

**BEFORE THE COMMISSIONER, HR&CE ADMN.DEPARTMENT,CHENNAI-34.**

**Monday the 30<sup>th</sup> day of June, Two Thousand and Fourteen**

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

**A.P. 56/2013 D2**

**Between**

**G. Annadurai**

**.. Appellant.**

**And**

**1. D. Sivakumar.**

**2. Krishnamoorthy**

**.. Respondents.**

**In the matter of Arulmighu Ayyanar Temple, Peikkanatham,  
Panruti Taluk, Cuddalore District.**

**Appeal Petition filed under Section 69(1) of the Tamil Nadu H.R.&  
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated  
5.8.2011 of the Joint Commissioner, H.R. & C.E. Admn.Dept. Villupuram  
in dismissing the O.A. 108/06 filed under Section 63 (b) of the Act.**

**Annexure to Order in R.Dis. A.P.56/2013 (D2) dated : 30.6.2014.**

**The above appeal petition filed under Section 69(1) of the Act  
against the order dated 5.8.2011 of the Joint Commissioner, Villupuram  
in dismissing the O.A. 108/2006 filed under Section 63 (b) of the Act.**

**2. The appellant contended that the said Temple is small one and  
the construction was in progress by erecting pillars out of the income of  
the Appellant. The Joint Commissioner failed to look into the evidences  
produced before him as per the evidentiary value of Section 114 of  
Evidence Act. Unless contrary evidences are ever produced, either the  
temple administration or by contesting parties, it cannot be viewed  
simply the version of the other parties. The Inspector, HR & CE, Panruti  
filed a report before the Joint Commissioner, pertaining to the Temple  
and it was well admitted the fact that the ancestors of the Appellant was  
the administration of the temple. It also contains the statements of**

elderly persons of the Village wherein they stated the origin of the temple and how it was maintained and administered by the Appellant and his ancestors. The Joint Commissioner failed to appreciate that the evidence produced by the appellant such evidences clearly demonstrated that the Appellant fore-father's were the trustees to the temple and in that capacity the appellant was uninterruptedly administering the temple as well as performing all seasonal poojas to the said temple for the past 30 years. Further, as such their ancestors administering the temple, both religious and non-religious affairs of the temple, for more than 200 years. And the appellant is the 5<sup>th</sup> generation Trustee who is looking after the temple as on date. The temple is situated in the land comprising the Survey number 8 (Old survey No. 248) of an extent of 1.92 acres in which the temple is situated. There is no idol in the temple for any processing purposes, because the temple is the Innamdhar temple in nature, consequently situated outside of the village and it normally believed that the temple is 'Frontier temple' of the Village ( Ellaya Innamdhar Swami) and there is no Garbagraha, no Arthamandapam and there is no sanctum to the temple and it is also not a important religious institution as valid by the Tamil literature like other temples. The said land was granted by the English as Service Inam and the Appellant fore-fathers were the Inamdhar. When the minor Inams were abolished by the State Government for the purpose of converting them as a Rayatwari Pattas and accordingly the Rayatwari Pattas were granted to the Appellant by the Settlement Tahsildar of Tanjore and consequently order issued by the Cuddalore Subordinate Judge. Further in the proceeding of the Hon'ble Court they were admitted that the Appellant is the Hereditary Trustee to the temple evolved from the Appellant fore-fathers like Adi-Moolam Padi Aachi followed by his son Ramaswami Padaichi and his son Govindaswamy Padaichi and his son Annadurai Padaichi who is the Appellant herein. One of the Grandfather Ramaswami Paaiyachi who renovated the temple at his own cost and erected a stone pillars for the welfare of the temple. The father of the Appellant, Govindaswami who

installed the Ayyanar Statute, performed the Prathisttai MahaUtsavam to the temple. There is no evidence to show that there is a public offering or contribution to the temple and the same facts was admitted by the Inspector, HR & CE. Therefore, the Joint Commissioner ought to have allowed the petition filed by the Appellant. Besides, the impleaded respondents were set exparte.

