

**BEFORE THE COMMISSIONER, H.R.&C.E. DEPARTMENT, CHENNAI-34.**

Tuesday the 18<sup>th</sup> day of December, Two thousand and twelve.

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

**A.P.45/2008 D2**

Between  
S. Thangavelu, S/o Somali Pandaram. ... Appellant

And  
The Joint Commissioner, HR & CE Admn. Dept..  
Coimbatore. ..Respondent.

In the matter of Arulmigu Bagavathiamman Temple, Mannarai,  
Thirupur Taluk, Thirupur District.

Appeal Petition filed under Section 53(5) of the Tamil Nadu HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 04.07.2008 passed in Pro.Rc.No.10346/2004 of the Joint Commissioner, HR & CE Admn. Dept., Coimbatore, removing the appellant herein from the office of hereditary Trusteeship of the temple, as a measure of punishment under Section 53(2) of the Act.

**Order in R.Dis. A.P..No.45/2008 (D2) dated: 18.12.2012.**

The above Appeal Petition having come on for final hearing before me on 20.11.2012 in the presence of Thiru T.I. Ramanathan, Counsel for the Appellant, upon hearing the arguments advanced by him and after perusing the records and the matter having stood over for consideration till this day, the following order is made:-

**ORDER.**

The above appeal petition has been filed under Section 53(5) of the HR&CE Act, 1959 against the order of the Joint Commissioner, HR&CE Admn. Dept., Coimbatore passed under section 53(2) of the Act, removing the appellant herein from the post of Hereditary Trusteeship of the temple as a measure of punishment for the proved grave charges. The main gravity of the charges framed against the appellant was that he filed a petition before the Settlement authority to change the name of patta for the land standing in the name of the deity to his name, as against the order of the Settlement Tahsildar made under the Tamil Nadu Minor Inams (abolition and conversion into Ryotwari) Act, 30 of 1963 and also filed O.P.176/1996 before Addl. District Judge, Coimbatore seeking permission to sell the lands belongs to the temple overlooking Section 34 of the HR&CE Act, by setting up adverse title.

2. The contention of the appellant is that he was the Hereditary Trustee of Arulmigu Bagavathy Amman Temple, Mannarai village, Coimbatore District as per the decision in O.A.No.72/1979 dated 02.02.1980. He was looking after and developing the temple in a good and proper manner. The respondent herein issued charge memo under Section 53 (2) of the HR & CE Act against the appellant and without proper enquiry, it was decided that the charges have been proved and the appellant was dismissed from the post of hereditary trusteeship of the temple. The respondent herein failed to see the fact that the petitioner is taking steps to withdraw the petition filed before the Land Reforms Commissioner, Chennai. No agreement for sale entered between the appellant and any third party. Without any material document, the respondent comes to the conclusion that the petitioner is attempting to sell the temple properties. The appellant is residing in the Thatched shed

and looking after the temple properly. The appellant also contended that he is maintaining the entire records in respect of the temple properties. The Settlement Tahsildar No.2, Gopichettipalayam in S.R. No.109/68 M.I. Act/Palladam Taluk Dt.23.05.1968 had categorically issued Ryotwari patta in respect of the properties in the name of the appellant and his brother and sister. The Joint Commissioner has passed orders before getting reply from the appellant and he must have given opportunity to defend himself with the help of any of his friend. That opportunity was absolutely denied to the appellant which is statutory. Therefore, the impugned order of the Joint Commissioner is liable to be set aside.

3. I have heard Thiru T.I. Ramanathan, Counsel for the appellant and perused the records. On perusal of the impugned order it is found that the appellant herein even in his explanation admits all the charges. He applied to the Commissioner for Land Administration to transfer the Patta in his name hither to stand in the name of the deity, and also filed O.P.176 of 1996 and O.P.204 of 2007 on the file of the District Court, Coimbatore, seeking permission to sell the temple property as against Section 34 of the HR&CE Act. In the explanation submitted by the appellant he has stated that he will withdraw the petition filed before the Land Reforms Commissioner and O.P. 176/1996 filed before Addl. District Court, Coimbatore. Charge No.3 related to illegal construction of building in the temple land and utilized the rental amount for his personal gains. In the explanation the appellant has stated that he will demolish the unauthorized construction. Charge No.7 relates to non-leasing of 6.72 Acre land in S.No. 270 belong to the temple. In the explanation, the appellant has admitted and stated that he himself is cultivating the above said land. The appellant himself admits all the charges. After obtaining the explanation of the appellant herein, the Joint Commissioner has passed the impugned order.

4. As per Section 28 of the Act *"the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own."*

But the appellant herein as hereditary trustee failed to safeguard the property of the deity of the temple, but attempted to set up adverse title, ownership right and patta over the property and utilized the temple property for his personal gains and acted against the interest of the temple.

5. Having found that all the grave charges have been admitted by the appellant and proved by record beyond reasonable doubt, the Joint Commissioner inflicted the punishment order of termination in the impugned order. No valid and justifiable reason was pleaded in the appeal warranting the circumstances to interfere with the impugned order of the Joint Commissioner. Considering the gravity of the charges, the order passed by the Joint Commissioner does not warrant any interference and the same is hereby confirmed. The appeal petition deserves no consideration and the same is liable to be dismissed and accordingly it is hereby dismissed as devoid of merits.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/true copy/by order/

Superintendent.

*p.t.o.*

**To**

1. The Appellant through Thiru T.S. Ramanathan, Advocate, 3, Chidambaraswamy Koil 1<sup>st</sup> Street, Mylapore, Chennai.4

**Copy to:**

2. The Joint Commissioner, HR&CE Admn. Department, Coimbatore.18
3. & 4. The Inspector, HR & CE Admn. Department, Avinashi/Thirupur
5. & 6. The Assistant Commissioner, HR&CE Admn. Department, Tirupur and Coimbatore. 18
7. The Fit Person/Executive officer, A/m.Kariyakaliamman temple, Mudalipalayam, Tirupur
8. & 9.Extra