

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

Friday the 23rd day of November, Two thousand and twelve.

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

A.P.72/2011/ D2

Between.

1. Velmurugan Asari.
2. Vaithyanathan Asari.
3. Lenin Asari.
4. Selvaraj Asari.
5. Ramalingam Asari.
6. K. Ramalingam Asari.

..Appellants

And

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

.. Respondent.

In the matter of Arulmigu Kamatchiamman Temple, C.N. Palayam, Bazaar, Cuddalore Taluk and District.

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: 4.8.2011 of the Joint Commissioner, HR&CE Admn. Department, Villupuram dismissing the O.A. 88/2006 filed under Section 64 (1) of the Act for framing a scheme of administration to the above mentioned temple.

Annexure to Order in R.Dis. A.P.No.72/2011/ (D2)/ dated: 23.11.2012.

The above appeal petition filed against the order dated 4.8.2011 of the Joint Commissioner, Villupuram dismissing the O.A. 88/2006 filed under Section 64 (1) of the Act seeking to frame a scheme of administration to the petition mentioned temple.

2. The case of the appellants is that the temple in question has been founded, established, maintained and managed by the member of the Viswakarma Community for whose benefits the institution has been chiefly intended and maintained. In order to regularize the appointment of non-hereditary trustees to the temple the appellants as petitioners filed O.A. 88/2006 under Section 64 (1) of the Act for framing a scheme

incorporating a permanent provision for the appointment of non-hereditary trustees from and amongst the members of Viswakarma Community residing in C.N. Palayam and Naduveerapattu. But, the Joint Commissioner without appreciating the oral and documentary evidence adduced by the petitioners dismissed the O.A. Hence, the order of the Joint Commissioner is liable to be set aside.

3. I have heard the counsel for the appellants and perused the connected records. The counsel for the appellants reiterated the grounds of memorandum of appeal filed by him. 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 marked documents without discussing its evidentiary value, whether the said documents supports the case of the petitioners by applying his mind judicially before taking such a decision. Though the Joint Commissioner admits that the documents produced by the petitioners shows that Viwakarma Community people were in management of the temple since 1980 but, taken a contrary view that the documents filed by the petitioners are not enough to show that the Viswakarma Community alone have managed the said temple from the date of founding of the said temple. The Joint Commissioner also traversed beyond his authority and observed that the petitioners have not proved that the Viswa Karma Community is a religious denomination, which issue is outside the purview of the Act. The entire order passed by the Joint Commissioner on 4.8.2011 suffers from infirmity as stated above and deserves to be set aside, 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 other persons having interest if any an opportunity being heard and dispose of the same in accordance with law within a period of 3 months from the date of receipt of this order. The appellant shall also co-operate for the expeditious disposal of the O.A. enquiry without any default. With these direction the Appeal petition is disposed of.

/typed to dictation/

Sd. P.Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.