

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

Monday the 17th day of March, Two thousand and Fourteen.

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

A.P. 93/2010 D2

Between.

V. Nithyakalyani

..Appellant

And

1. K.M. Paramasivam.
2. R.S. Kalidasan.
3. T.K.T. Sivasubramaniam
4. K.R.K.V. Muthukumar.
5. T. Kannan.

..Respondent

In the matter of Arulmigu Badrakaliamman Temple, Peraiyur,
Madurai District.

Appeal Petition filed under Section 69(1) of the Tamil Nadu HR & CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 21.9.2010 of the Joint Commissioner, HR & CE Admn.Department, Madurai in dismissing the I.A. 17/10 in O.A. 2/2005 filed under Section 64 (1) of the Act.

Annexure to Order in R.Dis. A.P. 93/2010 D2 Dated :17.3.2014.

The above appeal petition filed against the order dated 21.9.2010 of the Joint Commissioner, Madurai in dismissing the I.A. 17 of 2010 in O.A. 2/2005 filed under Section 64 (1) of the Act.

2. The O.A. 2/2005 filed by the Respondents to settle a scheme of administration with provision to appoint non-hereditary trustees selected from Nadar Uravinmurai along with the Hereditary Trustees. The appellant filed I.A. 17/2010 regarding maintainability of the O.A. filed by the Respondents. The Joint Commissioner dismissed the I.A. stating that persons belonging to Peraiyur Nadar Uravinmur5ai persons

having interest with regard to the temple and Section 64 of the Act empowers the Joint Commissioner for framing a scheme of administration when not less than 5 persons having interest made an application and also the claim of the appellant to declare her office of the trusteeship as hereditary is also pending in O.A. 9/2006.

3. The appellant contended that the Joint Commissioner ought to have seen that the temple is an excepted temple under B.O.No. 4284 dated 7.8.1939 and the appellant was appointed as a Hereditary Trustee in Pro. Rc.No. 10635/2004 A1 dated 7.2.2005 and also Nadar Uraivimurai has nothing to do with the temple and the petitioners in O.A. are not interested persons. The temple was built by the ancestors of the appellant Hereditary Trusteeship is within the protection afforded by Art. 19 (1) (f) of the Constitution, hence any scheme which encroach upon the rights of the Hereditary Trustee.

4. I heard Thiru B. Sivakumar, Counsel for the appellant and Thiru P.G. Alagarsamy, Counsel for the respondent and perused the relevant records. The suit temple is an excepted temple under B.O. No. 4284 dated 7.8.1939. The appellant herein is also recognized as Hereditary Trustee by order dated 7.2.2005. Thereafter, the petitioner also filed O.A. 9/2006 under Section 63 (b) of the Act before the Joint Commissioner, Madurai to declare the office of the Trustee is hereditary and the same is pending. Meanwhile the respondents herein filed O.A. 2/2005 under Section 64 (1) of the Act to settle a scheme of administration for the better management of the temple. As per Section 64 (1) of the Act, the Joint Commissioner or Deputy Commissioner, as the case may be, shall consult in the prescribed manner the trustee and persons having interest and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall by order, settle a scheme of administration for the Institution. Therefore, the Act does not prohibit the Joint Commissioner to settle a scheme of administration to a religious institution having Hereditary Trustee. Only condition imposed by the Act is that the Joint Commissioner should consult the

Trustees of the Religious Institution in the prescribed manner. Hence the O.A. filed by the respondents under Section 64 (1) is maintainable and the order passed by the Joint Commissioner, Madurai does not suffer from any infirmity.

However, it is open to the appellant herein to file her objection and suggestion, if any, before the Joint Commissioner. If the appellant file any objection and suggestion, the Joint Commissioner should consider and pass order in accordance with the provisions of the Act. With the above directions, the appeal petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent