is as follows :

1. Clothes - 86-90 tonnes
2. Holy ash- 2.20 tonne
3. Slippers – 115 Kgs
4. Plastic waste – 1385 kgs
5. Glass bottles – 220 kgs
6. Sacks – 90 kgs
7. Burnt bricks – 700 kgs
8. Oil bottles, shamppo cover etc., - 302 kgs
9. Sanitary napkin/diaper – 374 kgs
10. Residuary waste – 440 kgs

The statistics are alarming. No one has the right to pollute a water body even in the name of religion. This can be taken as an axiomatic proposition.



Section 36 of the Tamil Nadu Public Health Act, 1939 prohibits pollution of water courses. More important is Section 24 of The Water (Prevention And

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“24. Prohibition on use of stream or well for disposal of polluting matter, etc.— Subject to the provisions of this section,-

(a)no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or

(b)no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.”

While clothes made out of pure cotton are bio-degradable, that is not the case with fabrics made out of polyester etc., When these discarded clothes get stuck in the riverbed, it becomes a breeding ground for bacteria like E.coli bacteria thereby posing a serious health hazard. Tamirabarani is home to two particular kinds of turtle known as Indian Black Turtle and Indian Flapshell Turtle. Their average life span is not less than hundred years. When they get enmeshed in the clothes, they suffocate to death. Documentaries available in YouTube present a graphic picture. The use of chemicals such as soaps, shampoo and detergents has fatal consequences for the fish population. Thiru Moorthy lamented that even photo frames are thrown into the river. The



glass breaks against the rocks and poses a serious threat to marine life. The sifters who gather the articles suffer injuries. Dumping such items undoubtedly constitutes a polluting activity.

7.The Hon'ble Supreme Court in ***T.N.Godavarman Thirumulpad v. Union of India, (2012) 3 SCC 277*** advocated for a shift from the anthropocentric approach to an eco-centric approach. Right to enjoy pollution-free water is a fundamental right under Article 21 of the Constitution (***Subas Kumar v. State of Bihar, (1991) 1 SCC 598***). In ***M.C Mehta vs Union of India (2024 SCC OnLine SC 3366)***, the Hon'ble Supreme Court reminded that no religion encourages any activity which creates pollution.

8.Since the issue concerns the beliefs and sentiments of millions of Hindus, we did not want to pass any order without hearing the stakeholders. We invited response from the concerned organisations and the general public. Thiru Kutralanathan, advocate, Tirunelveli submitted his objections in writing. We also heard lawyers representing Hindu Munnani. We are, however, satisfied that by regulating the performance of rituals on the banks of river Tamirabarani, we are not in any way breaching the fundamental rights guaranteed under Article 25 of the Constitution of India. Believers can do what is spiritually beneficial to them provided it has no adverse implication for ecology and does not violate the rights of the other members of the society. Article 25 of the Constitution makes the freedom to practise religion



subservient to public health. In the guise of performing rituals for the departed, the river cannot be polluted. One should not forget that Tamirabarani is the

only perennial river catering to the drinking water needs of crores of people.

The people have a fundamental duty under Article 51A(g) of the Constitution of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

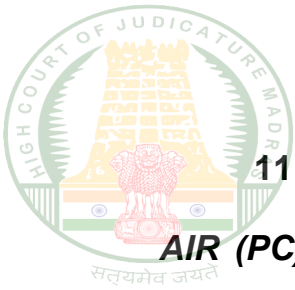
9. There is a famous couplet in Thirukural:

"புறந்தூய்மை நீரான் அமையும் அகந்தூய்மை
வாய்மையாற் காணப் படும்."

"By water outward forms are clean'd; by truth alone
The inward man is thoroughly purify'd and known." - Trn G.U. Pope.

If water which is required for cleaning itself becomes unclean, one can only lamentingly cite the biblical saying "You are the salt of the earth ; but if the salt have lost his savour, wherewith shall it be salted?".

10. Since the polluters take umbrage behind Hindu faith and religion, apart from invoking the statutory provisions, we intend to approach the issue from another perspective. Our jurisprudence recognises deities and idols as persons. That which is reverentially worshipped as per the tenets of religion is a deity. Hinduism being a pantheistic religion, acknowledges the existence of innumerable deities.



