

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

Tuesday, the 1st day of October, Two Thousand and Thirteen

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

A.P. 27/2013 D2

Between

G. Uma Maheswaran.

.. Petitioner.

And

1. P.Thangavelu.

2. Kariannan.

3. Kanakaraj

4. The Joint Commissioner,
HR & CE Admn.Dept.,
Coimbatore-18.

.. Respondents.

In the matter of In the matter of Arulmighu Uthukuliyamman Temple, Punjaipuliyampathi, Sathyamangalam Taluk, Erode 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 10.04.2007 of the Joint Commissioner, H.R.&C.E. Admn. Department Coimbatore made in O.A. 27/1992 filed under Section 63(b) of the Act.

Annexure to Order in R.Dis. A.P. 27/2013 D2 dated : 1.10.2013.

The above appeal petition filed against the order dated 10.4.2007 of the Joint Commissioner, Coimbatore made in O.A. 27/1992 filed under Section 63 (b) of the Act.

2. The case of the appellant is that the respondents have filed application under Section 64 (1) of the H.R. & C.E. act for framing a scheme against Thiru P. Ganesh, the father of the appellant for

administration of temple viz. Uthukuliamman Temple, Punjai Puliampatti Village, Sathyamangalam Taluk, Erode District providing among other things for the appointment of trustees from among the members of Okkilia Gowder Community of Punjai Puliampatti. The case of the respondents in O.A. 11/1985 is that the elected representatives of Okkilia Gowder community people alone had managed the temple and developed the temple from the contribution collected from the Community people. His father Thiru P. Ganesan had filed application in O.A. 27 of 1992 against his brother Thangavelu, under Section 63 (b) of the Act for declaration that the office of the temple Arulmighu Uthukaliamman etc. is hereditary and also for orders to appoint him as hereditary trustee of the temple. The appellant further contended that both cases O.A. 27/1992 and O.A. 1/1995 were taken up together and tried jointly by the Joint Commissioner, Coimbatore and common evidence was recorded and Exhibits were marked in OA 27/1992. In O.A. 27/1992 PW1 to 3 were examined and Ex.A1 to A35 were marked on 15.04.1996. In O.A. 11/1995 RW1 and CW1 Inspector, HR & CE were examined and Ex.B1 to B12 and Ex.C1 were marked. The Joint Commissioner, Coimbatore delivered common order dated 10.4.2007 by which the Joint Commissioner allowed O.A.No.11 of 1995 and ordered to issue draft scheme. The Joint Commissioner while taking the letter dated 28.05.2002 pending enquiry after recording all evidences ought to have examined it and give finding on the veracity of the letter and also whether it is voluntary and can it be acted upon in both the proceedings after completion of evidence and markings of documents. The Learned Joint Commissioner even though the deceased submitted a letter dated 28.05.2002 ought to have given full text of the order in O.A. 27 of 1992 and it was given after completion of evidences and exhibits marked, that the order passed by the Joint Commissioner only on the basis of Ex.B1 and B12 alone would show the biased and arbitrary attitude of the authority in granting relief of scheme though the Inspector, H.R. & C.E.

CW1 did not support the application under Section 64 (1) of the Act. The order of the Joint Commissioner dated 14.8.2007 and the notification issued against the dead person is not binding on the appellant and also not binding on persons interested in the temple. The order passed against the dead person is not valid in law and cannot be given effect to and consequently the proceedings of scheme is abated.

3. I heard Thiru G. Sugumaran, Counsel for the appellant and Thiru W.C. Thiruvengadam, Counsel for the Respondents 2 and 3 and perused the relevant records. The main contention of the appellant is the impugned order was passed against the dead person. And the Joint Commissioner after recording evidences of PW 1 to PW3 and marking Ex.A1 to A35 failed to pass speaking order. On perusal of the file in O.A. 27/1992, the petitioner in O.A. had filed a memo on 28.5.2002. In the said memo he had stated as follows: “ மனுதாரர் எதிர்மனுதாரர்களை ஒக்கலிக கவுடர் சமூகத்தார்களுக்கு மனு கோயில் திட்டம் ஏற்படுத்தும் பாத்யதையை ஒப்புக் கொண்டு தன்னுடைய மனுவினை ஒ.ஏ. 27/1992ஐ வாபஸ் பெறுகிறார். எனவே ஒ.ஏ. 27/1992ஐ செலவு தொகையின்றி தள்ளுபடி செய்யும்படி கேட்டுக் கொள்கிறார்.” Recording the said memo, the Joint Commissioner has ordered in the hearing sheet as follows “Memo filed. O.A. 27/92 is dismissed since not pressed. The evidence taken in OA 27/1992 shall be taken for the O.A. 11/1995. Thereafter the enquiry in O.A. 11/95 conducted and the impugned order was passed in the year 2007 only even before the death of appellant’s father. The appellant’s father who had participated in the enquiry never raised any objection about the dismissal of O.A. 27/1992 as not pressed.

In the impugned order it was observed as follows:

“இந்த மனுவைத் தாக்கல் செய்த திரு. பி. கணேசன் என்பவர் மேற்படி வழக்கை திரும்ப பெற மனு தாக்கல் செய்து எதிர்மனுதாரரிடம் மனுக் கோயிலுக்கு ஒக்கலிக கவுடர் சமூகத்தவர்கள் அறங்காவலர்களாக நியமனம் செய்யத்தக்க வகையில் நிர்வாகத்திட்டம்

ஏற்படுத்த வேண்டி அசல் மனு 11/95-ஐ மனுதாரர்கள் தாக்கல் செய்துள்ளார்கள். அதன்படியான அவர்களது கோரிக்கைக்கு ஆதரவாக அவர்களது உரிமையினை ஒப்புக் கொண்டுதான் பரம்பரை அறங்காவலர் உரிமை வேண்டி ச.பி. 63 (பி)-ன்படி தாக்கல் செய்துள்ள அசல்மனு எண். 27/92-ஐ திரும்பப் பெற்றுக் கொள்வதாக தனது 28.5.2002 மனுவில் வேண்டியுள்ளதன் பேரில் அவரது மனு ஏற்றுக் கொள்ளப்பட்டது.” It is evident that the memo filed by the appellant’s father was already accepted by the Joint Commissioner.

Further, the appellant’s father was died on 10.6.2007, but the impugned order was passed on 10.4.2007. Hence, the contention of the appellant that the impugned order was passed against the dead person is not acceptable. And also when the petitioner in O.A. filed a memo to withdraw the O.A., there is no need to consider the evidences and documents marked in the O.A.

Therefore, for the foregoing reasons states supra, I find no merits in the appeal petition and the appeal petition is liable to dismissed. Accordingly the appeal petition is dismissed as devoid of any merit.

/ typed to dictation /

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Suprintendent.