

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

Monday the 28th day of October, Two thousand and thirteen.

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

A.P.39/2011/ D2

Between.

1. K.Paulsamy Nadar, S/o.Kurusamy Nadar
2. S.Thangaraj Nadar, S/o.Seeniyappa Nadar
3. D.Velsamy Nadar, S/o.Duraisamy Nadar
4. S.V.Narayanasamy Nadar,
S/o.Venkatachalam ... Appellants.
5. T.Rajamariyappa Nadar

And

The Joint Commissioner, HR&CE, Villupuram. ... Respondent.

In the matter of Arulmigu Devi Karumariamman Temple,
Mandharakuppam, Neyveli-02, Villupuram 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:
23.11.2010 of the Joint Commissioner, HR&CE Admn.Department,
Villupuram in dismissing the O.A.62/06 filed under Section 64(1) of the
Act.

Order in R.Dis. A.P.39/2011 (D2) dated: 28.10.2013.

The above Appeal petition having come on for final hearing before
me on 3.9.2013 in the presence of Thiru V. Meenakshisundaram,
Counsel for the Appellants and upon hearing the arguments and having
perused the connected records and the matter having stood over for
consideration till this day, the following order is passed.

ORDER

The above appeal petition filed against the order dated 23.11.2010 of
the Joint Commissioner, Villupuram in dismissing the O.A. 62/2006

filed under Section 64 (1) of the Act. The above O.A. filed to frame a scheme of administration with a provision for the appointment of Trustees from the members of Nadar community. The Joint Commissioner dismissed the above O.A. stating that the petitioners have not proved that the Nadar community is a religious denomination and the said temple was founded by the said community and also failed to prove that the temple is chief intended and maintained for the benefit of the said community.

2. The appellant contended that the Joint Commissioner passed the order without considering the evidence in perspective manner. The Joint Commissioner failed to consider the evidence of witnesses who belongs to other community. The Inspector's report which was marked as Ex.C1, but the same was not furnished to the appellants and there is no speaking order or any observation with respect to the Ex.C1 or evidence of Inspector. It is not the case of the appellant that they are the founder of the said temple but the said temple is being maintained and managed by the Nadar community people for over 50 years which is not disputed by the other community people in that area.

3. I heard Thiru V. Meenakshisundaram, Counsel for the appellant and perused the relevant records. The appellants have filed a petition under order 41 Rule 27 of C.P.C. seeking permission to adduce additional document for marking as Exhibits. This forum while exercising the appellate jurisdiction cannot sit on original side and test the evidentiary value of the documents filed by the appellants. The Original Application was filed to frame a scheme of administration under Section 64 (1) of the Act. The Joint Commissioner should subjectively satisfy that a scheme should be settled in the interest of the proper administration of the Institution. Hence, the evidentiary value of additional documents to be filed by the appellants has to be tested by the Joint Commissioner.

Therefore, the matter is remitted back to the Joint Commissioner, Villupuram for fresh enquiry. The appellants are directed to file the documents before the Joint Commissioner. With the above direction the appeal petition is disposed of.

/ typed to dictation /

Sd. P. Dhanapal,
Commissioner.

/ true copy/by order/

Superintendent.

To

1. The Appellants through Thiru.V.Meenakshi Sundaram, Advocate, 260, New Additional Law Chambers, High Court Buildings, Chennai-104.

Copy to:

2. The Joint Commissioner, HR & CE Admn.Dept., Villupuram.(along with file in O.A. 62/2006)
3. The Assistant Commissioner, HR & CE Admn.Dept., Cuddalore.
4. Extra.