

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

Friday the 31st day of May, Two thousand and thirteen.

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

A.P. 3/2011.

Between.

1. D. Velusamy Chettiar
2. C. Radhakrishnan.
3. M. Kaliyamurthy.
4. V. Renganathan.
5. M. Gopala Chettiar,
6. J. Natarajan.

..Appellants

And
Dhanapal

.. Respondent.

In the matter of Arulmigu Dharmaraja and Drowpathiamman Temple,
Block No.3, Valayachettikuppam, Vijayamanagaram, Virudhachalam
Taluk, Cuddalore District.

Appeal Petition under Section 69(1) of the Tamil Nadu HR&CE Act,
1959 (Tamil Nadu Act 22 of 1959) against the order dated: 30.08.2010
made in O.A.No.37/2006 by the Joint Commissioner HR&CE Admn
Department, Villupuram dismissing the original application filed under
Section 64 (1) of the Act.

Annexure to Order in R.Dis.A.P.3/2011 (D2) Dated : 31.5.2013.

The appellant's case is that above appellants as petitioners filed an
Original Application under Section 64(1) of the Act, seeking to settle a
scheme of administration with a provision to appoint trustees from the
panel of persons elected from the Chettiers and Vanniars hailing from

Valayachetty kuppam village. The Joint Commissioner has dismissed the above original application on the ground that from the year 1982 to 1995 non-hereditary Trustees have been appointed by the HR&CE Department by calling for applications from the villagers without any communal restriction. The petitioners have failed to establish their right either on the basis of original foundation of the temple by the said two community people or on the basis of custom and usage of the temple.

2. The appellant contended that the suit temple originally situated at the Valaiyalchetti kuppam nearby Naively Lignite Corporation. As the entire village was taken over by the Naively Lignite Corporation in the year 1956, and the Corporation which has taken over the lands belonging to the temple also in question has deposited a sum of Rs.5,900/-before Sub-Court, Cuddalore in O.P.No.509/1958, and further deposited a sum of Rs.14,369.01 for construction of the temple afresh in another place and deposited the amount before Sub Court, Cuddalore in O.P.No.103/1965. After, acquiring the land by the by the Naively Lignite Corporation, the Tahsildar, Viruthachalam allotted 35 cents of land in R.S.No.395 at Vijayamanagaram for construction of the temple in DKT.558/81 dated 24.04.1983. But, before patta has been granted, already the Chettairs and Vanniyars have started to construct the temple. Shifting of the above temple occurred in or about 1958. The people who have migrated from Valayachetty Kuppam of Naively Lignite Corporation area settled down in Vijayamanagaram hamlet village. Valayachetti kuppam Vanniyars and Chettiars alone took keen interest and started to construct a temple for the old A/m.Dharmaraja and A/m.Drowpathy Amman which they have brought from Valaiyachetty Kuppam of Naively Lignite Corporation Area. This they have started in the year 1975 and a committee has been formed. On 14.09.1977 Narayanasamy Chettiar, close relation of Dhandapani Chettiar in fact

purchased a tiled house for housing the Utshava Vigrahams of A/m.Dharmaraja, A/m.Drowpathi Amman, A/m.Vinayagar which have brought from Valaiyachetty kuppam of Naively Lignite Corporation Area. The said Vigrahams have in fact being made and donated to the temple of the fag end of last century by Muthaiya Chettair who was the plaintiff in O.S.796 of 1873.

3. They further contended that the temple has no property and has no hundial. The temple has been maintained by voluntary contributions made by Chettiars and Vanniars of the said village. The temple in question is denomination in character. It has never been managed by other than Chettiar Community people till the temple was shifted from Valayachetty Kuppam of Naively Lignite Corporation Area to Valaiyachetty Kuppam of Vijayamanagaram Revenue Area. Vanniar also jointed the day to day management of the institution in question, its upkeep and renovation work. The Joint Commissioner has not given due consideration and weight to establish A1 to A16 and oral evidence. The Joint Commissioner erroneously attached much importance to the upayam done to the temple under the appointment of non-hereditary trustees. The Joint Commissioner failed to note that a scheme cannot be framed providing for appointment chiefly from the said community and giving reservation for schedule castes and schedule tribes as per law. Therefore, the order of the Joint Commissioner is against law and evidence and liable to be set aside.

4. I heard Thiru K.Jayaraman, Counsel for the appellants and Thiru W.C.Thiruvengadam, Counsel for the respondent and perused the relevant records. The origin and the founder of the temple in Valaiya Chetty Kuppam village of Naively Lignite Corporation Area are not known. After taking over of the village by the Naively Lignite Corporation, the above said temple was shifted to Valaiya Chetty Kuppam village of

Vijaiyamanagaram Hamlet and constructed in the land allotted by the Revenue Department and through the funds deposited into the Court for the said purpose. There are no documents filed to prove that the Chettiar and Vanniars of the village took initiation to construct the temple after its shifting to Valaiya Chetty Kuppam village of Vijaiyamanagaram Hamlet. It is seen from the records that from 1982 to 1995 Non-hereditary trustees have been appointed by the Department after calling for applications from all the communities. The respondent has stated that Donor Thiruppani works was done by him from his own funds after getting sanction from the Commissioner in Pro. Rc.No.5796/96 Y3 dated 25.3.1996. The original application No.47/1995 filed by the Respondent herein under Section 63 (b) of the Act was also dismissed. In this case, the appellants/petitioners failed to prove that the above said temple was constructed by the above said community with valid evidence. Except, Ex A.1, A.16 and A.9 all other documents produced by them are of recent origin. The appellants/petitioners failed to make out a case that the suit temple has been chiefly intended, established and maintained for the sole benefit of the Chettiar and Vanniyar Community through clinching evidence in exclusion of other communities. The Act does not also contemplate the appointment of trustees on capricious or purely communal consideration. Appointment of trustees to religious institution is regulated by Section 47 and 49 of the Act. Therefore, on examination of the evidence let in both by the Petitioners and the Respondent herein, the Joint Commissioner has found that there is no reason to believe that for the proper administration of the above said temple, a scheme is necessary as prayed for and thus came to the conclusion, by rejecting the original application.

Therefore, for the discussion made supra, I do not find any illegality or infirmity in the order passed by the Joint Commissioner and

accordingly the order dated 30.08.2010 made in O.A.No.37/2006 passed by the Joint Commissioner, HR&CE Admn. Department, Villupuram is upheld and hereby confirmed and the Appeal Petition be and is hereby dismissed as devoid of any merits.

/ typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.

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