

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

Tuesday the 4th day of June, Two thousand and Thirteen.

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

A.P.78/2011/ D2

Between.

1. K. Kasi Chettiar.
2. C. Kannan Chettiar.
3. S.V.K. Devan.
4. D. Shanmugam
5. D.R. Nehru
6. E. Suresh
7. M. Kannan.

.... Appellants

And

The Joint Commissioner,
HR & C.E.Admn.Department, Villupuram.

.. Respondent.

In the matter of Arulmigu Perianayagi Udanakiya
Karaikandeeswarar Temple, Kanchi village, Chengam Taluk,
Thiruvannamalai District.

The Appeal Petition filed under Section 69(1) of the Tamil Nadu
HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated:
13.7.2011 of the Joint Commissioner, HR&CE Admn.Department,
Villupuram in dismissing the O.A. 8/09 filed under Section 64(1) of the
Act.

Annexure to Order in R.Dis. A.P.78/2011 D2 dated: 4.6.2013.

The above appeal petition filed against the order dated 13.7.2011
of the Joint Commissioner, Villupuram in dismissing the O.A. 8/2009
filed under Section 64 (1) of the Act.

The above O.A. filed for the settlement of Scheme of
administration for the appointment of trustees from Vellala Chettiar
Community hailing from the Kanchi village. The Joint Commissioner
dismissed the O.A. stating that the petitioners have not proved that the

Vellala Chettiar Community is a religious denomination and the said community people were instrumental for its foundation and they found that the temple with an intention use and benefit of their community.

3. The appellants contended that the Joint Commissioner failed to note that no one outside the community was in exclusive possession of the temple at any point of time. The Joint Commissioner failed to construe that the Vellala Chettiar Community did not form a part of Religious Denomination without appreciating the documentary evidences and depositions of the witnesses. The documents produced by the appellants proved that for more than 300 years the people of the said community are maintaining the management of the temple. No one outside the community of the appellants had at any time functioned as a trustee of the temple. In recognition of the community rights, the department has been appointing the members of the said community as trustees of the temple. The Joint Commissioner had failed to consider the fact that even in the absence of documentary evidence, the oral evidence have to be taken into account and should be appreciated, but the Joint Commissioner omitted to give any reason for such non-consideration of oral evidences. The Joint Commissioner failed to consider that no villagers or persons interested in the temple have chosen to file any objection against the framing of scheme.

3. I have 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 rejection of the O.A., the Joint Commissioner has stated that though petitioners produced 14 documents along with the O.A., no document was marked by them during enquiry as exhibits, but he enumerated certain documents filed without discussing its evidentiary value, how far or not supports the case of the petitioner by applying his mind judicially before taking such a decision and dismissed. The prayer in the O.A. was only to settle a scheme of administration of the temple and not to decide whether Vellala Chettiar Community is a

religious denomination and whether a particular community is a religious denomination is irrelevant to settle a scheme under Section 64 (1) of the Act.

Therefore, the order dated 13.7.2011 passed by the Joint Commissioner, Villupuram is hereby set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry de novo 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/

d. P. Dhanapal,
Commissioner.

/true copy/ by order/

Superintendent.

Only TO