

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

.....day the day of , Two thousand and Thirteen.

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

A.P.22/2012 D.2.

Between.

K. Rajendran S/o Kulandai Pandaram

.. Appellant.

And.

1. The Joint Commissioner, HR & CE
Admn.Dept., Salem.
2. A. Ramasamy
3. K. Ramasamy
4. M.V. Chellamuthu
5. R. Arunachalam.
6. R. Mani.

.. Respondents.

In the matter of Arulmighu Mariamman, Athanooramman etc.
Temples, Karumapuram village and Post, Tiruchengode taluk,
Namakkal 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:
2.4.2012 of the Joint Commissioner, HR & CE Admn.Dept., Salem in
dismissing the I.A.1/2012 filed in O.A. 14/2009 of the Act.

Annexure to Order in R.Dis. A.P. 22/2012 (D2) dated: 2013.

The above appeal petition filed under Section 69(1) of the Act
against the order dated 2.4.2012 of the Joint Commissioner, H.R. &

C.E. Admn.Department, Salem in dismissing the I.A. 1/2012 filed in O.A. 14/2009 filed under Section 64 (1) of the Act.

2. The case of the Appellant is that the office of Trusteeship of Arulmighu Mariamman, Athanooramman, Chellandiamman, Periamman, Vinayagar Temples situated at Karumapuram village, Namakkal district is hereditary with ten families for the last 5 generations in an unbroken line of succession from father to son. The character of the Institution has been decided under Section 63 (b) of the Act by order dated 4.2.76 of the Deputy Commissioner, Coimbatore in O.A.68 of 1974 holding that the petitioners in the Original Application are entitled to function as Poojari-cum-hereditary trustees in the aforesaid temples. The appellant herein is the son of Kulandai Pandaram the 7th Applicant in the above O.A. The respondents 2 to 6 herein taking hostile attitude against the Pandaram in office, made certain false claims under the ground that the Institutions are community in nature and also filed O.A.14 of 2009 on the file of the Joint Commissioner, Salem for framing a scheme and to incorporate the provisions for the appointment of Non-hereditary Trustees from amongst the members of Puruleendakulam, a sub-sect of Kongu vellala Gounders. While the said O.A. 14 of 2009 is pending before the Joint Commissioner, the appellant and others filed I.A. 1 of 2012 in O.A. 14/2009 and contended that the O.A.14 of 2009 is not maintainable on the ground that the office of the trusteeship has been

held once as hereditary in character, the question of framing the scheme does not arise. The Joint Commissioner after hearing the parties passed an order that the Original Application is maintainable and the scheme could be framed on the basis of the earlier agreement entered into between the community people and hereditary trustees in office at that time. The said agreement between the community people and the hereditary trustees in office was done under threatening and apart from that certain agreement cannot take away the statutory order passed by the authorities under the Act 22 of 1959. The order of declaration of hereditary trusteeship can not be taken away by any agreement outside the court between the parties and unless and until that order is set aside by the Commissioner under Section 69(1) of the Act. Therefore the order of the Joint Commissioner in rejecting the I.A. 1 of 2012 in O.A. 14/2009 is exfacie, illegal and against all principles of natural justice.

3. I have heard Thiru M. Rukmangathan, Counsel for the appellant and Thiru T.S. Vijayaraghavan, Counsel for the Respondents 2 to 6 and perused the records. The I.A. 1/2012 filed by the appellant herein to dismiss the O.A 14/2009 filed under Section 64 (1) of the Act to frame a scheme of administration. Since the office of the Trusteeship was declared as hereditary in O.A. 68/1974 and one Arunachala Pandaram and 9 others were declared as Hereditary Trustees. In the O.A. 14/2009, the appellant herein filed an

Interlocutory Application to implead them as one of the Respondent and the same was allowed by the Joint Commissioner in order dated 15.8.2010 in I.A. 6/2010. But later, they filed I.A. 1/2012 to dismiss the O.A. 14/2009 as not maintainable. But the Joint Commissioner dismissed the I.A. 1/2012 stating that the Joint Commissioner has power to settle a scheme for appointment of non-hereditary trustees under Section 64 (1) of the Act to the Temple under the management of the Hereditary Trustee and there is dispute between two groups regarding management of the temple causing law and order problem in the village.

4. In the I.A., the petitioners have filed many documents, but the Joint Commissioner failed to discuss the evidentiary value of the documents filed by the appellants. Further the appellants also filed various citations before the Joint Commissioner, but the Joint Commissioner failed to discuss whether the citations filed by the petitioners, supports or un-supports the case of the petitioners.

5. For the reasons stated above, the order dated 2.4.2012 of the Joint Commissioner, Salem suffers from infirmity and deserves to be set aside. Accordingly it is hereby set aside. The matter is remitted to the Joint Commissioner, Salem for fresh enquiry.

6. The Joint Commissioner, Salem is directed to hear the I.A. along with O.A. 14/2009 and dispose them within the time stipulated

by the Hon'ble High Court in W.P. 5771/2011 after hearing all the parties concerned. Both the appellant and the respondents shall cooperate with the Joint Commissioner to dispose of the O.A. within the stipulated time. With the above directions, the Appeal petition is disposed of.

/typed to dictation/

Commissioner.