

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

Friday the 31<sup>st</sup> day of May, Two Thousand and Thirteen.

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

A.P. 81/2011

Between.

1. Subbaraya Nattar.
2. Thukkaram.
3. Anandan.

.. Appellants.

And.

The Joint Commissioner,  
HR&CE Admn Department,  
Villupuram

.. Respondent.

In the matter of Arulmighu Renuga Angala Parameswariamman Temple, Angalamman Koil Street, Villupuram Town, Taluk and 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: 26.04.2011 made in O.A.No.95/2006 on the file of the Joint Commissioner, HR&CE Admn Department, Villupuram dismissing the original application filed under Section 63 (a) of the Act.

Annexure to Order in R.Dis. A.P. 81/2011 (D2) dated : 31.5.2013.

1. In this appeal, the appellant contended that the temple dedicated to the deity is a community one in existence for the sole benefits of fishermen who belongs to Nattar community for whose benefit the institution has been chiefly intended and maintained. Ever since its inception, the temple has been founded, established and managed by the members of Nattar community as its trustees. In order to establish the character of the institution, though the temple absolutely belongs to a particular family and incidentally the appellants as descendants of the founder and as members of the Nattar community made a claim under section 63(a) of the Act claiming that the temple is not a religious institution coming under the Act. But the Joint Commissioner dismissed

the original application filed by the appellants stating that the petitioners have not proved that they have founded the suit temple in the private property. The members of the Nattar community people using the said temple as of right as a place of public religious worship who are the Section of the Hindu Community so the temple is a public temple.

2. The Appellants challenged the impugned order on the grounds that the Joint Commissioner has simply enumerated the documents Ex.A.1 to A.11, in particular Ex.A.1 and A.2 which relates to the year 1923 and 1926 and failed to discuss the evidentiary value of the documents which resulted in miscarriage of justice. The Joint Commissioner failed to discuss the ingredients as contemplated by the decision of the Hon'ble High Court while deciding the issue involved under Section 63(a) of the Act. Therefore, the impugned order is liable to be set aside.

4. I heard Thiru W.C. Thiruvengadam, Counsel for the appellants and perused the relevant records. In AIR 1963 SC 510 it has been held that a religious institution will be a temple if two conditions are satisfied. The first condition is that it is a place of public religious worship and the other condition is that it is dedicated to or is for the benefit of, or is used as of right by the Hindu community or any section thereof, as a place of religious worship. It is not in dispute that the temple is used as a place of public religious worship by the alleged Nattar community or any of their section thereof and it is dedicated to, or is for the benefit of, or is used as of right by the section of that community as claimed. It has been held in 1957-2-MLJ (NRC) 34 that "It is not necessary that the worship should be by the entire Hindu community. Even user of the place by a particular section of the Hindu community as of right and a dedication for the benefit of a particular section of the community will suffice to attract the definition". Therefore, the religious institution will be a temple as admitted and therefore fall within the ambit of Section 6(18) and 6(20) of the Act. Therefore, that part of the order of the Joint Commissioner,

declaring the religious institution as a temple deserves to be confirmed and accordingly the same is confirmed.

As regard the grounds alleging that the Joint Commissioner simply enumerated the documents filed without discussing its evidentiary value which led to miscarriage of justice, it is seen that the Joint Commissioner has discussed the documents adduced by the appellants let in which were marked as Ex.A.1 to A.11. Ex.A.1 and A.2 are the certified copy of sale deed dated 21.06.1923 and 10.04.1926 respectively for purchase of vacant site for construction of Mariamman temple in Sempada Veethi, Villupuram. But, it was not explained as to how the said documents relates to and apply to the claim of Arulmigu Renuga Angala Parameswari Tempe, Angalamman Koil Street, Villupuram. Similarly, Ex.A.3, and A.4 are the Kumbabiseka Pathirikkas relating to Arulmigu Renugambigai temple at Sivanpadayar Street, and Arulmigu Renukadevi and Angalaparameswari temple at Parvatharajakula Street, Villupuram respectively how they relates to the petition mentioned temple, situate at Angalamman koil street, Villupuram was not explained. Therefore, the documents adduced not relating to the case of the petitioners will not lend any support to them. Therefore, the various ground alleged has no legal force and substance.

For the foregoing reasons, I see no valid reasons to interfere with the impugned order passed by the Joint Commissioner which deserves to be confirmed and accordingly the order dated 26.04.2011 made in O.A.No.96/2006 passed by the Joint Commissioner, HR&CE Admn Department, Villupuram is hereby confirmed and the Appeal Petition fails, liable to be dismissed and is hereby dismissed as devoid of any merits.

/ typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/ by order/

Superintendent.