

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

Friday the 4<sup>th</sup> day of October, Two thousand and thirteen.

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

A.P. 6/2012 D2

Between.

1. Palaniappan.
2. Meyyappan

.. Appellants

And

The Joint Commissioner, HR & CE  
Admn.Department,  
Sivagangai.

.. Respondents.

In the matter of Arulmigu Meikanda Vinayagar Temple, Devakottai Town, Sivagangai 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 18.1.2012 of the Joint Commissioner, HR & CE Admn.Dept, Sivagangai in O.A. 20/97 filed under Section 63 (a) of the Act.

Annexure to Order in R.Dis. A.P. 6/2012 (D2) Dated : 4.10.2013.

The above Appeal Petition was filed against the order dated 18.1.2012 of the Joint Commissioner, Sivagangai in dismissing the OA 20/1997 filed under Section 63 (a) of the Act. The Joint Commissioner dismissed the OA filed by the appellant to declare the suit temple as private one on the following Grounds. 1) The Grandmother of the petitioner is not the founder of the temple. She has constructed the temple from contribution received from the public. The exhibits filed by the petitioners' shows that one Murugappa Chettiar and Meyyappa Chettiar are also in the management in the said temple. In O.S. No. 133 of 1941 the District Munsif has decided that the suit temple is a public temple. Sivagami Achi received contribution from the members of the public for the construction of the Temple.

2. The appellant contended that the temple was constructed by the ancestors of the appellants with their own funds and also maintained by the appellants from their own funds. The Joint Commissioner failed to consider the evidence on the side of the appellant. The temple does not have Hundial, Praharam, Vahanam and other ingredients of the public Temple. The Joint Commissioner failed to note that O.S 133 of 1941 and A.S. 36/1942 was instituted by a 3<sup>rd</sup> Party. The question of the nature of the Institution was never an issue in the suit and the appeal. The worship by persons other than those from the appellant's family will not confer any right on the public to worship as a matter of right.

3. I heard Thiru J. Ram, Counsel for the appellant and perused the relevant records. The suit temple is situated in Oorani bund not in the patta land and villagers are worshipping the deity as of right. Even in the settlement deed No. 819/1936 it has been mentioned as follows: "எனக்குப் பிறகும் மேற்படி பூஜை கைங்கர்யங்கள் நான் நடத்தி வருவது போல் நடந்து வரவேண்டுமென்றும் என்கிற எண்ணமிருப்பதால் அதை முன்னிட்டு இந்த செட்டில்மென்ட் மூலம் என் ஜீவகாலந்தியம் நானும் எனக்குப் பின்னால் என் ஆண் வாரிசுகளும் பரம்பரை டிரஸ்டியாக இருந்து கோவில் காரியங்கள் பூஜா கைங்கர்யங்கள் சரியாக நடத்திவரவேண்டியது." So it is not mentioned anywhere in the said deed that the suit temple is meant for the spiritual well being of the members of the family of the appellant alone.

In O.S. 133/1941, the District Munsif Court had framed 7 issues. The Issue No.1 is whether the Plaintiff Meikanda Vinayagar Temple is a Public Temple?. The Hon'ble Court decided the said issue that "the temple is a public temple". So, the character of the institution has already been decided by the Court.

Further, in the said order the Hon'ble Court has observed that "It is clear on the evidence that the 1<sup>st</sup> defendant received some contributions from the members of the public though the amounts received may not be very appreciable. Her evidence is that she spent about Rs. 5000/- for construction and the plaintiff concedes that in all

over Rs. 4000/- was spent for the construction. Thus it is clear that the 1<sup>st</sup> defendant must have utilized large sums of her own money in the construction of the temple and in the settlement deed, she has stated that she spent Rs. 1750/- which may be correct. But the fact that she contributed much more than the other contributions would not by itself entitle her to claim rights as founder. There is also further fact that the Vinayagar was originally installed under the Arasa Tree and as admitted by the 1<sup>st</sup> defendant herself that the temple was build on the old site after removing the idol and after the building was put up. So that it is apparent that new building is mere improvement on the old state of things and it cannot be said that the Pillaiyar came into existence for the first time.... there is no proof that the temple was originally founded by the father of the 1<sup>st</sup> defendant”

Hence, it is clear that the suit temple was not founded by the Appellant’s ancestors and the suit temple was declared as Public temple by the Civil Court in O.S. 133/1941.

Therefore, I find no valid reason to interfere with the order dated 18.1.2012 of the Joint Commissioner, Sivagangai and the appeal petition deserves no merits. Accordingly the order dated 18.1.2012 of the Joint Commissioner, Sivagangai in dismissing the O.A. 20/1997 filed under Section 63 (a) of the Act is hereby confirmed. The appeal petition is dismissed as devoid of merits.

However, it is inferred from the documents that the management of the suit temple has been vested with the family of the Appellants. Hence, it is open to them to file an application under Section 63 (b) of the Act before the competent authority to declare the office of the trusteeship as hereditary one.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/true copy/by order/

Suprintendent.