

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

Tuesday the 1st day of October, Two thousand and thirteen.

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

A.P. 51/2012.

Between.

Arulmighu Pappi Chetty Ragaviah Chetty's
Charities, represented by its Trustees

1. C. Ethiraj (Resigned his Trusteeship).
2. V. Emberumanar Chetty (died)
3. V. Ranganatha Chetty (died).
4. V. Sudhakar S/o Vummidi Sreeramulu
Chetty,
5. T. Venkatanarashimhalu (died)
6. V. Ram Mohan Gupta (died)
7. G. Badrinath (died)
8. V. Shantha Sridhar W/o V. Sridhar.
9. G. Badrinarayana S/o G.V. Ranganayakulu
Chetty.
10. J.V. Perumal.
11. Y.V. Harikrishna.
12. A.S. Hariprasad.
13. V. Govardhan.
14. K. Sudhakar.
15. M. Krishna Kishore.

.. Appellants.

And.

The Joint Commissioner,
H.R. & C.E.Admn.Department,
Chennai.

.. Respondent

In the matter of Arulmighu Pappi Chetty Ragaviah Chetty's
Charities, Narayana Mudali Street, Chennai.1.

Appeal Petition filed under Section 69(1) of the Tamil Nadu HR &
CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the notice dated
29.1.2009 of the Joint Commissioner, H.R. & C.E. Admn.Department,
Chennai in dismissing O.A. 19/1997 filed under Section 63 (a) of the Act.

Annexure to Order in R.Dis. A.P. 51/2012 D2 Dated :1.10.2013.

The above appeal petition filed under Section 69(1) of the Act against the order dated 29.1.2009 of the Joint Commissioner, Chennai in dismissing the O.A. 19/1997 filed under Section 63 (a) of the Act.

2. The appellant contended that in the Trust deed which consisting of 'H' Schedule covering mostly the performance of the secular objects and in which few religious items are contemplated. There is no absolute dedication of any property for the performance of any specific Kattalai in a temple and therefore as a whole the trust deed would not attract Section 6 (10) of the H.R. & C.E. Act. In the case of failure of performance of Charity, the department has got power to invoke Section 38 (1) of the Act and it cannot take away the entire Trust. The previous litigation related to endowment for the performance of certain charities, which is not the subject matter of the O.A.

3. I heard Thiru W.C. Thiruvengadam, Counsel for the appellant and perused the relevant records. The Joint Commissioner dismissed the O.A. on the ground that the petitioners have not filed any documents about the earlier proceedings. The Joint Commissioner held that from the Ex.A2 it is clear that the claim of the petitioners was dismissed by the Board order in 1948. Appeal preferred by the Charities was also dismissed by the Commissioner by order dated 30.7.1954. Thereafter the Charities filed O.S. 1985/1954 on the file of the City Civil Court, Madras for a declaration that items 1 to 31 of Schedule 'H' in the trust deed are not specific endowments and as such the Charities are not a religious institution was also dismissed by order dated 24.9.1955. The appellant neither denied the above fact nor produce those documents in the appeal petition. Hence, it is already decided that suit institution is a religious institution under Section 6 (19) of the Act. The Counsel for the appellant prayed that direction may be given to the Joint Commissioner to decide the issue under Section 63(f) and (g) of the Act. But prayer of the appellants in the O.A. and Appeal Petition is to declare

the performance of endowment as contemplated under 'H' schedule of the Trust deed of the said Charity will not come under the purview of the Act as laid down under 63 (a) of the Act. Hence, such a direction cannot be given in this application. However, it is open to the appellant to file a separate application before the Joint Commissioner.

The appellants approached this court with unclean hands without disclosing the earlier proceedings. Therefore, I see no valid reasons to interfere with the order dated 29.1.2009 of the Joint Commissioner, Chennai and appeal petition deserves no merits. Accordingly, the order dated 29.1.2009 of the Joint Commissioner, Chennai is hereby confirmed and the appeal petition dismissed as devoid of merits.

/ typed to dictation/

**Sd. P. Dhanapal,
Commissioner.**

/true copy/by order/

Suprintendent.