

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

Monday the 22nd day of July, Two Thousand and Thirteen.

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

A.P. 15/2010.

Between

1. S. Kandasamy.
2. S. Pulamuthu Pillai.
3. P. Thiraviyam.
4. C. Sankaranarayanan.
5. P. Swaminatha Pillai,
6. N. Ramachandran.
7. S. Narayanamurthy.

... Appellants.

In the matter of Arulmigu Vada Badrakaliamman Temple, Ittamozhi,
Tirunelveli District.

Appeal petition under Section 69(1) of the Tamil Nadu HR&CE Act 22 of 1959 (Tamil Nadu Act 22 of 1959) against the order dated 30.12.2009 passed in O.A.No.19/1995 on the file of the Joint Commissioner, HR&CE Admn Dept, Tirunelveli dismissing the original application declining to frame scheme under Section 64(1) of the Act to the above temple.

Annexure to Order in R.Dis.A.P.15/2010 (D2) dated : 22.07.2013.

The appellants contended that they took out an Original Application in terms of Section 64 (1) of the Act to frame a scheme of administration for the above temple with provision to appoint Trustees from among the Saiva Vellala Community of Ittamozhi Village. But, the Joint Commissioner dismissed the original application stating that the members of the said Community have encroached upon the temple property and if a scheme of administration is

settled as prayed for by the Petitioners, it will prejudicially affect the interest of the temple.

2. The appellants contended that the Joint Commissioner failed to consider the oral and documentary evidence adduced before him. Though the Joint Commissioner accepted that the temple was constructed by 30 families of Saiva Pillaival of Ittamozhi village, dismissed the O.A. stating that the land, shop and properties belongs to the temple were encroached upon by the community people. If the H.R.&C.E Board frames scheme for the proper management of the temple, then the administration can be managed effectively by quoting the scheme framed by the HR&CE Board. The Deputy Commissioner failed to note that the temple has got 34.57 Acres of land and they got patta from the Revenue Department and temple was paying kist for the land to the Government. The Judgment in O.S.883/83 filed by one Vinayagam has nothing to do with this application. The evidence given by the Inspector was without any documentary proof. Nobody has committed any trespass. The land was given on rent long back and the trustees/Committee members could not increase the rent as there is no scheme for increasing the rent. Saiva Pillai community had been managing the property and the temple from 14.02.1931 onwards and the land is patta lands. The temple administration is not collecting any donation or contribution from the general public for the day to day management of the temple. Therefore, the order of the Joint Commissioner is liable to be set aside.

3. The above appeal petition came up for hearing on 29.06.2010, 16.11.2010, 11.01.2011, 26.04.2011, 13.07.2011, 07.09.2011, 30.11.2011, 24.01.2012, 06.11.2012, 19.03.2013, 05.04.2013, 30.04.2013 and finally on 09.07.2013. On all the occasions, both the appellants and their counsel having been called absent, and they abstain to the enquiry for the reasons best known to them. There is no representation on their behalf and they remained ex-parte. Hence, orders are passed on merits based on the records available.

4. The appellants failed to prove that the said temple was founded, established and maintained by the said community and chiefly intended for the benefit of the said community with cogent evidence. No solitary evidence, viz., accounts books for the receipts and charges was produced and marked to prove that the said community people are looking after the day to day administration of the temple and festivals in exclusion of other community people. Though the temple owns 34.57 Acres of land no fruitful income was derived from the said lands. It is evident from the agreement dated 14.02.1931 as admitted that the community people had encroached upon the lands belonging to the said temple and put up houses and buildings and they are enjoying the property without even paying the nominal rent due to the temple properties. The appellants did not adduce any evidence to prove any effective steps taken to enhance, collect and regulate the income due from the encroached properties or to retrieve and remove the encroachments caused in the temple property, but asserts lame excuse that as there is no scheme, the rent could not be increased, which is not quite convincing and acceptable.

Various Government Orders and Circulars have been issued regarding fixation of fair rent. For increasing the rental income of the properties belonging to religious institutions, I hardly believe that any scheme is necessary or mandate. So, I am unable to accept with the views of the appellants as the same is baseless and irrelevant. Therefore, the Joint Commissioner was right in holding that he has no valid reasons to believe that in the interest of the proper administration of the above said temple, a scheme is necessarily settled, in the interest of the religious institution.

Therefore, I find no infirmity in the order dated 09.12.2009 made in O.A.No.19/1995 on the file of the Joint Commissioner, HR&CE Admn. Department, Tirunelveli and I have no hesitation to come to the conclusion that the appeal deserves to be dismissed as devoid of any merits. Accordingly, the appeal fails and the same be and is hereby dismissed as devoid of any merits and the order dated 09.12.2009 made in O.A.No.19/1995 on the file of the Joint Commissioner, HR&CE Admn. Department, Tirunelveli is hereby confirmed.

/ typed to dictation /

Sd. P.Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.