

BEFORE THE COMMISSIONER, HR&CE ADMN DEPARTMENT, CHENNAI-34.

Thursday the 7<sup>th</sup> day of March Two thousand and thirteen.

Present : Thiru P. Dhanapal, M.A., B.L.,  
Commissioner.

A.P.1, 2 and 3/2008 D2

Between:

Duraiswamy

S/o Chinnapaiya Chetty

... Appellant

And:

Nil

.. Respondents

In the matter of

1) Arulmigu Vippalamman temple, Kanikarahalli village, Dharmapuri Taluk, Dharmapuri District.

2) Arulmigu Poorikkal Mariamman etc. Temples, Poorikkal, Maniyathahalli village, Dharmapuri Taluk, Dharmapuri District. and

3) Arulmigu Mariamman etc. Temple, Kanikarahalli village, Dharmapuri Taluk, Dharmapuri District.

Appeal Petitions filed under Section 69(1) of the Tamil Nadu HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 17.05.2007 of the Joint Commissioner, HR&CE Admn Department, Salem dismissing O.A.Nos.36, 37 and 39/1997 filed under Section 63(b) of the Act.

Common Annexure to Order in R.Dis.A.P..No.1, 2 and 3/2008 (D2) dated 7.03.2013.

The above appeal petitions have been filed against the order dated 17.05.2007, of the Joint Commissioner, HR&CE Admn. Dept., Salem dismissing the O.A. Nos.36, 37 and 39 of 1997 filed under Section 63 (b) of the Act to declare that the office of trusteeship of the above said temples are hereditary and the petitioner is holding the office as Hereditary Trustee to the above said temples.

2. The appellant's contention is that the above temples were originally managed by one Venkata and after him, his son Giria and

thereafter by his son Lakshmanan and after him, his son Giri Chetty @ Karia Chetty and after him his sons Chinnapaiya Chetty and Kolandai Chetty. The said Kolandai Chetty died without leaving any legal heirs and hence the Appellant, as the son of Chinnapaiya Chetty inherited the office and has been performing pooja in the said temples and otherwise managing its affairs. The property tax of the temple is being paid by the Appellant and the Appellant has also obtained electricity connection for the temples. He along with his uncle Kolandai Chetty was responsible for obtaining the patta in the name of the temple from the Settlement Tahsildar in the minor inam abolition proceedings. The names of the Appellant's ancestors are found in the Inam abolition proceedings. The names of the appellant's ancestors are found in the Inam Fair Register and the Appellant is paying the dues to the department. Till date no trustee has been appointed and the management of the temples has been exclusively in the hands of the Appellant and his ancestors for over five generations. On coming to know that the HR&CE Department is contemplating action to appoint trustee to the above temples, the appellant filed an application under Section 63 (b) of the HR&CE Act in O.A.Nos.36, 37 and 39/1997 to establish his rights. Unfortunately, the Joint Commissioner has dismissed the above applications by order dated 17.05.2007 without appreciating the oral and documentary evidences let in by the appellant. There is no contra evidence to show no other person except the Appellant's family was in management of the Temples. The deposition of PW2 and report of the Inspector of the department was not considered.

3. The Joint Commissioner has dismissed the above Original Applications stating that the petitioner was appointed as non-hereditary trustee by the Assistant Commissioner in the year 1981, 1992 and 1996. The documents produced by the petitioner were related to the period of non-hereditary trusteeship held by the petitioner, and failed to produce any documents to prove that the temples are under continuous management of the family of the petitioner. Therefore, the impugned order is liable to be set aside.

4. I heard Thiru M. Vaidyanathan, Counsel for the Appellant and perused the relevant records. The appellant mainly relied upon the extract of the Inam Fair Register, in which one Kolandai Chetty's name was found. But on a perusal of the common annexure to the order issued by the Joint Commissioner, except Ex.A.7 no Inam Fair Register Extract has been produced and marked as Exhibit by the appellant. Even the said Ex.A.7 is also not relevant to this case. It is seen from the records that most of the documents filed by the appellant was of recent origin and relates to the tenure of office held by the Appellant. Further it is admitted by the appellant that festivals are conducted by the Village Panchayatars by collecting donation from villagers, for which accounts are maintained by them. The Kanikkais offered to the deities are under the lock and key and custody of Village Panchayatars. From the evidence adduced, the appellant has failed to prove that his ancestors were in the management of the temple for more than three generations without any break by letting in corroborative clinching evidence. Not even any one of the features as envisaged under Section 6(11) of the Act has been fulfilled and proved beyond reasonable doubt. The appellant has failed to make out a case as prayed for.

In the absence of the same, I find no valid reasons to interfere with the orders passed by the Joint Commissioner, HR&CE Admn. Dept., Salem in O.A.Nos.36, 37 and 39/1997, and accordingly the same be and is hereby confirmed. The appeal petitions fails and the same deserves to be dismissed as devoid of any merit and accordingly the same be is hereby dismissed as devoid of any merits.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/true copy/by order/

Superintendent.