

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

Monday the 15<sup>th</sup> day of July, Two Thousand and thirteen.

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

A.P. 7/2012.

Between.

M. Arikumarasami.

.. Appellant.

In the matter of Arulmighu Sembaneri Ayyanarappan and Kasi Viswanathar Temple Thirunandhipuram, Villupuram Taluk

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: 7.7.2011 of the Joint Commissioner, HR & CE Admn.Dept., Villupuram in dismissing the OA 2/2010 filed under Section 63 (b) of the Act.

Annexure to Order in R.Dis. A.P.No. 7/2012 D2 Dated : 15.7.2013.

The above Appeal Petition has been filed under Section 69(1) of the Act against the order dated 7.7.2011 of the Joint Commissioner, Villupuram in dismissing the O.A. 2/2010 filed under Section 63 (b) of the Act to declare the petitioner as Hereditary Trustee.

2. The Joint Commissioner dismissed the O.A. 2/2010 filed by the Petitioner stating that the Petitioner was appointed as Non-Hereditary Trustee by the Assistant Commissioner in the year 1999. The petitioner

admitted that he was not a founder of the Temple. The Petitioner failed to prove his claim with clinching evidence.

3. The Appellant contended that the Joint Commissioner failed to appreciate the witnesses and documents filed by the appellant. The appellant had correctly filed entire documents and all photos created by the appellant. There was no witness examined before the Joint Commissioner by the Inspector in favour of Charitable Endowments. The Joint Commissioner did not pass the order on the basis of material witness or material documents placed before him. The Joint Commissioner failed to appreciate the witness of P.W.1 to P.W.6 as Ex.A1 to A21 which are in favour of the appellant.

4. I heard Thiru S. Ramajayam, Counsel for the appellant and perused the relevant records. The appellant contended that the suit temple was managed by the appellant and his forefathers for more than 100 years. But the appellant has not produced any document to show that his ancestors were in the management of the temple. Further, the appellant was appointed as non-hereditary trustees by the Department in the year 1999. The documents produced by the appellant are in recent origin. Nature of proof required for establishing hereditary trusteeship is trusteeship should have been continuously exercised by member of the family or person who claims hereditary right without any objection or hindrance from any source. Devolution of office of trusteeship for generation from son to grandson is prima facie proof of devolution of office of trustees by succession as per law of inheritance. But in this case the appellant has not adduced any evidence to show that his ancestors were the trustees of the suit temple. Further, the management of the temple has been vested with non-hereditary trustees and official fit person appointed by the Department.

5. As per Section 6 (11) of the Act, "Hereditary Trustees" means the trustee of religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically

provided for by the founder, so long as such scheme of succession is in force". But in this case, the appellant did not prove his claim with clinching evidence either of the category specified in the above decision.

For the foregoing reasons stated above, I find no infirmity in the order passed by the Joint Commissioner, Villupuram, and appeal petition deserves no merits, liable to be dismissed. Accordingly, the order dated 7.7.2011 of the Joint Commissioner, Villupuram is hereby confirmed and the appeal petition is dismissed as devoid of merits.

/ typed to dictation/

Sd. P.Dhanapal,  
Commissioner.

/ true copy/ by order/

Superintendent.