11. In ***Pramatha Nath Mullick v. Pradyumna Kumar Mullick (1925 AIR (PC) 139)***, it was held that a Hindu idol has a juridical status with the

power of suing and being sued. In ***M.L. Hanumantha Rao v. Sai Baba (1972 SCC OnLine Mad 92)***, after a comprehensive review of the earlier case-laws, it was held that a deity need not be associated with any particular idol or shrine. Whether something is a deity or not depends upon the faith of the persons who worship the idol and if they feel that by worshipping the idol, they are elevated spiritually that idol can be said to be a deity symbolising the particular religious purpose. In ***Ram Jankijee Deities v. State of Bihar (1999) 5 SCC 50***, it was held that God is formless and shapeless and it is for the benefit of the worshippers that there is a manifestation in the images of the supreme being.

12. River Tamirabarani finds mention in Valmiki Ramayana, Vyasa Mahabharatha and Kalidasa's Raghuvamsam. Sage Vyasa has composed "Tamirabarani Mahathmiyam" an epic poem containing 6300 verses. There is a particular sloka which states that bathing in Tamirabarani destroys one's karmas. Vyasa says that those who think of Tamirabarani, who see her, who meditate on her, who take bath in it and who drink her waters attain moksha. The very name "Papanasam" means literally destruction of one's sins. We take judicial notice of the fact that the river is considered as sacred by crores of Hindus and that they worship it. That is why, Tamirabarani Pushkaram is being held once in 12 years. Pushkaram means a spiritual event involving



worship of the river. Tamirabarani is symbolised by Tamira Devi. Sage Agasthiya is associated with the river.

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13.Deity is a juristic personality. The Hon'ble Supreme Court held that a deity is also an individual and can even be treated as an unit of assessment (*Official Trustee of W.B for the Trust of Chitra Dassi v. CIT (1974) 3 Scc 616*). River Tamirabarani is admittedly worshipped as a deity by the Hindus. Therefore, it partakes the character of a person. We are conscious that the judgment of the Uttarakhand High Court in *Mohd.Salim v. State of Uttarakhand* conferring personhood right on Ganga river basin has been stayed by the Hon'ble Supreme Court in SLP (C) No.16879 of 2017 on 07.07.2017. We, therefore, make it clear that we recognise the personhood of Tamirabarani not because it is a river but because She is a deity. No one has a right to pollute her. That will not only be a breach of the statutory provisions found in various environmental laws and a breach of the fundamental rights of fellow citizens under Article 21 of the Constitution of India but also the rights of the River Herself. She is hereby recognised for Her own intrinsic value.

14.It was argued in *Rama Janma Boomi* case (2020) 1 SCC 1 that the birth place of Lord Rama should be conferred with juristic personality. Though the court rejected the said submission, the following observations made in the said judgment are apposite :



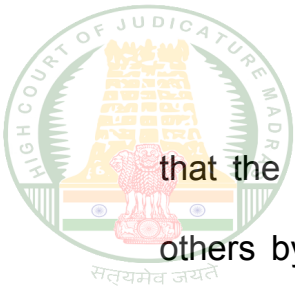
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...The conferral of legal personality subserves specific requirements that justify its recognition. The conferral of juristic personality does not automatically grant an ensemble of legal rights. The contours of juristic personality i.e. the rights and liabilities that attach upon the object conferred with juristic personality, must be determined keeping in mind the specific reasons for which such legal personality was conferred. The limits or boundaries of the rights ascribed to the new legal person must be guided by the reasons for conferring legal personality. The parameters of judicial innovation are set by the purpose for which the Judge innovates....”

By conferring personhood on river Tamirabarani, we are in noway ignoring the pitfalls highlighted by the Hon’ble Supreme Court. Conferment of juristic personality in this case is only for a limited purpose ie., right not to be polluted. The conferral of juristic personality is a legal innovation applied by courts in situations where the existing law of the day has certain shortcomings or such conferral increases the convenience of adjudication. It is a fact that Tamirabarani has been heavily polluted. The rituals practised by Hindus are also a contributory factor. They invoke Article 25 of the Constitution to resist the move to ban dumping of clothes. Reminding the objectors of their own faith and belief lightens the task of adjudication. The objectors have no answer when we ask if they are entitled to desecrate their own Devi.

15. **Rama Janma Boomi** case was a contest between Hindus and Muslims over a piece of land. That is why, the Hon’ble Supreme Court held



that the land cannot be immunised from proprietary or title-based claims of others by conferring juristic personality on the land itself. Such is not the

case here. By treating the river as a person, the rights of the other religionists are not prejudiced in any manner. We have already made it clear that the consequence flowing from conferral of the juristic personality on the river is only for the limited purpose of recognising that the river has a right not to be polluted. No other right or duty or liability springs out of such recognition. Since the existing laws have turned out to be ineffective in dealing with the pollution of river, conferral of juristic personality would go a very long way in restoring the lost glory.

