

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

Tuesday the 9<sup>th</sup> day of April, Two Thousand and Thirteen.

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

A.P.54/2009 D2

Between  
A.M. Pandian @ Balaji

Appellant.

And

1. The Fit Person, Arulmighu  
Thulukanathamman Temple, (Anaicut),  
Dams Road, Chintadripet, Chennai-2.
2. The Joint Commissioner, H.R.& C.E.  
Chennai.

Respondents.

In the matter of Arulmigu Thulukanathamman Temple, (Anaicut),  
Dams Road, Chindadripet, Chennai-2.

Appeal Petition filed under Section 69(1) of the Tamil Nadu HR&CE  
Act 1959 (Tamil Nadu Act 22 of 1959) against the order dated  
10.10.2008 of the Joint Commissioner, H.R. & C.E. Admn.Department,  
Chennai in dismissing the O.A. 9/95 filed under section 63(b) of the Act.

Annexure to Order in A.P.No.54/2009 D2 dated 9.4.2013.

The above appeal petition filed against the order dated 10.10.2008  
of the Joint Commissioner, Chennai in dismissing the O.A. 9/95 filed  
under Section 63 (b) of the Act.

2. The appellant contended that the suit temple was originally  
founded and established by Madurai Naicker the great grandfather of the  
appellant herein. He was looking after the administration of the affairs  
of the temple in his capacity as founder-trustee-poojari till his life time.  
Thereafter his son Appavoo Naicker grandfather of the appellant

succeeded to the office of the Trusteeship and poojariship in the temple. After his death, Murugesan Naicker, father of the appellant succeeded to the office. From 1984 onwards the appellants herein has been looking after the administration. All the above said facts were brought before the 2<sup>nd</sup> respondent and documents were marked as Exhibits A1 to A3 and C1. After hearing the elaborate arguments and evidence of the Inspector, HR & CE, the 2<sup>nd</sup> Respondent has not properly considered all the factual and legal positions of the case and erroneously came to the conclusion that the claims are not proved and dismissed the above O.A. The Joint Commissioner/2<sup>nd</sup> Respondent has further failed to make proper and necessary enquiry about the predecessors of the petitioner who were holding the post as Trustees and Poosaris, and if he made any personal enquiries in the temple and the local people he would have come to a conclusion that the appellant and his predecessors are holding the office of the Temple as Hereditary Trustees. Therefore the order passed by the Joint Commissioner, is not sustainable in law and liable to be set aside.

3. I heard Thiru N. Sathyamoorthy, Counsel for the appellant and perused the relevant records. On a perusal of the annexure to order passed by the Joint Commissioner containing grounds for the above decision, the Joint Commissioner has elaborately discussed evidentiary value of all the documents filed by the appellant and gave categorical finding on each document. In O.S.No. 201/45, City Civil Court, Madras has settled a scheme of administration for the administration of the temple by order dated 25.4.1946. In the said scheme, the appellant's grandfather Appavoo Naicker was shown as Poojari of the temple. The scheme provided for appointment of two non-hereditary trustees and to constitute a committee consisting of 5 members to assist the trustees. Further in Ex.A2 and A3 the appellant and his forefathers were only shown as poojaris only. Non-hereditary trustees were appointed in the year 1976, 1984, 1985 and 1986. Further the O.A. 28/87 filed by the appellant under Section 63 (b) was also dismissed for default on

10.9.1987. The appellant failed to prove that the management of the temple has been vested with their family for more than three generations with clinching evidence.

For the reasons stated supra, I find no merits in the appeal petition and it is liable to be dismissed, accordingly it is hereby dismissed as devoid of merits.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/by order/

Superintendent.

Only TO