3. Enquiry notice sent to the Respondents were returned with endorsement "insufficient address". Hence, substituted service was ordered. Accordingly, the appellant made publication in Tamil Daily on 19.10.2013. But there was no representation from the respondents and they set exparte.

4. I heard Thiru S. Mahaveer Shivaji, Counsel for the appellant and perused the relevant documents. The counsel for the appellant narrated and reiterated the grounds of memorandum of appeal filed by the appellant. The counsel for the appellant mainly relied upon the order dated 30.8.1971 passed the Sub-Court (Inam Abolition Tribunal) Cuddalore in I.A. T. Appeal No. 32/1971. In which the appellant's father Govindasamy Padayachi was mentioned as Hereditary Trustee for the time being. The said appeal was filed by one Venkatachala Padayachi, who was brother of the said Govindasamy Padayachi, against the order dated 30.11.1970 passed by the Settlement Tahsildar, Tanjavur in R.P.No. 1097/M1/Cud.70. The Settlement Tahsildar had allowed Patta in favour of Sri Ayyanar Temple. But in the appeal, the said Govindasamy Padayachi has not filed any objection. Hence, the patta was given in favour of both Venkatachalam Padayachi and Govindasamy Padayachi. They fraudulently obtained Patta in favour of them. Further in the order of the Settlement Tahsildar it was observed that "the claimant institution has not been represented at the enquiry by any person. The suit lands are comprised in a Devadayam Inam grant and confirmed by the Government in TD No. 303 that they have been granted with Iruvaram rights for the support of Sri Ayyanar Temple .. .. and adds that the institution exists and Service are being kept up and

that the income derived from the suit lands being utilized for the maintenance of the claimant Institution". Even in the said order it was mentioned that "Sri Ayyanar Temple represented by the trustee time being.". And as averred by the appellant his father was never mentioned as "Trustee" of the temple. In the order of the Settlement Tahsildar, the suit temple has been mentioned by its name and the name of the trustees was not referred. And even in the Chitta and Adangal stands in the name of the suit temple. The appellant has not produced the Inam Title Deeds which would establish the management at the time of confirmation of the grant. Even in the documents filed by the appellant the name of trustees was not mentioned.

5. The counsel for the appellant placed reliance upon various decisions rendered by courts in support of his claim. The decision reported in (2010) 4 MLJ 1070 (2009) I MLJ 145, 2004 (4) CTC 368 are related to appointment of Executive Officer under Section 45 (1) of the Act without giving notice to the Executive Officer. The above decisions are in no way connected with the claim of the petitioner. And other Judgments reported to in AIR 1972 Madras 119, relate to poojari of temple claiming Hereditary Trustee in small temple having small extent of property. But in this case the appellant failed to prove that the administration of the suit temple has been vested with his family for more than three generations. Hereditary right is a valuable right. It cannot be given merely on presumption, but it should be proved beyond doubt with evidence by the persons claiming Hereditary rights. But in this case the appellant failed to prove his case with clinching evidence.

5. The definition of Hereditary Trustee as contemplated in Section 6 (11) of the Act is "*Hereditary Trustees*" means the trustee of a religious institution, the succession to whose office devolve by hereditary rights or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force" Accordingly, the Hereditary Trustee is not to be understood as from father to son or son to his son. Having regard to the comprehensive definition, if the usage to be

**established for a long number of years evidencing exercise of hereditary trusteeship of a temple by members of a family. But in the instant case there is no evidence to show that the trusteeship has been continuously exercised by the members of the appellants' family. The appellant has not adduced evidence to show that his ancestors were trustees of the suit temple.**

**Therefore, for the foregoing reasons stated supra, I find no reasons to interfere with the order of the Joint Commissioner, Villupuram. Accordingly the order date 5.8.2011 of the Joint Commissioner, Villupuram madd in O.A. 108/2006 is hereby confirmed and the appeal petition is dismissed as devoid of any merit.**

**/typed to dictation/**

**Sd. P. Dhanapal,  
Commissioner.**

**/ true copy/by order/**

**Superintendent.**