

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

Tuesday the 7th day of May, Two Thousand and thirteen.

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

A.P. 44 & 45/2012 D2

Between.

1. R. Elanchezhian S/o Rajarathinam.
2. A. Chinnaya S/o Andar Ambalam.
3. R. Muthiahpillai S/o Rmasamy Pillai. ..Appellants.

And

1. N.A. Chandran, S/o K.N. Annamalai.
2. N. Dhanabalan, S/o Nalliah Velar. Respondents

A.P. 45/2012 D2

Between.

1. N. Vijayaraghavan.
2. S.V. Saminatha.
3. N. Mahalingam.
4. S.P. Balasubramanian.
5. S. Alagu.
6. S. Thirumaran.
7. M. Sundaram.
8. K.R. Ganesan. Appellants

And

1. N.A. Chandran.
2. N. Dhanapalan. . Respondents.

In the matter of Arulmighu Neivelinathar Ayyanar Temple, E. Mallampatti Village, Melur Taluk, Madurai District.

Appeal petitions filed under Section 69(1) of the Tamil Nadu H.R.& C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 18.10.2011 of the Joint Commissioner, HR & CE Admn. Department, Madurai in allowing the O.A. 17/02 filed under Section 63 (b) of the Act.

Common Annexure to Order in R.Dis. A.P. 44/2012 (D2)dated : 7.5.2013.

The above appeal petitions filed under Section 69(1) of the Act against the order dated 18.10.2011 of the Joint Commissioner, Madurai in allowing the O.A. 17/02 filed under Section 63 (b) of the Act.

2. The appellants in A.P.44/2012 have contended that originally the temple was constructed by the public of Keelavalavu village and managed by the 13 Karais of Keelavalavu village. All the idols were installed in the temple by the above Karais people. All the festivals are performed by the 13 Karais. Kumbabishegam was performed by them on 21.6.2002. The respondents are appointed as the Poojaris of the temples only. The Joint Commissioner has passed the order without causing proper publication as contemplated under the Rules. The Ex.A1 to A9 filed by the Respondents do not pertain to the temple at E. Mallampatty, but relate to the temple at Jayakondanelai village at Sivagangai District. There is no evidence to show that the Respondents family have managed the temple as Hereditary Trustees for over three generations.

3. The appellants in A.P. 45/2012 have contended that the suit temple belongs to Neivelinatha Ayyanar Pangaligal who constructed and established the temple by taking "Pidiman" from Kusalakudi near Pudukottai and maintained by them. Kumbabishegam was performed on 21.6.2002 by Thiruppani committee. The appellants were members of the said Committee. Respondents are only poojaris of the temple.

4. In the common counter affidavit filed by the respondents, they have contended that in O.A. 17/2002, they claimed right of Hereditary Trustee by relying on the documentary evidence filed as exhibits A1 to A9 and on oral evidence of respondent and 3 other witnesses. They prove their case of hereditary nature of the office of the Trusteeship by documents of the year 1922 onwards which are suit proceedings before

civil courts and revenue records which clearly prove the fact of holding of office of Trusteeship by our ancestors continuously.

4. I heard Thiru K. Jayaraman, Counsel for the appellants in A.P.44/2012 and S. Jeevanandam, Counsel for the appellants in A.P.45/2012 and B. Sivakumar, Counsel for the Respondents in both appeals and perused the relevant records. The counsel narrated and reiterated the contentions in the affidavit filed by them. 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 documents filed without discussing its evidentiary value, how far the said documents supports or not supports the case of the petitioner by applying his mind judicially before taking such a decision.

Therefore, the order dated 18.10.2011 passed by the Joint Commissioner, Madurai 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 affording all the interested parties an opportunity of being heard and dispose of the same in accordance with law. The appellants are at liberty to implead in the O.A. and raise their objections before the Joint Commissioner. With these directions, the appeal petition is disposed of.

/typed to dictation /

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.