

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

Tuesday the 24<sup>th</sup> day of September, Two thousand and thirteen.

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

A.P.21/2013 D2

Between.

1. G. Balaraj.
2. E.D. Valayapathy.
3. E. Palani.
4. E. Thanthoni.
5. G. Arasukumar.
6. S. Ravi.
7. C. Murugavel.

.. Appellants.

And

The Joint Commissioner,  
Hindu Religious and Charitable  
Endowments Admn.Department,  
Chennai.34.

.. Respondent.

In the matter of Arulmighu Lakshmiamma, Vijaya Vinayagar,  
Kalasathamman and Mondri Mariamma Temple, Erukkancheri,  
Chennai-118.

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 22.4.2013  
of the Joint Commissioner, H.R. & C.E. Admn.Dept. Chennai in  
dismissing the O.A.5/2009 filed under Section 64(1) of the Act.

Annexure to Order in R.Dis. A.P.21/2013 (D2) dated : 24.9.2013.

The above appeal petition filed under Section 69(1) of the Act against  
the order dated 22.4.2013 of the Joint Commissioner, Chennai in  
dismissing the O.A. 5/2009 filed under Section 64 (1) of the Act.

2. The appellants contended that the institution in question is a denominational in character. The member of the Thondaimandala Adisaiva Vellalar filed O.A. 5/2009 under Section 64 (1) of the Act for framing a scheme with a permanent clause for the appointment of Non-hereditary Trustee from and amongst the members of the said community. The exhibits filed in the above O.A. was not legally analyzed and no findings has been given. The real character of the institution has not been looked into this issue, which has led to miscarriage of justice.

3. I heard Thiru M. Rukmangathan, Counsel for the appellants and perused the relevant records. The counsel for the appellants narrated and reiterated the grounds of memorandum of appeal filed by the appellant. On a perusal of the annexure to the order passed by the Joint Commissioner containing grounds for the above decision, the Joint Commissioner has simply enumerated certain documents filed without discussing the evidentiary value. The Joint Commissioner failed to analyze the oral evidence of P.W.1 and P.W.2 and the documents legally whether it supports the case of the appellants by applying his mind judicially. Therefore, the order dated 22.4.2013 of the Joint Commissioner, Chennai suffers from infirmity as stated above and deserves to be set aside. Accordingly it is hereby set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry denova after affording the appellants and others an opportunity of being heard and dispose of the same in accordance with law. With these directions the Appeal Petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/by order/

Superintendent.