

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

Tuesday the 16th day of April, Two Thousand and thirteen.

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

A.P. 61/2012

Between.

A.Aruljothi, S/o A. Athanaimurthy

Appellant.

And

- 1. Rathinam S/o Kumara Gounder.**
- 2. Natarajan S/o Murugaiah Gounder. ... Respondents.**
- 3. The Inspector, HR & CE Department,
Vedaranyam.**

**In the matter of Arulmighu Muthumariamman, Kalamman Temple,
Mudaliarthoppu, Vedaranyam Taluk, Nagapattinam District.**

**Appeal petition 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
16.4.2012 of the Joint Commissioner, HR & CE Admn.Dept., Thanjavur in
dismissing the I.A.3/2010 in OA 3/2010 filed under Section 63 (b) of the
Act.**

Annexure to Order in D.Dis. A.P. 61/2012 (D)dated : 16.4.2013.

**The above Appeal Petition filed under Section 69(1) of the Act against
the order dated 16.4.2012 of the Joint Commissioner, Thanjavur in
dismissing the I.A. 3/2010 in O.A. 3/2010 filed under Section 63 (b) of the
Act.**

**2. The Appellant contended that Arulmigu Muthumariamman and
Kalamman Temples, Mudaliarthoppu village, Vedaranyam Taluk and**

Nagapattinam District is a sub temple of Arulmighu Vedaranyeswaraswamy Temple, Vedaranyam and it comes under section 46 (iii) of the Act. The first and second respondents herein stealthily got hold possession of the temple by squatting on the property. They have also made a claim that they are holding office as Hereditary Trustee of the temple on the instigation of some others in the village and the said Original Application was numbered as O.A. 3/2009. The appellant herein, who got impleaded as party respondent in O.A. 3 of 2009, filed counter thereon and also filed an Interlocutory Application in IA 3/2010 and contended that the Original Application is not maintainable as it ought not to have been numbered as Original Application on the file of the Joint Commissioner, H.R. & C.E. Admn.Dept., Thanjavur on the sole ground that this institutions are mainly situated in the lands absolutely belonging to Vedaranyeswaraswamy Devasthanam at Vedaranyam, for which several documents have been filed in an I.A. 3/2010 and the matter was argued along with the records to establish that the O.A. 3/2009 is not maintainable. The Joint Commissioner, Thanjavur seemed to have taken up the I.A. 3/2010 on 16.4.2012 and passed a final order rejecting it on a fallacious ground. The Joint Commissioner has not dealt with the records filed by the appellant and never seemed to have consulted with the Executive Officer of the main temple namely, Vedaranyeswaraswamy Temple, Vedaranyam and passed the impugned order. The appellant contended that it is necessary the Commissioner may please look into the records which the appellant filed in I.A. 3/2010 which certainly establish the truth in this matter, relating to the maintainability of the O.A. on the following grounds:

A Fit Person was appointed for the temple by the Joint Commissioner, Thanjavur, who has given a finding in Revision Petition filed by the 1st and 2nd respondents herein against the appointment of fit person to the effect that the respondents 1 and 2 are not entitled to hold office as Hereditary Trustees. The Joint Commissioner did not even

marked the documents in I.A.3/2010 which is not only denial of justice in the matter but has led to the miscarriage of justice. The Executive Officer of Vedaranyam temple has issued a Certificate to the effect that the land bearing Patta No. 671/5, measuring about 0.23.5 Acres indicating that Muthumariamman and Kaliamman Temples are located in the land , which is absolutely owned by Vedaranyeswaraswamy Temple, Vedaranyam. The Executive Officer has fought the matter in the civil Court in regard to the ownership of the land in the aforesaid Survey number in favour of Vedaranyeswaraswamy Temple and succeeded in all courts. This important document filed in I.A. 3/2010 has ignored by the Joint Commissioner, Thanjavur and without even marked it as document. The auction notice issued by the Executive Officer of Vedaranyeswaraswamy Temple Vedaranyam for Fasli 1419 indicates that this property has been leased out by the Devasthanam besides Macha Mazhazool of the tank, which also owned by the main temple at Vedaranyam. The Extract of Registered maintained under Section 29 in Vedaranyeswaraswamy Temple, Vedaranyam also establishes that Muthumariamman and Kaliamman Temples situated at Mudaliarthoppu village are the sub temples of Vedaranyeswaraswamy Temple, Vedaranyam.

3. I heard Thiru W.C. Thiruvengadam, Counsel for the appellant and perused the relevant records. On perusal of the documents filed by the appellant, the suit temples are situated in the land in S.No. 671/5 belongs to Arulmighu Vedaranyeswaraswamy Temple, Vedaranyam. In the Register prepared under Section 29 of the Act, the suit temple are shown as sub-temple of Arulmighu Vedaranyeswaraswamy Temple, Vedaranyam. The Joint Commissioner, without analyzing the above facts dismissed the above Interlocutory Application.

4. Therefore, the order dated 16.4.2012 passed by the Joint Commissioner, Thanjavur suffers from infirmity as stated above and deserved to be set aside and accordingly it is hereby set aside. The matter

is remitted back to the Joint Commissioner, Thanjavur to consider the preliminary objection raised by the appellant herein regarding maintainability of the O.A. after examining the Executive Officer of Arulmighu Vedaranyeswaraswamy Temple, Vedaranyam, the petitioner in O.A. and other persons interested and pass orders in accordance with law within a period of one month from the date of receipt of this order. With the above direction the Appeal petition is hereby allowed.

/ typed to dictation/

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

/ true copy/by order/

Superintendent.

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