

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

Tuesday the 4th day of December, Two thousand and twelve.

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

A.P. 79/2011.

Between.

Karunagaran Battachari
S/o Srinivasa Battachari.

.. Appellant.

And.

The Joint Commissioner,
HR & CE Dept., Salem.

.. Respondents.

In the matter of Arulmighu Easwarar Temple, Kuppur, Dharmapuri Taluk and District.

Appeal Petition under Section 69(1) of the Tamil Nadu HR & CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated: 27.4.2011 of the Joint Commissioner, HR & CE Admn. Dept., Salem dismissing the O.A. 29/2004 filed under Section 63 (b) of the Act.

Annexure to Order in R.Dis. A.P. 79/2011 (D2) dated 4.12.2012.

The above appeal petition has been filed under Section 69(1) of the Act, challenging the order dated 27.4.2011 made in O.A. 29/2004 by the Joint Commissioner, dismissing the Original Application filed by the appellant as Petitioner under Section 63 (b) of the Act holding that the petitioner is only acting as poojari and he failed to prove that the management of the temple vested with his family for the past five generation as contended.

2. The contention of the appellant is that the appellant's ancestors were performing pooja service in the temple and managing its affairs as Hereditary Trustees. The Joint Commissioner failed to see the genealogical table filed tracing the succession from remote ancestor till date. The name of the ancestors of the appellant has been found in the Inam Register as Manager. The Village Karnam deposed before the Settlement Tahsildar, that the appellant's father has been performing pooja service and holding office as Hereditary Trustee. The Inspector of the department also deposed that the appellant is holding office as Hereditary Trustee. But the Joint Commissioner deliberately failed to make a legal analysis of the same and dismissed the O.A. Therefore, the order of the Joint Commissioner is liable to be set aside.

3. I have heard Thiru W.C.Thiruvengadam, Counsel for the appellant and perused the connected records. The Counsel for the appellant reiterates the grounds of memorandum of appeal. The counsel for the appellant also pleaded to set aside the impugned order and remit back the matter to the Joint Commissioner for fresh enquiry to make out his case. On a perusal of the annexure to the order containing the grounds of the above decision, the Joint Commissioner has simply enumerated three documents filed by the appellant without analyzing and discussing its evidentiary value, how far the said document supports or un-support, the case of the petitioner by applying his mind judiciously before taking such a decision. Therefore, the order dated 27.4.2011 passed by the Joint Commissioner, HR&CE Admn. Dept., Salem suffers from infirmity as stated above and deserves to be set aside and accordingly it is hereby set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry denova after affording the appellant and other persons having interest if any an opportunity of being heard and dispose the same on merits and in accordance with law within a period of 3

months from the date of receipt of copy of this order. The appellant 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/

Superintendent.

Only TO