16.Our approach is fundamentally different. Take the Promethean Legend. He brought fire to earth in defiance of the gods. But Bhagiratha brought the Ganga through prayer. However, the Promethean attitude to nature came into India with western engineering, and was ardently embraced by our own engineers and administrators and by our intelligentsia as a whole. Damming a river is a particularly dramatic manifestation of the Promethean spirit. We thought of rivers as divinities. We too generated waste. But our ancestors' capacity to harm rivers was limited and well within the self-cleaning powers of the rivers. Not so any more (Ramaswamy R.Iyer in 'living rivers, dying rivers' – Oxford). In the very same book which is a collection of essays, an author poses the following question :



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“Does not a river have a right to flow?”

Perhaps this concept is yet to be discussed and taken up seriously. I wish to put forward the argument that in the much-discussed rights debate in the country, the 'right of a river to flow' needs to be pursued if the rivers are to be saved for posterity. In the year 2011, **Bolivia** proposed a 'Law of Mother Earth' that would grant nature equal rights with humans. The new law established 11 new rights for nature, which include right to continue vital cycles and processes free from human alteration and the right to pure water and pure air. The right of a river to flow comes close to this precept which recognizes that a river has a right to complete its vital hydrological cycle and ecological functions in its journey from source to sea.”

17. In 2021, the **Magpie River** in **Canada** was recognized as possessing legal rights through resolutions adopted by the Innu Council of Ekuanitshit and the Minganie Regional County Municipality. The following nine rights were recognised :

- the right to live, to exist, and to flow;
- the right to respect for its natural cycles;
- the right to evolve naturally, to be preserved and to be protected;
- the right to maintain its natural biodiversity;
- the right to maintain its integrity;
- the right to perform essential ecosystem functions;
- the right to be free from pollution;
- the right to regeneration and restoration;
- the right to sue.

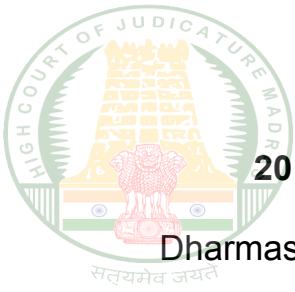


18. Though we can make further references to the developments in the international arena in this regard, we consciously refrain from doing so. As

already mentioned, conferment of personhood is not on nature or river per se.

Juristic personality has been conferred only on account of the fact that the river in question is revered as a deity. The much-maligned Manusmriti contains certain injunctions with regard to water. Urine or excreta ought not to be discharged in the water. Nor should water be spitted on, nor should unholy things like blood, meat or poison be dropped into water. Yajur veda chants “To the waters be peace” (Why I am A Hindu – Shashi Tharoor).

19. There is another reason why we have conferred personhood on the river Tamirabarani. Climate change is the most formidable challenge facing the humanity. This is a direct fallout of environmental degradation. Laws alone are not sufficient to deal with the problem. Even strict implementation would not achieve the object. Human nature must change. And that is possible more by moral interventions. One instance readily comes to mind. Turtles that come to the western coast for laying eggs were mercilessly hunted. A well known religious preacher compared the turtles to daughters coming to their maternal homes for delivery. Thus, the message was driven home. What law could not deter, shift in perception did. We, therefore, feel that jurisprudence must increasingly align itself with spiritual ecology. Especially in a country like India.



20. In Chapter 14 titled “Duties and Rights of Citizens in the Dharmasutra” featured in a scholarly book titled “Bharatiya Jurisprudence –

WEB REDFINING Legal Philosophy” edited by Dr. Seema Singh, our duties towards nature have been outlined. Rivers, as sentient beings, were regarded as citizens of the State. A person’s duties toward them were considered their rights. Actions that harmed nature were prohibited.

21. Dumping of clothes and other articles in Tamirabarani river stands banned by this judicial directive. The District Administration shall take immediate steps to prevent pollution of the River in the name of performing rituals for the dead. The District Collector has submitted an action plan report in this regard. We direct the authorities to abide by the undertaking given therein. Awareness campaign on a sustained basis will have to be carried on. People will be told in stern terms that polluting the river will be treated as an act of contempt of court. Such persons are liable to be penalised. The local body shall pass resolutions for levy of fines. The violators will also be facing other consequences. The District Administration shall involve the members of the civil society in enforcing the mandate to keep the river pollution-free. Honorarium may be paid to the members of the task force. The local police will also rush to their assistance when they are engaged in preventing the people from polluting the river. We make it clear to the authorities that the Green Bench will treat the direction given herein as one of continuing mandamus. Further directions will be issued in the contempt petition filed by Thiru Muthalankurichi Kamaraj.



