

BEFORE THE COMMISSIONER, H.R.&C.E.ADMN.DEPARTMENT,CHENNAI-3

Saturday the 15th day of June, Two Thousand and thirteen

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

A.P. 9/2011 D2

Between.

P. Elangovan, S/o P. Paramasivan.

Appellant.

**In the matter of Arulmigu Azhagia Vinayagar Temple, Kilakulam,
North Veeravanallur, Ambasamudram Thirunelveli District.**

**Appeal Petition filed under Section 63 (1) of the Tamil Nadu HR &
CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated
17.9.2010 of the Joint Commissioner, HR & CE Admn.Dept., Thirunelveli
in dismissing the O.A. 1/05 filed under Section 63 (b) of the Act.**

**Annexure to Order in R.Dis. A.P. 9/2011 (D2)
Dated 15.6.2013.**

**The above appeal petition has been filed against the order of the Joint
Commissioner, Thirunelveli in dismissing the O.A. 1/2005 filed under
Section 63 (b) of the Act.**

**The Joint Commissioner dismissed the O.A. stating that the
petitioner have not filed the settlement deed executed by the Brama
Nayagan Pillai and also petitioner failed to prove that the management of
the temple is with his family for the past 3 generations with a convincing
and cogent evidence. Even the accounts of the temple was not produced
for the verification of audit. The trustees and their period of office have**

not been clearly mentioned. The documents does not dispose of any fact as to the management of the temple, but it denote that the properties stands in the name of the temple and Thiru Paramasivam Pillai is mentioned only as its Akthar.

3. The appellant contended that the Joint Commissioner has come to a wrong conclusion that the documents produced by the appellant do not disclose any fact as to the management of the temple. And also the Joint Commissioner failed to note that the Inspector deposed that the exclusive management of the temple is with the appellant's family for the past 3 generations. The observation of the Joint Commissioner that the Kalanayagam and Ashok Kumar are not impleaded as parties to the case and the appellant has not even produced no objection affidavit from them is basically wrong. In fact, the same Kalanayagam was examined as P.W.2 and the question of obtaining no objection certificate cannot arise. The observation of the Joint Commissioner that the properties stands in the name of the temple only and Paramasivam Pillai's name is mentioned only as Akthar are misconceived. The observation of the lower court that the appellant has not filed the convincing and cogent evidence to prove that the management of the temple is with the appellant's family for the past 3 generations cannot have any legal force.

4. I heard Thiru K. Shankaranarayanan, Counsel for the appellant and perused the relevant records. The Joint Commissioner dismissed the O.A. on the ground that the petitioner failed to produce the certified copy of the document No. 942/1.6.1935 executed by Pramanayagam Pillai to ascertain the genuineness of the same and he had not impleaded his brother Thiru Kalanayagam and Ashok Kumar as parties to this case. But Thiru P. Kalanayagam was examined as P.W.2. Further, the appellant herein also produced the certified copy of the document No. 942/1.6.1935 executed by Pramanayagam Pillai before this Court.

Hence, without going into the merits of this case, the matter is remitted back to the Joint Commissioner, Tirunelveli for fresh enquiry. The certified copy of the Original Settlement deed filed by the appellant is also send herewith. The Joint Commissioner is directed to dispose of the O.A. after affording opportunity of being heard to all the parties and pass orders in accordance with law. With the above directions the appeal petition is disposed of.

/ typed to dictation/

Sd. P. Manapal,
Commissioner.

/ true copy/ by order/

Superintendent.

Only TO