

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

Tuesday the 18th day of December, Two thousand and twelve.

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

A.P.21/2012 D.2.

Between.

1. M.D. Shanmugam,
S/o M.M. Duraisamy Chettiar.
2. V. Raveendran
S/o M.M.P. Vadivel chettiar. .. Appellants.

And.

1. The Joint Commissioner, HR & CE
Admn.Dept., Tiruchy.
2. M.M.P. Vadivel Chettiar (died).
3. M. Muthusamy Chettiar (died).
4. G. Arumugam Chettiar (died).
5. M. Rajagopal.
6. P.K. Kumar.
7. A.P.N.S. Manian (died).
8. N. Arunachalam Chettiar (died).
9. V. Mukunthan.
10. N. Ramanujam.
11. A. Perumal Chettiar.
12. N. Mariappan.
13. V. Chellam Chettiar.
14. G. Veeriaperumal Chettiar.
15. N. Natarajan (died) .. Respondents.

In the matter of Arulmighu Perianachiamman Temple, Thennur,
Tiruchirappalli 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:
17.4.2012 of the Joint Commissioner, HR & CE Admn.Dept., Tiruchy in
dismissing the I.A. 1/12 in O.A. 59/1986. The I.A. was filed seeking
injunction of Thiruppani works.

Annexure to Order in R.Dis. A.P. 21/2012 (D2) dated:18.12.2012.

The above appeal petition filed against the order dated 17.4.2012 of the Joint Commissioner, Tiruchy in dismissing the I.A. 1/2012 in O.A. 59/86 and appointing fit person to complete the Thiruppani works and conducted Kumbabishegam in the said temple.

2.The appellant contended that the temple in question has been declared as 'excepted' under Section 9 (5) of the Madras Act, 2/1927 by the erstwhile H.R.E. Board in B.O. 609/1931 (O.A. 77/1931) dated 9.6.1931. The office of the Trusteeship has been declared as Hereditary within Vaniga Vysya Community embracing 5 kothras. The Respondent herein filed O.A. 59/1986 before the Joint Commissioner, Tiruchy under Section 64 (1) of the Act to frame a scheme of administration. The same was allowed by the Joint Commissioner by order dated 24.3.2011. The above order was challenged by way of Appeal under Section 69(1) of the Act in A.P. 13 and 41/2011 before the Commissioner. After enquiry, the Commissioner has remanded the matter to the Joint Commissioner by order dated 17.8.2011. Meanwhile, the temple has been renovated by the appellant herein. The Respondent herein filed an I.A. 1/2012 in the pending O.A. 59/1986 praying to stop the Thiruppani works. But the Joint Commissioner dismissed the I.A. and proceeded to appoint a fit person for the temple to carry out the Thiruppani works and conduct Kumbabishegam. The prayer of the respondent herein in the I.A. related to stopping of the Thiruppani work but they never prayed for appointment of fit person. In the impugned order, the Joint Commissioner did not give any adequate legal reason for the appointment of Fit Person. Hence, the impugned order is liable to be set aside.

3.The respondent also filed detailed counter affidavit. In the counter, the respondent has stated that the appellant herein has been arranging Thiruppani works and Kumbabishegam by ignoring the 5

Gothram people and without the sanction of the department. Hence they filed I.A. 1/2012 before the Joint Commissioner to stop the Thiruppani works. The Joint Commissioner passed order in I.A. 1/2012 and appointed an Executive Officer as Fit Person for the specific purpose to perform Kumbabishegam taking into consideration the disputes among the two rival groups of 5 Gothram people and in view of averting tension amongst the two groups and early completion of Thiruppani works.

4. I have heard Thiru M. Rukmangathan, Counsel for the appellants and M.Subramania Rao, Counsel for the respondents and perused the connected records. Both the counsel narrated and reiterated the grounds made in their affidavits. Counsel for the Respondents has brought to the knowledge of the Court that during pendency of the Appeal petition, the appellants herein had performed Kumbabishegam without the permission of the department on 2.7.2012. The counsel for the appellant is directed to produce the order given by the department to perform Kumbabishegam. But no such order was produced by the appellant till date.

5. The O.A. 59/1986 has been filed by the respondents herein filed under Section 64(1) of the Act is pending for past 26 years. No finality is reached in that case due to persistent disputes between the appellants and respondents and filing of various cases by both of them before various courts. Section 64 (4) empowers the Joint Commissioner to appoint a fit person for the better administration during the pendency of framing of scheme. As per the board's order, the office of the trusteeship is vested with 5 Gothras of Vaniga Vysya community. The appellants alone are not entitled to claim any Hereditary trusteeship right over the management of the temple in view of withdrawal of O.A. 23/87 filed by the appellants under section 63 (b) of the Act.

6. Since there are disputes between the two groups in renovating the temple, in the interest of the temple and to avoid

tension among the groups, the Joint Commissioner has proceeded to appoint fit person to carry out the renovation works and to perform Kumbabishegam.

7. But, defeating the order of the Joint Commissioner the appellant herein has performed Kumbabishegam without obtaining any permission from the Department on 2.7.2012. Therefore nothing survives to be adjudicated upon in the impugned order and the appeal petition deserves to be dismissed as infructuous and accordingly the same is dismissed as infructuous.

8. However, the Joint Commissioner is directed to conduct a detailed enquiry into the matter and take appropriate action against the appellants in accordance with law. The Joint Commissioner is also directed to dispose of the pending O.A. 59/1986 in accordance with law within a period of 2 months from the date of receipt of this order. The appellants and respondents shall also co-operate for the expedite disposal of the O.A. enquiry without any default. With the above directions, the Appeal petition is dismissed.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.