

BEFORE THE COMMISSIONER, H.R. & C.E. ADMN. DEPARTMENT, CHENNAI.34.

Thursday the 26<sup>th</sup> day of September, Two thousand and thirteen.

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

A.P.46, 47 and 48/2011/ D2

**Between.**

- |                  |                               |
|------------------|-------------------------------|
| 1. K. Shanmugam. | ... Appellant in A.P. 46/2011 |
| 2. Kalaimani     | ...Appellant in A.P. 47/2011  |
| 3. R. Arumugam   | ...Appellant in A.P. 48/2011  |

**And**

- |                    |                        |
|--------------------|------------------------|
| 1. P. Pachaiappan. |                        |
| 2. N. Palani.      |                        |
| 3. Kadirvelu.      |                        |
| 4. U. Arumugam.    | ... Respondents in all |
| 5. Jayaraj.        | Appeal petitions.      |

In the matter of Arulmigu Pachaiamman & Mannarsamy Temple,  
Pachaiamman Koil Street, Thiruvannamalai.

Appeal Petitions filed under Section 69(1) of the Tamil Nadu  
HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated:  
22.11.2010, of the Joint Commissioner, HR&CE Admn.Department,  
Villupuram in dismissing the I.A. 24/07, I.A. 23/2007 and I.A. 3/2010  
in O.A 136/06 filed under Section 63(b) of the Act.

**Common Annexure to Order in R.Dis.A.P.46,47 and 48/2011 (D2)  
dated: 26.09.2013.**

The above appeal petitions have been filed against the order dated  
22.11.2010 of the Joint Commissioner, Villupuram in dismissing the  
I.A.Nos. 24/2007, 23/2007 and 3/2010 filed by the appellants to  
implead them in O.A. 136/2006 filed by the Respondents.

2. The Joint Commissioner dismissed the Interlocutory Applications stating that the claim in O.A. 136 of 2006 is to frame a scheme for the administration of the temple with a provision to appoint non-hereditary trustees selected from the five families. The petitioners are not necessary parties to decide the Original Application.

3. The appellants contended that the Joint Commissioner erred in coming to the conclusion that if the Interlocutory Applications are allowed, there will be change of cause of action, change of nature of the Main petition. The Lower Court have appreciated that to implead the petitioners as the respondents for the purpose of noting who is the main family member and who is outsider of the five main family and who are connected to the temple for the purpose of deciding the matter.

4. I heard Thiru C. Venkatesan, Counsel for the Appellants and M/s Chennai Law Associates, Counsel for the respondents and perused the relevant records. The claim in O.A. 136/2006 is to frame a scheme for administration with provision to appoint non-hereditary trustees from (i) Mannu Pillai family (2) Gurusamy Pillai family (3) Subburaya family (4) Mannu, Srinivasa Pillai, Rajan Pillai family 5) Uthandi Pillai family. The appellants' claims that Palani and Lakshmikanthan who are the petitioners in O.A. is outsider of the above said families and the appellants are the members of the Uthandi Pillai family.

5. The Hon'ble Supreme Court of India in the decision reported in Maria Margarida Sequeria Fernandes Vs. Erasmo Jack de Sequeria AIR 2012 SC 1727 held that Court dealing the dispute is duty bound to find out the truth and every endeavor should be made to find out the truth.

6. In a decision reported in 1998 (2) CTC 470 (DB) 1998 (3) LW 777 it was held that a party can be impleaded when there is a cause of action against him and where his presence is necessary and proper for effective adjudication of the dispute involved in the suit. In this case, the appellants claim that they belong to one of the family mentioned in the O.A.

7. Moreover for conducting fair and proper enquiry, evidence if any available with the appellants may be relevant. Impleading of the appellants not prejudicial to the interest of the respondents as the respondents would have right to cross examine and to contest document filed by the appellants. But by impleading the appellants, truth of facts if any shall be unearthed from the parties which will helpful to decide the case on its own merits. Be that position, as to maintain principles of natural justice, the petitioners may be given an opportunity of hearing to put forth their case in the Original Application.

Therefore, the order dated 22.11.2010 of the Joint Commissioner, Villupuram is hereby set aside and the appeal petition is allowed. The Joint Commissioner is directed to dispose of the O.A. within three months from the date of receipt of this order after affording opportunity of hearing all the parties concerned and both the appellants and the respondents should co-operate with the Joint Commissioner to conduct the enquiry within the stipulated time.

/ typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/true copy/by order/

Superintendent.