

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

Tuesday the 11<sup>th</sup> day of December, Two thousand and twelve.

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

**A.P. 64/2009 D2.**

V.S. Ramakrishna Iyer

... Appellant.

In the matter of Arulmigu Venkataramanaperumal Temple,  
Vilangalpattu Village, Cuddalore Taluk and District.

Appeal Petition filed under Section 69(1) of the HR&CE Act, 1959  
(Tamil Nadu Act 22 of 1959) against the order dated 3.3.2009 of the Joint  
Commissioner, HR&CE Admn. Department, Villupuram dismissing the  
O.A.No.91/2006 filed under Section 63 (b) of the Act.

**Annexure to Order in R.Dis. A.P. 64/09 (D2) dated : 11.12.2012.**

The above Appeal Petition has been filed under Section 69 (1) of  
the Act against the order dated 3.3.2009 of the Joint Commissioner,  
HR&CE Admn. Dept., Villupuram dismissing the O.A.No.91/2006 filed  
under Section 63 (b) of the Act. The Joint Commissioner dismissed the  
O.A. stating that there is no proof for foundation of the temple by the  
petitioner's ancestors and no records for administration having vested in  
the family of the petitioner, but the petitioner manage the affairs as  
poojari of the temple and the festivals are conducted from the  
contribution of public. Petitioner failed to prove with valid evidence that  
the management of the above temple have been vested with their family  
and also failed to prove that the temple was established by his ancestors.  
The Joint Commissioner has also declared that the temple in question is a  
public temple.

2. The case of the appellant is that he accepts the public nature and character of temple in question as a public temple and O.A. 9/2006 was filed under Section 63 (b) of the Act to declare the office of the Trusteeship as hereditary. But, the Joint Commissioner instead of declaring the hereditary right of the trusteeship, declared that the temple as public one. The Joint Commissioner also failed to consider the evidentiary value of the deposition of the Panchayat President, report of the Inspector of the Department and other documents. The Joint Commissioner failed to analyze legally the evidentiary value of the witnesses and records.

3. The above appeal petition came up for hearing on 3.3.2010, 13.4.2010, 8.6.2010, 8.3.2011, 24.8.2011, 10.4.2012 and 20.11.2012. All the times, both the appellant and his counsel were called absent and remained ex-parte.

4. I have perused the order of the Joint Commissioner. On a perusal of the annexure to order passed by the Joint Commissioner, containing the grounds for the above decision in O.A.No.91/2006, the Joint Commissioner has simply enumerated all the documents filed and marked without discussing its evidentiary value, how far the said document support or un-support the case of the petitioner by applying his mind judicially before taking such a decision.

5. The appellant herein filed O.A.91/2006 (Old O.A.No.15/2002) to declare the office of the trusteeship to the temple as hereditary under Section 63 (b) of the Act, accepting the temple in question as a public temple which was not disputed by the appellant. But, the Joint Commissioner without applying his mind to the relief sought for passed the impugned order declaring that the temple is a public one which was neither disputed nor sought for by the petitioner.

6. Therefore, the order dated 3.5.2009 passed by the Joint Commissioner, HR&CE Admn. Department Villupuram suffers from infirmity as stated and above and deserved to be set aside and accordingly it is set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry denova after affording the appellant and other persons having interest if any an opportunity of being heard and dispose the same on merits and in accordance with law within a period of 3 months from the date of receipt of copy of this order. The appellant shall also co-operate for the expeditious disposal of the O.A. enquiry without any default. With these directions the appeal petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/true copy/by order/

Superintendent.