

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

Tuesday the 16th day of April, Two Thousand and thirteen.

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

A.P. 1/2013 D2

Between.

1. Panneerselvam Poosari,
S/o Ranganatha Poosari.
2. Gopal Poosari (died)
3. Jothi Poosari,
S/o Kannan Poosari.
4. Muniandi Poosari,
S/o Kathavaraya Poosari.
5. Kannan Poosari (died)
6. Seetharaman Poosari,
S/o Kottaiyan Poosari.

..... Appellants

And

The Joint Commissioner,
H.R. & C.E. Admn. Department,
Villupuram

...Respondent.

In the matter of Arulmighu Muthumariamman, M.R.S. Gate,
Tindivanam town, Villupuram District.

Appeal petition under Section 69(1) of the Tamil Nadu HR&CE Act,
1959 (Tamil Nadu Act 22 of 1959) against the order dated 27.07.2011
made in O.A.No.105/2006 passed by the Joint Commissioner, HR&CE
Admn Department, Villupuram dismissing the Original Application filed
under Section 64 (1) of the Act seeking to frame a scheme of
administration to the above temple.

Annexure to Order in R.Dis.A.P.No.1/2013 (D2) dated : 16.4.2013.

The above appeal petition has been filed under Section 69 (1) of the Act against the order dated 27.07.2011 made in O.A.No.105/2006 by the Joint Commissioner, HR&CE Admn Department, Villupuram dismissing the Original Application filed under Section 64 (1) of the Act, seeking to frame a scheme of administration to the above temple.

2. The case of the appellants is that they are poosaris of the suit temple from the time immemorial. They and before them, their forefathers have been managing and performing pooja in the temple from generation together. The department did not appoint any non-hereditary trustees to the said temple. There were originally six branches of the appellants' family and each branch has been managing and performing pooja service for one year. The poosaris collected funds amongst their relatives and performed Thiruppani work in the temple and they have made the temple bell and Utsava Vigramam. Some outsiders with ulterior motive trying to give hindrance to the administration of the petitioners and hence they approached the authority seeking to settle a scheme of administration with provision for the appointment of trustees representing the six branches of the poosari families. The Ex. A1 and A2 submitted in the original application was not properly looked into and summarily rejected by the respondent. In 1981, the name of Thandavarayan, the Archaga has been shown as Poosari of the temple. The Joint Commissioner failed to consider that the name of Thandavaraya Poosari found and inscribed in the temple bell and Utsava Idol. The appellants neither claimed that they are the hereditary trustees of the temple nor filed any petition under section 63(b) of the Act claiming that it is the case of poosari-cum-hereditary trustees. Without appreciating the documents filed and the question of law involved in this case, the Joint Commissioner simply dismissed the O.A. on certain pre-conceived notion which has led to the miscarriage of justice. There is no bar in framing a scheme for poosaris who are functioning in the temple generation together and therefore this

issue has nothing to do with the Act 2 of 1971 which abolished the hereditary system in poosariship. The documents filed in the case elaborately indicate that the appellants and their ancestors were the only persons looked after the affairs of the temple. There is no case of the Department that Non-Hereditary Trustees have been appointed in this temple and therefore, there is nothing wrong in framing a scheme and appoint the Non-Hereditary Trustees from and amongst the poosaris of the temple so that the temple could be well maintained and preserved. Therefore, the order passed by the Joint Commissioner declining to frame a scheme and having dismissed the case is ex-facie liable to be set aside.

3. I heard Thiru M.Rukmangathan, Counsel for the appellants and perused the relevant records. The appellants mainly relied upon the Ex.A.1, 10 photographs showing the temple, utsava vigraham and the temple bell which was inscribed with the name of one Thandavaraya poosari. The Joint Commissioner after careful consideration of all the documents marked and other records have held that the names of the petitioners and their ancestors were mentioned as poosari only and not as trustee. What the petitioners have proved is that the petitioners' and their forefathers' have been functioning as poojari to the said temple. Therefore, the claim of the petitioners seeking for settlement of scheme of administration under Section 64(1) of the Act containing provision for the appointment of trustees representing the six branches of families of the petitioner is not proved by reasoning evidence by the petitioners herein. It may be very common in temples that a donor may inscribe his name on the donated article. That would not confer any right of management over the administration of a temple. Further, the Inspector has reported that non-hereditary Trustees were appointed by the department from the year 1976 onwards. There is an Executive Officer appointed under section 45 (1) of the Act looking after the day to day administration of the temple. This fact was not disputed by the appellant. The appellants failed to prove that the suit temple was founded by their ancestors for the sole benefits of six branches of appellant's family. Except Ex.A.1 & A.2, no clinching

documentary evidence has been produced and marked to prove that the management of the suit temple has been vested with their family since its inception. As the appellants have failed to satisfy the authority to have reason to believe that in the interest of proper administration of the temple, a scheme should be settled for the institution, I see no valid reasons to interfere with the orders of the Joint Commissioner.

For the reasons stated supra, I have to come to the conclusion that the order dated 27.07.2011 made in O.A.No105/2006 passed by the Joint Commissioner does not warrant any interference and appeal petition deserves no merit consideration and bereft of any materials. Accordingly, the order dated 27.07.2011 made in O.A.No.105/2006 on the file of the Joint Commissioner, HR&CE Admn. Department Villupuram is hereby confirmed and appeal petition is dismissed as devoid of merits.

/ typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.