

BEFORE THE COMMISSIONER, HR&CE DEPARTMENT, CHENNAI-34
Wednesday the 8th day of May, Two Thousand and Thirteen.

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

A.P. 57 of 2009 D2.

Between:

C. Periasamy Servai
S/o Chinnan Servai.

... Appellant.

And:

Nil

...Respondent

In the matter of Arulmigu Kottai Karuppannaswamy Temple,
Kannivadi, Dindigul Taluk and District.

Appeal petition under Section 54(4) of the HR&CE Act 22 of 1959
(Tamil Nadu Act 22 of 1959) against the order dated 30.05.2008 passed
in M.P.No.1/2008 by the Joint Commissioner, HR&CE Admn
Department, Madurai dismissing the application filed by the appellant
herein under Section 54(1) of the Act.

Order in D.Dis.A.P.No.57/2009 (D2) dated : 8.05.2013

The above Appeal Petition having come on for final hearing before
me on 29.01.2013 in the presence of Thiru K.Jayaraman, Counsel for the
appellant and upon hearing his argument and after perusing the relevant
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 by the appellant herein
under section 54(4) of the Act, against the order dated 30.05.2008 made

in M.P.No.1/2008 by the Joint Commissioner, HR&CE Admn Department, Madurai dismissing the application filed by the appellant herein under Section 54(1) of the Act.

2. The appellant herein as petitioner filed M.P.No.1/2008 before the Joint Commissioner, HR&CE Admn. Department, Madurai seeking to recognize him as the hereditary trustee of the above temple in the place of his deceased brother Palanivel Servai who died issueless and 1st Petitioner in the Scheme framed in O.A.No.36/1986, according to clause 3 of the scheme. The contention of the appellant is that under clause 3 of the scheme framed, it was provided that the temple and its properties shall be administered by persons not exceeding five in number chosen from the elder members of the above families by the competent authority and appointed by the appropriate authority subject to the provisions of the Act. Accordingly, the petitioner's brother Palanivel Servai acted as a trustee till his death on 26.04.1998. Therefore, as per the scheme provisions, the petitioner is entitled to succeed the office as the successor of the previous trustee of the temple. But, the Joint Commissioner without proper appreciation of facts dismissed the application on 30.05.2008 alleging that certain charges of mismanagement on this appellant has been raised in Proc.Rc.No.1691/2007 B.1 dated 27.03.2008 with an intention to take over the administration of the temple from the appellant against the provisions of law and without following principles of natural justice.

3. I heard Thiru K.Jayaraman, counsel for the petitioner and perused the relevant records. In O.A.No.36/1986 a scheme has been settled for the proper administration of the temple under Section 64(1) of the Act. Clause 3 of the scheme contains that the temple and its property shall be administered by three persons and not exceeding five in number chosen from the elder member of the above family by the competent authority and appointed by the appropriate authority subject

to the provisions of the Act. The appellant has misconstrued clause 3 of the scheme that permanent representation shall be given to the petitioners' family in the administration of the temple while making appointment. The office of trusteeship of the temple was not declared as hereditary in terms of Section 63(b) of the Act read with section 6(11) of the Act. It is seen from the impugned order that the appellant herein without any lawful appointment as trustee by the competent authority as per the provisions of the Act, suo motu usurping with power and authority interfered with the administration for which charges have been framed by the Joint Commissioner and after enquiry, held that all the charges have been proved and disqualified the appellant under Section 26 of the Act for being appointed as trustee in Pro.Rc.No.1691/2007 B1 dated 06.03.2009.

4. A plain reading of the scheme provisions makes it clear that non-hereditary trustees for the administration of the above public temple shall be appointed by the appropriate and competent authorities under the Act for the term specified in the provisions of the Act. Therefore, the claim of the appellant that the office of trusteeship is hereditary and he is entitled to succeed the office as succor of previous trustee is not based on any material record and unacceptable. Therefore, I see no valid ground to interfere with the impugned orders passed by the Joint Commissioner. Hence, the impugned orders passed by the Joint Commissioner in M.P.1/2008 dated 30.05.2008 is hereby confirmed.

5. Section 54(4) of the Act runs as follows-

“Any person aggrieved by an order of the Joint Commissioner or the Deputy Commissioner, as the case may be under sub-section (3) may, within one month from the date of receipt of the order by him, appeal against the order to the Commissioner.

But, this appeal has been filed under section 54(4) of the Act challenging the order passed under section 54(1) of the Act. As there is

no provision in the Act, the appeal as filed under Section 54 (4) of the Act is not at all maintainable in law and deserves to be dismissed as not maintainable and devoid of any merits. Accordingly the appeal petition be and is hereby dismissed as not maintainable and devoid of any merit.

/ typed to dictation /

Sd. P. Dhanapal,
Commissioner.

/ true copy/by order/

Superintendent.

To

1. The Appellant through Thiru K. Jayaraman,
32-A, New No. 73, Thirumalai Pillai Road Lane, T.Nagar, Chennai. 17.

Copy to:

2. The Joint Commissioner, HR&CE Admn Department, Madurai. 1
(With the file in C.No.1691/2007 B.1 of his office in three volumes
(pages 1 to 872) (By RPAD) The receipt of the records may be
acknowledged).
3. The Assistant Commissioner, HR&CE Admn Dept., Dindigul.
4. The Inspector, HR&CE Admn Dept, Dindigul
5. The trustee of the above temple
- 6 & 7 Extras