

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

Friday the 2nd day of November, Two Thousand and Twelve

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

A.P. 72/2010 D2.

Between

Muthusamy S/o Pichamuthu Poosari

..Appellant.

And

Periasamy & 13 others.

(set exparte by the Joint Commissioner)

.. Respondents.

In the matter of Arulmighu Theniamman Temple, Chinnamasamudram, Athur Taluk, Salem District.

Appeal Petition filed under Section 69(1) of the Tamil Nadu H.R.& C.E. Act 1959 (Tamil Nadu Act 22 of 1959) against the order dated 12.5.2010 of the Joint Commissioner, HR & CE Admn.Department, Salem in dismissing the O.A.26/94 filed under section 63(b) of the Act.

Annexure to Order in R.Dis. A.P. 72/2010 D2 dated : 2.11.2012.

The above appeal petition filed against the order of the Joint Commissioner, Salem in dismissing the OA 26/1994 filed under Section 63 (b) of the Act.

The contention of the appellant is that the appellant's ancestor founded the temple and the Goddess was named as Theni Amman. One Molaiyan the great grand father of the appellants and his brother Lakshmanan and prior to their ancestors were managing the affairs and doing pooja services to the temple. The name of Molaiyan's wife is Theni Ammal. After Pitchamuthu Poojari and Chinnamuthu Poojari, who were sons of Molaiyan and Lakshmanan, the appellant succeeded to the post of trustee-cum-poojari. Meanwhile, the Assistant Commissioner, Salem was appointed the Respondents 3 to 7 as trustees of the said temple. But, they never took charge from the appellants. None else outside the family of the appellant interfered with the appellant's management and doing poojas. Since the appellant's rights were invaded, the appellant filed the original Application before the Joint Commissioner, Salem to declare him and the respondents 1 and 2 as Hereditary Trustee of the said temple under Section 63 (b) of the Act. The Joint Commissioner, without appreciating oral and documentary evidence, adduced by the appellant, dismissed the Original Application. There are no records to show that the appointed trustees took charge. The Joint Commissioner's order of rejection is not in

conformity with the provisions with Section 6 (11) of the HR & CE Act. Hence, order of the Joint Commissioner is liable to be set aside.

2. Thiru K. Jayaraman, Counsel appeared for the appellant. I have heard the counsel for the Respondent and perused the connected records. In O.A.No.26/1994 (Old O.A.No.5/1987) the appellant/petitioner has filed three documents which were marked as Ex.A.1 to A.3. In the annexure to order passed by the Joint Commissioner, Salem, the Joint Commissioner has elaborately discussed the evidentiary value of the documents filed by the appellant. Ex.A.1 is the extract of Inam Fair Register for Title Deed No.610. It is clear that the ancient rulers for the support and maintenance of the deity granted land as Devadayam Inam. It was claimed that in the extract of the Inam Fair Register, the appellant's ancestor were shown as worshippers. But, no accounts, registers and records were filed by the appellant/petitioner to show that they managed and maintained the temple from out of the income of the inam property endowed to the deity. On perusal of records it is revealed that the Department in the year 1975 and 1981 earlier appointed non-hereditary trustees. The Commissioner on 04.09.1975 dismissed the revision in R.P.No.212/75 challenging the appointment of Non-hereditary trustees made in 1975. It is therefore clear that the ancestors of the appellant had worked as poojaris only in the said temple. From the documents produced by the appellant, it was proved that the suit temple had all along been under the management of the various persons who were appointed as trustees by the Department other than the appellant family. The appellant failed to let in any evidence to prove that the suit temple was founded, established and managed by his ancestors, and the management of the suit temple is vested with the family of the appellant for more than three generations. No steps have been taken to trace the genealogy as claimed by the appellant/petitioner. Therefore, I see no valid grounds to interfere with the orders of the Joint Commissioner under challenge.

For the reasons stated above, the order dated 12.5.2010 passed by the Joint Commissioner, Salem does not warrant any interference and the same is hereby confirmed. The appeal petition fails and the same is liable to be dismissed and accordingly it is hereby dismissed as devoid of merits.

/typed to dictation/

/t.c.f.b.o./

Sd. P. Dhanapal,
Commissioner.

Superintendent.