

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

Tuesday the 16th day of April, Two Thousand and thirteen.

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

A.P. 62/2011

Between.

1. V. Eswaran Pillai.
2. U. Sooria Narayana Pillai.

... Appellants.

And

1. S. Sivasankara Subbu Pillai.
2. P. Shenbagavel Murugan.
3. P. Gomathinayagam Pillai.
4. S. Murugan Pillai.
5. S.M. Piramanayagam.
6. Dr.S.C. Thanu Pillai.
7. N. Subbiah Pillai.
8. S. Sankaran Pillai.
9. Assistant Commissioner
HR & CE (Admin) Department,
Tirunelveli

..Respondents.

In the matter of Arulmighu Kandu Konda Vinayagar and Ulagamutharamman Temple, Udangudi village, Tiruchendur Taluk, Thoothukudi 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 21.07.2010 made in O.A.No.4/1993 by the Joint Commissioner, HR&CE Admn Department, Tirunelveli dismissing the Original Application filed under Section 64 (1) of the Act seeking to frame a scheme of administration to the above said temple.

Annexure to Order in R.Dis. A.P.No. 62/2011 (D2) dated: 16.4.2013.

The above Appeal Petition has been filed under Section 69 (1) of the Act against the order dated 21.07.2010 made in O.A.No.4/1993 by the Joint

Commissioner, HR&CE Admn Department, Tirunelveli dismissing the Original Application filed under Section 64 (1) of the Act seeking to frame a scheme of administration to the above said temple.

2. The appellants and the respondents 6 to 8 herein as petitioners filed Original Application No.4/1993 before the Joint Commissioner, under Section 64 (1) of the Act seeking to frame a scheme of Administration with provision for appointment of non-hereditary trustees from among the Udangudi Pillaimar community. But, the Joint Commissioner by the impugned order has dismissed that application holding that appointing of trustees from all communities as per the provisions of the Act is desirable.

3. The appellants contended that the temples are very old and ancient one and were built and managed by the appellants' community. Pooja services, special poojas and improvements are done by the appellants' community. The community of the appellants endowed and acquired property for the temple. The Joint Commissioner failed to appreciate the oral and documentary evidence in proper perspective. The Joint Commissioner ought to have held that both the temples were founded by the Udangudi Pillaimar community and ought not to have rejected the Kumbabishegam invitation, Inspector's report and deposition of PW2 and PW3. There was no document filed to show that the temple had been founded by all the community people of Udangudi. Therefore, the order of the Joint Commissioner not given any proper reason for dismissing the application is liable to be set aside.

4. I heard Thiru E.Ganesh, Counsel for the appellants and perused the relevant records. On a perusal of the annexure to the order issued by the Joint Commissioner, it is learnt that both the temples are separately assessed for contribution and audit fees and under the supervisory control of the Department even before 1936 and for the past over 70 years, the Department is appointing trustees to these temples calling for applications from among the Hindu public of that locality. One Saminatha Pillai had filed O.A.No.101/1951 before the then Deputy Commissioner, HR&CE Admn.

Dept., Thanjavur and got an order as hereditary trustee. One Thiru Kuthalam pillai trustee sold the temple land to one Thiru C.D.Muthu karuppan and also a land to one Thiru Shanmugam Pillai and one of the trustee K.Jeganathan Pillai had also encroached upon the temple lands and constructed a house therein and still living there. The petitioners had not denied these complaints on cross examination by the respondents counsel PW1 in his evidence simply pleads ignorance of the same. Thus, the non-hereditary trustee have alienated the temple properties and misappropriated the sale proceeds. Above all one Thiru Muruganatham and another Thiru P.Meenakshi Sundaram said to have been representatives of Udangudi Pillaimar Community filed a suit in O.S.No.59/1988 against the Assistant Commissioner, HR&CE Admn. Dept., Tirunelveli for a declaration that these temples are denominational temples belongs to Pillaimar community and for a permanent injunction restraining the Department from interfering with the management of the temples and the said suit was dismissed as not pressed on 05.07.1993.

5. The Joint Commissioner has also discussed that Ex.A.1 is the kumbabisegam invitation which assures the involvement of public of other community also and there is nothing about the pillaimar community people exclusive performance. Ex.A.2 Kumbabishegam printed accounts disclose that donation and vari were collected from other community people also, and other community people also liberally contributed for the temples kumbabishegam. The Joint Commissioner has observed that the petitioners have failed to file the minutes book to establish their claim that the elected members of their community alone had been appointed as trustees of the temple, and failure to prove their assertion that the properties owned by the temple are endowed properties of Pillaimar community and there is no vital document to prove that the Pillaimar community people had endowed properties to the temple. The temple is in receipt of Dastic Allowance from the Government for its maintenance, the permanent hundial installed in the temple also fetches considerable income to these temple and the alleged

Pillaimar community had never paid even a single pie to these temples from their community funds for the upkeep and maintenance of the temple was not disproved by documentary evidence by the appellants herein. The Joint Commissioner has discussed and analyzed the evidentiary value of both oral and documentary evidence adduced and given a categorical finding that there is no reason to believe that in the interest of the proper administration of the temples, a scheme should be settled for the institution as prayed for by passing a well considered speaking order.

6. The appellants and the respondents 6 to 8 herein have not let in any corroborative evidence to substantiate their contention that the said temples have been founded, chiefly intended or maintained by the community exclusively. In the absence of any such valid, reliable evidence, I find no infirmity in the order passed by the Joint Commissioner, HR&CE Admn Department, Tirunelveli which does not warrant any interference at all. Therefore, the appeal fails and the same is liable to be dismissed as bereft of any merits. Accordingly, the order dated 21.07.2010 issued in O.A.No.4/1993 by the Joint Commissioner, HR&CE Admn Department, Tirunelveli is hereby confirmed and the appeal petition is dismissed as devoid of merits.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.