

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

Tuesday the 7<sup>th</sup> day of May, Two Thousand and Thirteen.

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

A.P. 73/2010 D2

Between.

V. Muniyandi

S/o Late S. Veluchamy Pillai.

... Appellant.

And

1.The Joint Commissioner,  
HR&CE Admn. Department,  
Madurai.

2. T. Alagusundaram,  
S/o Tirupathi.

... Respondents

In the matter of Nachiar Ammal Kattalai & Specific Endowment attached to Arulmighu Kallazhagar Temple, Vandiyur, Madurai North Taluk, Madurai District.

Appeal Petition under Section 54(4) of the Tamil Nadu HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 15.02.2010 passed in Pro.Rc.No.9290/2007 by the Joint Commissioner, HR&CE Admn Department, Madurai filling up of vacancies in the office of hereditary trusteeship under Section 54(1) of the Act.

Order in D.Dis. A.P. 73/2010 (D2) Dated : 7.05.2013.

The above Appeal Petition having come on for final hearing before me on 12.03.2013 in the presence of Thiru K.Jayaraman, Counsel for the

Appellant and of Thiru G.Ananthasubramanian, Counsel for the 2<sup>nd</sup> Respondent and upon hearing their arguments and after perusing the connected 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 against the order dated 15.02.2010 made in Pro.Rc.No.9290/2007 by the Joint Commissioner, HR&CE Admn Department, Madurai filling up of vacancies in the office of hereditary trusteeship under Section 54(1) of the Act.

2. The case of the appellant is that as per the scheme framed in O.A.111/1953 dated 30.11.1955 and later modified in O.A.No.3/1967 dated 04.04.1967, the management of the above Kattalai vests with three hereditary trustees and two non-hereditary trustees appointed by the competent authority under the HR&CE Act. The 1<sup>st</sup> Respondent-Joint Commissioner, without any notice of hearing to the petitioner, based on the false and erroneous report of the Inspector, HR&CE Admn. Dept., Madurai North, recorded the 2<sup>nd</sup> respondent herein as the successive Hereditary Trustee regarding Thiru Sundararaja Pillai's line is against law, the Trust Deed of the Founder and the age old practice is in vogue. Therefore, that part of the order of the Joint Commissioner shows non application of mind and opposed to the principles of natural justice. The Joint Commissioner erred in passing the order in spite of the fact that the petition in M.P.No.2/2008 filed by the appellant was pending on his file as a part heard matter. The report of the Inspector is mutually contradictory in that it recommends recording of the senior most person in other branches, but suggesting the name of the 2<sup>nd</sup> respondent in the branch of Sundararaja Pillai. The Joint Commissioner failed to note that Velusamy Pillai, as the eldest son of Sundararaja pillai functioned as

hereditary trustee for more than 6 decades excluding the 2<sup>nd</sup> respondent's father Thirupathi and other sisters. Therefore, the impugned order so far as it related to recording of the 2<sup>nd</sup> respondent as hereditary trustee to the kattalai is liable to be set aside

3. The 2<sup>nd</sup> Respondent filed reply statement, contending that the appellant and his son's had involved in alienation of property of the kattalai, acted against the institution, and so, the 2<sup>nd</sup> respondent alone have right to hold the line of succession of Sundararaja Pillai. Therefore, the order of the Joint Commissioner is legal and valid and is not liable to be set aside and prayed to dismiss the appeal.

4. I heard Thiru K.Jayaraman, Counsel for the appellant and Thiru G.Anandasubramanian, Counsel for the 2<sup>nd</sup> respondent and perused the relevant records. As rightly pointed out by the counsel for the appellant that when the petition in M.P. 2/2008 filed by the appellant herein under Section 54(1) of the Act is very much pending for decision, the Joint Commissioner without any reference, notice to parties thereto and without considering the other available legal representatives, affording any opportunity of being heard of the said Sundararaja Pillai branch has passed the impugned order recording the 2<sup>nd</sup> respondent as next in the line of succession to the office of Hereditary Trustee under Section 54(4) of the Act. Therefore, the impugned order of the Joint Commissioner, patently and latently suffers from irregularity and illegality, besides quoting wrong provision, so far as the 2<sup>nd</sup> Respondent alone is concerned and is liable to be struck down, even though the appeal is not maintainable under section 54(4) of the Act.

Hence, for the above said reason, the impugned order dated 15.02.2010 passed in Proc.Rc.No.9290/2007 B.1 by the Joint Commissioner, HR&CE Admn. Department, Madurai so far as it relates

to the 2<sup>nd</sup> Respondent is hereby set side and the matter is remanded back to the Joint Commissioner for fresh enquiry after affording opportunity of being heard to the appellant, other available legal representatives of Sundararaja Pillai branch, and other persons having interest if any and to pass order on merits and in accordance with law. With the above directions the appeal petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/ by order/

Superintendent.

To

1. The Appellant through Thiru K. Jayaraman, Advocate,  
35, Law Chambers, High Court Buildings, Chennai. 104.
2. The 2<sup>nd</sup> Respondent through Thiru G.Ananthasubramanian, Advocate,  
8, Law Chambers, Madurai Bench of Madras High Court Premises,  
Madurai.23

Copy to:

3. The Joint Commissioner, HR & CE Admn. Dept., Madurai.1
4. The Assistant Commissioner, HR & CE Admn. Dept., Madurai.20
5. The Inspector, HR & CE Admn. Dept., Madurai (North)
6. Extra.