

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

Monday the 13th day of May, Two Thousand and thirteen.

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

A.P.82/2011/ D2

Between.

Palanivel Chettiar (died)

Sambantham Chettiar (died)

1. A. Govindarajulu
S/o K.G.Arumugam Chettiar.
2. S. Thiagarajan
S/o Sivagnanam Chettiar.
3. Chandrasekar Chettiar
S/o Rajavel Chettiar.
4. Sivachidambaram
S/o Late Palanivel Chettiar.
5. Gnanasekaran
S/o Late Sivaraman Chettiar.

... Appellants

And

The Joint Commissioner,
HR&CE Admn Department,
Villupuram.

... Respondent.

In the matter of Arulmigu Amirthambigai Sametha Somanatha
Easwaraswamy Temple, Panruti Town and 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: 29.08.2011
made in O.A.No.54/2006 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.82/2011 (D2) dated: 13.5.2013.

Some of the appellants as petitioners along with others filed the above original application under section 64(1) of the Act in O.A.No.54/2006 before the Joint Commissioner, HR&CE Admn Department, Villupuram seeking to declare that the temple is a denominational temple belongs to vellan chetty community residing at Panruti, Pudupettai, Vaithi Reddipalayam villages and to frame a scheme of administration with provision for appointment of non-hereditary trustees from among the vellan chetty community for the proper administration of the temple. But, the Joint Commissioner dismissed the original application holding that the petitioners have not proved either the said temple was founded by the petitioner's community and they found it an intention for the use and benefit of the said community.,

2. The appellants contended that the Joint Commissioner failed to legally analyse the documents filed by the appellant. The said temple has been managed by the village Nattanmaidars of Vellan chetty community as per the custom and usage prevailing from time immemorial. The appellants' community built Saneeswarabagavan Sannadhi and Natarajar sannadhi and they have made Utsava Vikraham and Vahanam to the said temple. When the Gurukkal of the temple claimed hereditary trusteeship right in O.A.No.38/1977, the 1st petitioner impleaded in that case and the said O.A.No.38/1977 was dismissed and confirmed by the Commissioner. After analyzing the various documentary evidences adduced by the appellants the Joint Commissioner came to the conclusion and findings in favour of the appellants but unfortunately dismissed the application. Therefore, the impugned order of the Joint Commissioner is liable to be set aside.

3. I heard Thiru S. Sithirai Anandan, Counsel for the appellants and perused the relevant records. On a perusal of the annexure to order passed by the Joint Commissioner containing the grounds for the above decision, the Joint Commissioner has simply enumerated certain documents filed and marked as exhibits without discussing its

evidentiary value and how far said documents support or lend no support to the case of the petitioners by applying his mind judicially before taking such a decision. For instance, the Joint Commissioner while discussing the evidentiary value of Ex.A.4 came to the conclusion that the name of the temple is not mentioned in the judgment. It is mentioned only "There is a temple". So, it cannot be taken as the petition mentioned temple. But in the judgment of Small cause suit Nos.405,406 & 407 of 1908, dated 01.05.1908 under Plaintiffs Exhibits B- Accounts Book (Kurippu) showing receipts and charges on account of the Someswaraswami temple from 25th Adi Visuavasu to 25th Masi Plavanga, the name of the temple is found a place. This fact was not at all considered by the Joint Commissioner. Similarly, under Ex.A.11, judgment in O.S.No.108/1984 Sub Court, Cuddalore dated 30.08.1985 the Joint Commissioner has held that it proves only that Balasubramania Gurukkal was not the hereditary trustee of the said temple. But the Joint Commissioner has failed to see that one Palanivel Chettiar was the 2nd Defendant in the above suit and who deposed as D.W.1 and filed as many documents Ex.B.6 to 52 in the above suit. But, on the one hand the Joint Commissioner came to a conclusion that the documents produced by the petitioner shows that the petitioner community people were in management of the temple in the year 1929, 1963, 1968 and 1971, per contra, finally decided that the documents produced by the petitioners are not enough to show that the Vellan Chettiar community people alone have managed the temple continuously from 1871. It is seen from the records that the Joint Commissioner has failed to frame necessary issues, analyze the documents, and to render a categorical finding based on the evidence adduced both oral and documentary. Therefore, the order dated 29.08.2011 made in O.A.No.54/2006 by the Joint Commissioner, HR&CE Admn. Department, Villupuram is not legally correct and suffers from infirmity as stated above and deserved 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 appellants and persons having interest

if any in the above matter an opportunity of being heard and dispose of the same in accordance with law as expeditiously as possible. The appellants and persons having interest if any in the above matter shall also co-operate for the expeditious disposal of the O.A. enquiry without any default. With these directions, the appeal petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy / by order/

Superintendent.