

BEFORE THE COMMISSIONER, HR&CE ADMN DEPARTMENT, CHENNAI.34.

Tuesday the 12th day of November, Two thousand and thirteen.

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

A.P.93/2009 D2.

Between

1. C.K. Gopalakrishnan, S/o
C.G.Krishnaswamy.
2. V.Tharagaraman (Died).
3. V. Babu
4. A. Panduranga Reddiar S/o Gopal
Reddiar.
5. D. Ramalingam S/o K. Dasaratha
Reddiar.
6. C.S. Sivaprakasam (died during the
pendency of the O.A.)
7. D. Balan S/o Duraipillai.

.. Appellants.

And

1. The Joint Commissioner, HR & CE
Admn.Dept., Chennai.34.
2. S. Karunakaran
(expired during the pendency of O.A.)
3. R. Rajamanickam, S/o Rajagopal.
4. P. Balasubramaniam, S/o R. Palayam.
5. M. Kesavan S/o T. Manickam.

... Respondents.

In the matter of Arulmigu Elankali Amman and Balamman
Temple, Konnur Village, Villivakkam, Chennai. 49.

Appeal Petition filed under Section 69(1) of the Tamil Nadu HR&CE
Act 22 of 1959 (Tamil Nadu Act 22 of 1959) against the order dated
28.10.2008 of the Joint Commissioner, HR & CE Admn.Dept., Chennai
in dismissing the O.A.6/92 filed under Section 64(1) of the Act.

Annexure to Order in R.Dis. A.P. 93/09 (D2) dated 12.11.2013.

The above Appeal Petition filed under Section 69(1) of the Act against the order dated 28.10.2008 of the Joint Commissioner, Chennai in dismissing the O.A. 6/92 filed under Section 64 (1) of the Act.

2. The Appellants contended that Konnur Arulmighu Elangiamman and Balamman temples are denomination in character and are in existence of the sole benefits of the members belonging to Reddiar Community in majority and some of the members from Mudaliar and Yadava Community. The temple founded, established, maintained and managed by the members of the said community. In order to decide the denominational character of the institution, the appellant have filed O.A. 6/1992 under Section 64 (1) of the Act. The Joint Commissioner dismissed the O.A. without assessing the evidences and discussing the question of law and the rights guaranteed under Section 51 (1) read with Section 107 of the H.R. & C.E. Act

3. I heard Thiru W.C. Thiruvengadam, Counsel for the appellants, Thiru N. Sathyamoorthy, Counsel for the 4th respondent and perused the relevant records. In the appeal petition, the appellants have contended that they have filed the O.A. under Section 64 (1) of the Act to decide the denomination character of the temple. Under Section 64 (1) of the Act, a scheme can be settled for the proper administration of the temple, denomination character cannot be decided under the said Section. Further if the Joint Commissioner satisfied that it is necessary or desirable, shall settle a scheme of administration in the interest of the proper administration of an institution. When subjective satisfaction of the Joint Commissioner is necessary to settle a scheme of administration the appellate authority cannot direct the Joint Commissioner to subjectively satisfy to settle a scheme.

4. But the persons who file an application to settle a scheme of administration shall convince and satisfy the Joint Commissioner with cogent evidence for the necessity of settlement of scheme of administration for the temple and the temple is chiefly intended or maintained by the persons belonging to the religious denomination.

5. But, in this case, the appellants failed to prove that suit temple is founded established and maintained by the said communities. On perusal of the annexure to order containing grounds for rejection of the claim of the appellants, the Joint Commissioner analysed all the documents and oral evidences legally and gave his findings. Further, the temple was renovated by the Thiruppani Committee consisting of members from all the communities. Day to day administration of the temple has been vested with the Executive Officer appointed under Section 45 (1) of the Act. Further as held by the Joint Commissioner, three different caste of Hindu Community will not form or constitute a religious denomination by themselves.

For the foregoing reasons stated supra, I find no illegality or infirmity in the order passed by the Joint Commissioner, Chennai. Accordingly the order dated 28.10.2008 of the Joint Commissioner, Chennai made in O.A. 6/1992 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.