

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

Friday the 4th day of October, Two thousand and thirteen.

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

A.P.67/2011/ D2

Between.

1. A.V. Shanmugam,
2. A.V. Gurunathan.
3. A.V. Rajendran.
4. A.V. Lakshmanasamy
5. A.V. Ramasamy
6. A.V. Anbarasu
7. A.V. Arularasu.

Appellants

And

1. The Joint Commissioner, HR & C.E.,
Villupuram.
2. The Assistant Commissioner, HR & CE,
Tiruvannamalai.
3. The Fit Person/Executive Officer, Arulmighu
Kamatchiamman Temple, Thiruvannamalai.

.. Respondents.

In the matter of Arulmigu Raja Rajeswari Temple, Girivalampathai,
Adi Annamalai, Thiruvannamalai.

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:
30.5.2011 of the Joint Commissioner, HR&CE Admn.Department,
Villupuram in dismissing the O.A. 9/2008 filed under Section 63 (b) of
the Act.

Annexure to Order in R.Dis. A.P.67/2011(D2) dated: 4.10.2013.

The above appeal petition under Section 69(1) of the Act against
the order dated 30.5.2011 of the Joint Commissioner, Villupuram in
dismissing the O.A. 9/2008 filed under Section 63 (b) of the Act.

2. The appellants contended that there was a temple situated in Girivalam Road Tiruvannamalai in which Padavettamman deity was installed. The said deity was installed by the forefather's of the appellants' family, more than about 100 years ago. The said temple was very small one and it became dilapidated in due course and the deity was taken away from the place and the temple was lying as a temple without any deity for a very long period. Iyyamperumal Mudaliar, the appellants' grandfather had reconstructed the temple and installed Raja Rajeswari Amman, deity in the said temple in 1960. Since, then, he had been doing the poojas and looking after the temple from his personal funds. He was functioning as a trustee of the temple from 1980 till his demise. Thereafter his only son Valaguru Mudaliar looked after the management. He had reconstructed the said temple and performed Kumbabishegam in the year 1986. He was functioning as the Trustee of the temple until his life time upto 1989. After his life time the appellants and their 2 sisters have been looking after the management of the temple. In their periodical meetings they have nominated persons to look after the affairs of the temple from among themselves. After the life time of Valaguru Mudaliar, his sons A.V. Gurunathan and A.V. Rajendran are functioning as the trustees. They have obtained service connection for the temple and for the madapalli. The expenses for the maintenance of the temple and for performing the daily pooja and other functions, utsavam etc. are being performed by the appellants' family out of their personal funds. There is no Hundial in the temple. As per the terms of the registered trust deed dated 1.2.1988 executed between the members of the appellants' family trustees are appointed, selected or nominated. In 2003 the appellants' family performed Kumbabishekam for the temple. Thus the temple is being maintained only by the appellants' family and trustees are appointed by the members of the appellants' family alone. No outsider functioned as the trustee at any point of time. The 1st Respondent failed to consider the facts that one of the appellants' ancestors was the founder of the temple and further failed to take note of the fact that the appellant and his ancestors have been in administration

of the temple as trustees for 3 generations or for more than 100 years. The 1st respondent failed to consider the fact that the temple has been renovated by the members of the appellants' family and Kumbabishegam exclusively performed by them, but erroneously concluded as if the temple only renovated in the year 1986 by the appellants' family and on such erroneous conclusion dismissed the appellants O.A. which is liable to be set aside. The Joint Commissioner in his impugned order himself acknowledged the administration of the temple by the appellants from 1986, therefore based on available evidence the Learned Joint Commissioner ought to have granted an order in favour of the appellants on contrary he had dismissed the petition of the appellants which is unsustainable and liable to be set aside.

3. I heard Thiru E. Ganesh, Counsel for the appellants and Thiru R. Swaminathan, Counsel for the 3rd Respondent/Fit Person and perused the relevant records. The appellants themselves admit that the Padavettamman deity was installed by the forefathers of the appellant's family. But Rajarajeswari Amman deity was installed in the year 1960. But from the Ex.A1, it was proved that RajaRajeswari Amman idol was installed in the year 1986 only. The appellants did not adduce any evidence to prove that the suit temple was managed by the ancestors and the documents produced by the appellants are of recent origin.

4. In a decision reported in 1971 (84) LW 764 , The Division Bench of the Hon'ble High Court held "*that the devolution of the office of trusteeship for generations from son to grandson is no doubt prima facie evidence that the office devolves by succession according to the laws of inheritance and the fact that members of a particular family held the office of the Dharmakartha continuously for more than a century and there was assertion by them that it was a hereditary would be good evidence that the office is hereditary*". But in this case, the appellants failed to adduce any evidence to show that his ancestors were the trustees of the suit temples as contended by them.

5. Definition of term "Hereditary Trustees" under Section 6 (11) of the Act focus on three categories of Hereditary Trustees, firstly; trustee of

religious institution succession to which is devolved by hereditary right, second category of hereditary trustees are those whose succession can be regulated by usage and third category is where succession is specifically provided by founder so long as scheme of such succession is in force. In the present case the suit temple was situated on poromboke land. The appellants failed to prove that the suit temple was founded by the forefathers of the appellant and management of the temple has been vested with their family for more than three generations with cogent evidence. Further the temple was renovated and Kumbabishegam was performed with the help of General Public. The documents filed by the appellants are recent origin i.e. after 1986. The genealogy filed by the appellants are not supported with any documentary evidence. As held by the Joint Commissioner, the deposition made by the P.Ws are not enough to prove that the said temple was under the management of the appellant's family for more than few generations or for a considerably long year in the past.

For the foregoing reasons, I see no valid reasons to interfere with the order passed by the Joint Commissioner, Villupuram and liable to be confirmed. Accordingly, the order dated 30.5.2011 of the Joint Commissioner, Villupuram made in O.A. 9/2008 is hereby confirmed and the appeal petition is dismissed as devoid of any merit.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Supintendent.