

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. 24/2012 D2

Between.

S. Baskar, S/o Subramani.

..Appellant.

And

T. Rose Pillai, S/o Thiruvengadam Pillai.

... Respondents

In the matter of Arulmighu Prasanna Venkatesaperumal Temple, No.49, Pappankuppam village, Gummidipoondi Taluk, Thiruvallur District.

The Appeal petition under Section 69(1) of the Tamil Nadu H.R.& C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 11.4.2006 of the Joint Commissioner, HR & CE Admn.Department, Vellore passed in O.A. 13/95 filed under Section 63 (b) of the Act.

Annexure to Order in R.Dis. A.P. 24/2012 D2 dated : 18.12.2012

The above appeal petition has been filed under Section 69(1) of the Act against the order dated 11.4.2006 of the Joint Commissioner, Vellore passed in O.A.13/1995 filed under Section 63 (b) of the Act declaring the Respondent herein to hold the office of trusteeship of the temple as Hereditary Trustee of the Temple.

2. The case of the appellant is that Arulmighu Prasanna Venkatesaperumal Temple situated at No. 49, Pappankuppam Village, Gummidipoondi Taluk, Tiruvallur District is a non-listed religious institution coming under the administrative control of H.R.& C.E. Admn.Department. The following five non-hereditary trustees were appointed to this institution by the Assistant Commissioner, Kanchipuram in Pro. Rc.No. 4990/92 A5 dated : 19.1.1994.

- 1) Thiru Ekambaram.
- 2) Thiru D. Rose Pillai.
- 3) Thiru D. Ravinder.
- 4) Thiru E. Subramani, and
- 5) Thiru M.R. Ghangaya.

The Respondent herein was selected as Chairman Board of Trustees on 10.2.1994.

3. The appellant further states that the temple is possessed of more than 110 acres of lands. The entire lands stand in the name of the deity Arulmighu Prasanna Venkatesa Perumal Temple, Pappankuppam village. The Government of Tamil Nadu acquired a portion of lands belonging to the temple and the award amount fetched from the Revenue Department have not been properly accounted for. To regulate the income and to run day to day administration of the temple properly, on the report of the Inspector, Gumidipoondi, the Executive Officer of Arulmighu Balasubramaniaswamy Temple, Andarkuppam, Ponneri was appointed as Executive Officer to this temple under Section 45 (1) of the Act in Pro.Rc. 19964/94 L1 dated 20.2.1995. Whiles, the respondent had filed O.A. 13/1995 before the Deputy Commissioner, Vellore besides filed a Writ Petition in W.P. 3445/95 along with WMP 5599/95. In the above Writ Petition the Hon'ble High Court has passed final order on 20.11.2000 directing the respondent herein to seek remedy in O.A. 13/1995 and granted interim stay to the Pro. Rc. 19964/94 L1 dated 20.2.21995 till the disposal of the O.A. 13/1995. The Deputy Commissioner, after enquiry, has passed the above impugned order on 11.4.2006 in O.A.13/95. The appellant further states that the respondent was not the hereditary trustee of the institution nor the office of the trusteeship is hereditary. The institution under dispute is a public religious institution as defined under Section 6(20) of the Tamil Nadu H.R. &C.E. Act 22/1959. The H.R. & C.E. Department has been appointing non-hereditary trustees to the above temple by giving representation to all sections of people for the past 75 years.

4. The appellant also contended that the Deputy Commissioner failed to consider the facts that during 1973 and 1987, non hereditary trustees were appointed from outsiders, even though the Inspector HR & CE, Gummidipoondi admitted the above fact in his report filed in L.Dis. 182/1995 dated 19.1.2000. The Deputy Commissioner passed order without considering the fact that the respondent was already appointed as non-hereditary trustee and he was selected and acted as Chairman of the non-hereditary trustees of the temple. The observation of the Joint Commissioner that the mere fact that the petitioner had taken the appointment as the Non-hereditary Trustee, is no impediment to claim Hereditary Trusteeship in a manner known to Law and the Joint Commissioner has erred to hold that it is possible to draw on inference of the establishment of the temple by the petitioner's forefathers who have been managing the affairs of the management of the temple continuously, when no satisfactory documentary evidence was adduced to trace the genealogy of the petitioner as claimed by him.

5. I have heard Thiru I. Rathinavel, Counsel for the appellant and Thiru W.C. Thiruvengadam, Counsel for the Respondents and perused the records. The main contention of the appellant is that the temple has valuable properties. Non-hereditary trustees were appointed by the department till the year 1994. The Respondent was also appointed by the Department in the year 1994. In guise of the order passed in O.A. 13/1995, the respondent attempted to alienate the temple lands. In the O.A. 13/95, no one was impleaded as respondent. The appellant is a proper and necessary party as person having interest as defined under Section 6 (15) of the Act, filed this appeal petition. During the enquiry some of the villagers also want to implead in the appeal petition. The main objection of the appellant and villagers are that no one was impleaded in the O.A. and villagers and persons interested were not enquired by the Joint Commissioner and no opportunity was given to them.

6. It is learnt that the Joint Commissioner has had drawn inference from the records and not decided the case purely on records of evidence. Therefore, the order dated 11.4.2006 passed by the Joint Commissioner, Vellore in O.A. 13/1995 is hereby set aside and the matter is remitted back to the Joint Commissioner to hold an enquiry denova. The appellant herein and other villagers as persons having interest are at liberty to file an impleading petition within 15 days from the date of receipt of the order before the Joint Commissioner and put forth their case.

7. The Joint Commissioner is directed to pass appropriate orders thereon and complete the enquiry after affording the appellant, the respondent and other persons having interest an opportunity of being heard and pass order in accordance with law purely on record of evidence within a period of 3 months. The appellant and respondent shall also co-operate for the expeditious disposal of the O.A. enquiry without any default. With these directions the appeal petition is disposed of.

/typed to dictation/

Sd. P.Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.