

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

Friday the 11<sup>th</sup> day of October, Two thousand and thirteen.

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

A.P.83/2011/ D2

Between.

Chinnasamy Gounder S/o Devaraja Gounder. .... Appellant

And

Sundaramurthy, S/o Vedachala Gounder. .. Respondent.

In the matter of Arulmigu Angalamman etc.Temples, Anumandai  
Village, Tindivanam Taluk, Villupuram 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:  
14.9.2011 of the Joint Commissioner, HR&CE Admn.Department,  
Villupuram in dismissing the O.A. 9/07 filed under Section 63 (b) of the  
Act.

Annexure to Order in R.Dis. A.P.83/2011 D2 dated: 11.10.2013

The above appeal petition filed against the order dated 14.9.2011  
of the Joint Commissioner, Villupuram in dismissing the O.A. 9 of 2007  
filed under Section 63 (b) of the Act to declare the petitioner as  
Hereditary Trustee. In O.A. 47/1985, the appellant's father was declared  
as Hereditary Trustee by the Deputy Commissioner, Tiruchy. In SMR  
10/1996, the Commissioner set aside the order of the Deputy

Commissioner and remanded the case to the Joint Commissioner. The Joint Commissioner dismissed the O.A. stating that the petitioner was appointed as non-hereditary trustee in the year 1957, 63, 70 and 1982. The petitioners have not proved any criterion for the claim of the Hereditary Trustee and he failed to mention the period of management by the members of his family and his ancestors.

2. The appellant contended that the Joint Commissioner failed to consider the document filed by the petitioners and also oral evidence adduced on the side of the petitioner. The temple is situated in the patta land of the appellant's family and also annual festival is conducted in the lands of the petitioner's only. The Joint Commissioner failed to consider that as per genealogical table annexed with petition, one Avani Kounder had founded and administering the temple, thereafter his two sons Chinnakannu and Chinnaswamy were doing the same and thereafter Chinnaswamy's son Sabapathi was administering the temple and latter on the appellants has been administering the temple and this would go to show that the petitioner's family has got right of management by virtue of hereditary succession of the Trusteeship of the temple. The Joint Commissioner ought to have decided the case in accordance with the directions in SMR 10/1996 dated 15.7.2004. The department Inspector has reported that the family members of the petitioner alone are looking after the management of the temple.

3. I heard Thiru N. Suresh, Counsel for the appellant and Thiru R. Gururaj, Counsel for the respondents and perused the relevant records. The Counsel for the appellant argued that the Joint Commissioner failed to analyze the documents legally on the other hand counsel for the respondent argued that the appellant did not adduce any valid records to prove the case of the appellant. On perusal of the annexure to order containing grounds for the rejection of the O.A., the Joint Commissioner

has not adduced any valid reasons for rejection of the documents marked by the appellant. Appointment of non-hereditary trustees will not take away the accrued right, if he proves his claim with valid documentary evidence. The Joint Commissioner rejected Ex.A4 on presumption that it is a fabricated one. The appellant contended that the suit temple was constructed in their patta land. To prove this they marked Ex.A1. Further the Joint Commissioner held that “the petitioner’s have not proved that Thiru சி. சபாபதி கவுண்டர் mentioned in exhibit is the father of the 1<sup>st</sup> petitioner. Even if it is proved it is evident that he alone had not managed the temple in the year 1943. The documents produced by the petitioner shows only that the 1<sup>st</sup> petitioner was in management of the said temple in 1957 and 1970. The 1<sup>st</sup> petitioner was appointed in the above period as trustees by the H.R. & C.E. Department. The deposition made by the P.W.s too are very vague and are not enough to prove solidly with facts and definite information to prove that the said temple was under the management of the petitioner’s ancestors for few generations or for a considerably long years in the past”. This clearly shows that the Joint Commissioner failed to analyze the evidentiary value of both oral and documentary evidence by applying his mind judicially. Further the respondent did not file any documents to disprove the claim of the petitioner. Admittedly the suit temple was brought under the control of the department in the year 1957. Thereafter the appellant’s father was appointed by the Department as Trustee in the year 1957, 1963, 1970 and 1982. Before deciding the case , the Joint Commissioner ought to verify the preliminary report submitted by the Inspector to know the person in the management of the temple in the year 1957.

Therefore, the order dated 14.9.2011 of the Joint Commissioner, Villupuram 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 de novo after affording the appellant and others an opportunity of being heard and after getting fresh report from the Inspector and dispose of the same in accordance with law within a period of 3 months from the date of receipt of a copy of this order. Both the parties 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/

Suprintendent.