

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

Wednesday the 17th day of July, Two Thousand and thirteen.

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

A.P.91/2009 D2

Between.

1. G.P. Rudraradahayasamy (deceased)
2. Rajasekararadhyasamy
Harthanahalli Mutt,
Shyaramraj Nagar Taluk,
and District.

.. Appellant.

And

1. The Joint Commissioner, H.R. & C.E. Admn.Dept., Coimbatore.
2. Puttu Thambidi (deceased)
3. Giribanda Thambidi (deceased)
4. Pasuva Thambidi (deceased)
5. Thonagiriswami Thonagirisamy Madam,
Thamirakarai Post, Bargoor villagle,
Bhavani Taluk, Erode District.

..Respondents

6.Dhodaya Thambidi	Legal Representative of R2	
7. Bandhayan	Legal Representative of R4	
8. Pasuvan		substituted vide order dated 29.1.2013
9. Pandhaya Thambidi		
10.Veerathra Thambidi		
11.Udaya Thambidi.	Legal Representatives of R3	
12. Peranna Thambidi.		
13. Keethi Thambidi.		

In the matter of Arulmigu Bandeswaraswami Temple, Thevarmalai,
Bargoor village, Bhavani Taluk, Erode District.

Appeal Petition filed under Section 69(1) of the Tamil Nadu H.R.&
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated

24.8.2009 of the Joint Commissioner, HR & CE Admn.Department, Coimbatore in dismissing the O.A. No. 25/92 filed under Section 63(b) of the Act.

Annexure to Order in R.Dis. A.P.No. 91/2009(D2)DATED: 17.7.2011

The above appeal petition has been filed against the order dated 24.8.2009 of the Joint Commissioner, Coimbatore in dismissing the O.A. 25/1992 filed under Section 63 (b) of the Act.

2. The O.A. 25/1992 filed by the appellant herein to declare him as hereditary trustee of the said temple and also O.A. 19/2001 filed by another 4 persons to declare them as hereditary trustees of the said temple. The Joint Commissioner dismissed both the O.As stating that the said temple was under Onkala Puja Scheme and also the management of the temple was vested with Lingayath Thambidi community of the village. Festivals are conducted by the said community. Renovation works were done by the donors. There is no evidence to prove that the temple was managed hereditarily by the petitioners in both O.As.

3. The appellant contended that the management of the suit temple has been vested with Madathipathi of the Harathana halli mutt. The right to manage the affairs of the temple has been decided by the Civil Court in O.S.No.567/31 on the file of the District Munsif of Gobichettipalayam and Civil Appeal in A.S. 77/1934 on the file of the Additional Judge, Coimbatore. The Joint Commissioner failed to discuss the evidentiary value of the Judgments and also the Judgment of the High Court in S.A.No.195/1936 dated 1.5.1939 is a clinching record to establish the right of the appellant. The evidence adduced on the side of the appellant in this case has not been appraised legally by the Joint Commissioner.

4. I heard Thiru W.C. Thiruvengadam, Counsel for the appellant and T.M. Karthikeyan, Counsel for the Respondent 2 to 5 and perused the relevant records. The counsel for the appellant argued that the management of the temple has been decided in A.S. 77/1934. But the Joint Commissioner failed to consider the evidentiary value of the various documents filed by the appellant. In the written arguments filed by the respondent, they have stated that, the Joint Commissioner has rightly rejected the appellant's claim of Hereditary Trusteeship in the said case and that the said judgment in the said case was not connected with the right of Hereditary Trustee and the appellant had not involved in the affairs of the said temple except visiting the said temple. The appellant was at no point of time is in the possession and enjoyment of the disputed claim as Hereditary Trustee and a Math cannot be granted with the Hereditary Trusteeship for a temple in view of Chapter IV of the Act. Right of Hereditary Trustee cannot be claimed over the disputed temple which is admittedly situated in a Government Poramboke.

5. The appellant is only relying upon the Judgment passed on A.S. 77/1934. But O.S. 567/31 was filed to establish certain rights and perquisites of the petitioner but not in connection with the management of the temple. The appellant had not produced any documents to prove that the management of the suit temple has been vested with the said Math before filing of O.S. 567/31 and till date. No documents were produced to establish that the said temple was founded by the Math. On the contrary, the temple is situated in Poramboke land. It was not proved by the appellant that the day to day administration of the temple was carried out by the appellant directly or through their agent. On the contrary the said temple is under the "Oru Kala Pooja Scheme" implemented by the department to perform poojas once in a day. As the appellant claiming to be a Hereditary Trustee of the temple, he should take necessary steps to perform poojas and festivals regularly in the temple. From the festival invitation filed by the respondent, annual festivals are conducted by the villagers. Further, the department

has appointed non-hereditary trustees to the temple and the temple is now administered by the Fit Person appointed by the department.

For the foregoing reasons, I find no illegality and infirmity in the order passed by the Joint Commissioner, Coimbatore and the appeal petition lacks merits and deserved to be dismissed. Accordingly the order dated 24.8.2009 of the Joint Commissioner, Coimbatore is hereby confirmed and the appeal petition is dismissed as devoid of merits.

/typed to dictation/

Sd. P.Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.

Only TO