

BEFORE THE COMMISSIONER, HR&CE ADMN DEPARTMENT, CHENNAI 4.

Saturday the 6th day of July, Two thousand and Thirteen

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

A.P. 57/2011 D2

Between.

K. Palanisami

...ellan

And

The Joint Commissioner, HR&CE Dept.,
Villupuram.

..Respondents.

In the matter of Arulmighu Selva Vinayagar Kamatchiamman Temple, Kodungal village, Thirukoilur Taluk, Villupuram 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:17.8.2010 of the Joint Commissioner, H.R.&.C.E, Admn. Department, Villupuram in dismissing the O.A.73/06 filed under Section 64(1) of the Act.

Annexure to Order in R.Dis. A.P. 57/2011 D2 dated : 6.7. 2013.

The above appeal petition filed under Section 69(1) of the Act against the order dated 17.8.2010 of the Joint Commissioner, Villupuram dismissing the O.A. 73/06 filed under Section 64 (1) of the Act.

2. The original application was filed under Section 64 (1) of the Act for settlement of a scheme of administration with provision for the appointment of trustees to the suit temple from the Natham Udayar Community of Kodungal village. The Joint Commissioner dismissed the O.A. on the ground that the petitioner have filed to establish their right to seek either on the basis of original founder of the temple by the said community or by the custom and usages that the temple has been chiefly maintained for the benefit of the said community people.

3. The case of the appellant is that the Joint Commissioner erroneously relied upon the Inspector report and he failed to take note of the fact that the Inspector has not produced any document. The disclosure of the fact that the appellant has already been appointed as trustees by the H.R. & C.E. Board do not vitiate the validity of appellants' community right over the said temple. There is no contra evidence or objection from other community people in respect of denying the appellants' right of administration over the temple. The Joint Commissioner failed to evaluate the documents produced by the appellants.

4. I heard Thiru E. Ganesh, Counsel for the appellant and perused the relevant records. The counsel for the appellant narrated and reiterated the grounds of memorandum of appeal filed by the appellant. On a perusal of the annexure to order passed by the Joint Commissioner, containing grounds for the above decision, the Joint Commissioner has recorded deposition of witnesses on the side of the petitioner. But in the impugned order, he failed to discuss how far the said deposition supports or not supports the case of the petitioner by applying his mind judicially before taking such a decision. Therefore, the order dated 17.8.2010 passed by the Joint Commissioner, Villupuram suffers from infirmity as stated above and deserves to be set aside and accordingly it is hereby set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry denova after affording the appellant and others an opportunity of being heard and dispose the same in accordance with law. With these directions, the appeal petition is disposed of.

/ typed to dictation /

Sd. P. Dhanapal,
Commissioner.

/true copy/ by order/

Superintendent.