

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

Friday the 16th day of November, Two thousand and twelve.

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

A.P. 54/2010

Between.

R. Kirubanandan S/o Late Ramanatha Gurukkal.

... Petitioners.

And

1. Joint Commissioner, HR & CE Admn.Dept. Chennai.
2. R. Sekar Gurukkal.

... Respondents

In the matter of Arulmigu Thiruvaleeswarar Temple, Peruvayal village, Gummidipoondi Taluk, Thiruvellore District.

Appeal Petition filed under section 54(4) of the Tamil Nadu HR & CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 6.1.2009 of the Joint Commissioner, HR & CE Admn.Department, Chennai in allowing the M.P.288/08 filed under Section 54(1) of the Act.

Order in R.Dis. A.P.54/2010 D2 Dated : 16.11.2012.

The above Appeal Petition having come on for final hearing before me on 30.10.2012 in the presence of Thiru.W.C. Thiruvengadam, Counsel for the Appellant and Thiru E. Ganesh, Counsel for the 2nd Respondent, upon hearing their arguments and after perusing the records the following order is made:-

ORDER

The above Appeal Petition has been filed under Section 54 (4) of the Act against the order dated 6.1.2009 made in M.P. 288/2008 under Section 54 (1) of the Act by the Joint Commissioner, Chennai in recording the name of the 2nd Respondent as next in the line of succession to the holder of the office of the Hereditary Trustee to Arulmigu Thiruvaleeswarar Temple, Peruvayal village, Gummidipoondi Taluk, Thiruvellore District in the place of the deceased Hereditary Trustee Late Ramanatha Gurukkal @ Subramania Gurukkal, who died on 25.2.2004. . The appellant contended that the office of the Trusteeship of the above temple is hereditary in the family of the appellant

and the 2nd Respondent herein. The father of the appellant Thiru S. Ramanatha Gurukkal was declared as person holding office as Hereditary within the meaning of Section 6 (11) and 63 (b) of the Act in O.A. 56/81 dated 17.12.1984 and the said Ramanatha Gurukkal has been performing the duties as Hereditary Trustee in the above temple and also performing pooja service in the temple throughout his life time. On the death of Thiru S. Ramanatha Gurukkal, the appellant, the 2nd respondent and other heirs have independently submitted petition to the authorities under the Act to record their succession to the office of the Trusteeship as Hereditary in the aforesaid temple within the meaning of Section 54 (1) of the Act. The petitioner further contended that on 26.11.2008, the then Joint Commissioner, Chennai has conducted an enquiry inside the chamber to record the succession of the heirs of the deceased Hereditary Trustee in office. The appellant has submitted his application for recording his succession on 25.8.2007. Other heirs were also given their claims for recording their succession. The appellant has filed the death certificate of his father Late Ramanatha Gurukkal and Legal Heir Certificate. After enquiry, the Joint Commissioner has informed the appellant and other legal heirs that he would pass orders in the matter. Till date, the appellant has not received the copy of the order. It appears that the Joint Commissioner, Chennai went on to record the succession of one R. Sekar, one of the sons of late Ramanatha Gurukkal, who hold the office as Hereditary Trustee in the Temple. No order has been issued and communicated to the other heirs of the said Ramanatha Gurukkal except to Thiru R. Sekar Gurukkal, the 2nd Respondent herein. The petitioner has also contended that the 2nd Respondent has wrongly stated before the Joint Commissioner while recording succession, that the other heirs have given no objection to record his succession. But no such consent has been given by any legal heir including the petitioner before the Joint Commissioner, or filed any affidavit in this regard. The Joint Commissioner has not passed any order in that application dated 25.8.2007 submitted by the appellant for recording his succession based on the legal heir certificate but passed order as stated above. Therefore, the order passed by the Joint Commissioner, Chennai is ex-facie, illegal, against law and is liable to be set aside.

3. I have heard the Counsel for the appellant and the Counsel for the 2nd Respondent and perused the records. It is settled law that all legal heirs of deceased S. Ramanatha Gurukkal are entitled for succession to the office of the Hereditary Trustee. The appellant's recognition is nothing to do with the 2nd respondent's case. It is learnt

from the notice issued by the Joint Commissioner, Chennai in Rc.No. 12296/2008 A1 dated 21.10.2008,, the appellant and all other legal heirs were requested to attend enquiry on 5.11.2008 with regard to the application filed by the appellant dated 23.8.2007 under Section 54 (1) of the Act to record his succession. But, no order was passed by the Joint Commissioner on his application. Hence, the appellant is directed to file a fresh application under section 54 (1) of the Act before the Joint Commissioner, Vellore within 15 days from the date of receipt of this order. Thereafter, the Joint Commissioner is directed to dispose of the petition within 30 days after giving notice to the respondent and other parties concerned. In view of the above observation, the appeal petition is dismissed.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.

To

1. The Appellants through Thiru W.C. Thiruvengadam, Advocate, 23, Bagavantham Street, T.Nagar, Chennai.17.
2. The 2nd Respondent through Thiru E. Ganesh, Advocate, 351, Addl.Law Chambers, High Court Buildings, Chennai.104.

Copy to

3. The Joint Commissioner, HR & CE Admn.Department, Chennai.
4. The Joint Commissioner, HR & CE Admn.Department, Vellore.
5. The Assistant Commissioner, HR & CE Admn.Dept., Thiruvallur.
6. The Inspector, HR & CE Admn.Dept., Gummidipoondi.
7. Extra.