22. At the same time, immersion of ashes in the river will have to be treated differently. Performance of rituals is an integral facet of one's religious

right guaranteed under Article 25 of the Constitution of India (***Commissioner, Hindu Religious Endowments v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954 SCR 1005)***). Even an agnostic like our first Prime Minister Shri Pandit Jawaharlal Nehru willed that a portion of his ashes should be immersed in river Ganga. He wrote thus :

“My desire to have a handful of my ashes thrown into the Ganga at Allahabad has no religious significance, so far as I am concerned. I have no religious sentiment in the matter. I have been attached to the Ganga and the Jumna rivers in Allahabad ever since my childhood and, as I have grown older, this attachment has also grown. I have watched their varying moods as the seasons changed, and have often thought of the history and myth and tradition, and song and story, that have become attached to them through the long ages and become a part of their flowing waters. The Ganga, especially, is the river of India, beloved of her people, round which are intertwined her racial memories, her hopes and fears, her songs of triumph, her victories and her defeats. She has been a symbol of India's age-long culture and civilization, ever-changing, ever-flowing, and yet ever the same Ganga. She reminds me of the snowcovered peaks and the deep valleys of the Himalayas, which I have loved so much, and of the rich and vast plains below, where my life and work have been cast. Smiling and dancing in the morning sunlight, and dark and gloomy and full of mystery as the evening shadows fall, a narrow, slow and graceful stream in winter, and a vast roaring thing during the monsoon, broad-bosomed almost



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as the sea, and with something of the sea's power to destroy, the Ganga has been to me a symbol and a memory of the past of India, running into the present, and flowing on to the great ocean of the future.... I am proud of that great inheritance that has been, and is, ours, and I am conscious that I too, like all of us, and a link in that unbroken chain which goes back to the dawn of history in the immemorial past of India. That chain I would not break, for I treasure it and seek inspiration from it. And as witness of this desire of mine and as my last homage to India's cultural inheritance, I am making this request that a handful of my ashes be thrown into the Ganga at Allahabad to be carried to the great ocean that washes India's shore."

23.Chithra Subramaniam is a well known journalist who exposed the Bofors scandal. In epilogue of her book Bofors Gate-A Journalist's Pursuit of Truth, she refers to Andrew, her son-in-law. Andrew's grandfather, Dr.Samuel Pickens, was a leprosy expert who had a clinic in Madurai. In his Will, Dr.Pickens wished for his ashes to be immersed in the Bay of Bengal. That shows the sentimental and emotional attachment of Indians to the waters of rivers and oceans. We, therefore, permit the immersion of ashes. We add a caveat. The ashes to be immersed in the river will be carried only in unfired earthen pots. If the pots are unfired, they will dissolve in no moment. Ashes cannot be thrown along with the pots if they are fired. Unfired pots containing ashes alone can be dumped as such in River Tamirabarani.



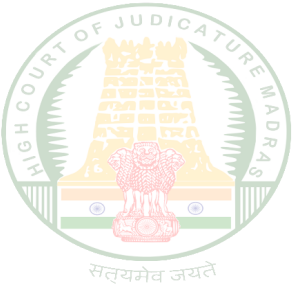
24. The petition-mentioned Mandapam shall be taken over forthwith by the fifth respondent temple. The Executive Officer/Trustees will liaison with ASI and carefully restore the Mandapam to its original position. The order impugned in the writ petition is upheld along with the order passed by the appellate authority. This writ petition is disposed of accordingly. No costs.

(G.R.S.,J.) (B.P.,J.)
23-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SKM

To

1. The District Collector, Tirunelveli District.
2. The Assistant Executive Engineer (WRO)
Upper Thamiraparani Sub-Division, Cheranmahadevi, Tirunelveli District.
3. The Commissioner,
Hindu Religious and Charitable Endowment Department, No.119, Uthamar
Gandhi Salai, Nungambakkam High Road, Chennai - 600 034.
4. The Joint Commissioner, Hindu Religious and Charitable Endowment
Department, Kokkirakulam, Palayamkottai, Tirunelveli - 627 002
5. The Executive Officer, Arulmighu Papanasa Swamy Thirukoil, Papanasam,
Ambasamudram Taluk, Tirunelveli District.



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