

BEFORE THE COMMISSIONER, H.R. & C.E. 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. 9/2013 D2

**Between.**

1. T. Dhamodharan
2. T. Balaji.
3. T. Venkatesan

.. Appellants

In the matter of Arulmighu Narasimmaswami and Thimmarayaswami Temple, Mallikuntham, Mettur Taluk, Salem District.

Appeal petition filed under Section 54(4) of the Tamil Nadu HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 18.1.2013 of the Joint Commissioner, H.R. & C.E. Admn.Department, Salem in dismissing the M.P. 13/2009 filed under Section 54 (1) of the Act.

**Order in D.Dis. A.P. 9/2013 D2 dated : 24.09.2013.**

The above Appeal Petition having come for final hearing before me on 16.7.2013 in the presence of Thiru K. Jayaraman, Counsel for the Appellants. Upon hearing the arguments and perusing the relevant records the following order is made:-

**ORDER.**

The above appeal petition filed under Section 54 (4) of the Act against the order dated 18.1.2013 of the Joint Commissioner, Salem in dismissing the M.P. 13/2009 filed under Section 54 (1) of the Act.

2. The appellant contended that the appellants' father and others had been declared as Hereditary Trustee of the temple in O.A. 46/1970 by order dated 295/1971. The appellant father was dismissed from the office of hereditary trusteeship Since a permanent vacancy has arisen in the office of the Hereditary Trusteeship due to dismissal of the Hereditary Trustee,

Thiruverkadu, the appellants have to be recognized as the Hereditary Trustees as his legal heirs and as the persons next in line of succession. But the Joint Commissioner dismissed the petition filed by the appellant under Section 54 (1) of the Act. The Law is well settled that there is no necessity for the legal heirs to file an application s per Section 54 (1) of the Act. The law is well settled that there is no necessity for the legal heirs to file an application as per Section 54 (1) of the Act. The petitioner is only to record the means of the appellants as Hereditary Trustees and not to declare the petition holding that three persons have filed the case. All the legal heirs are entitled to succeed to the office of trusteeship as the persons next in the line of succession when a vacancy arises. The reasons assigned by the Joint Commissioner are unsound and untenable.

3. I heard Thiru K. Jayaraman, Counsel for the appellant and perused the relevant records. In the impugned order, the Joint Commissioner has stated as follows:

“Ex.A1-ன்படி தாவாக் கோயிலுக்கு மனுதாரர்கள் தந்தை மற்றும் ஆறு நபர்களை பரம்பரை அறங்காவலர்களாக நியமனம் செய்யப்பட்டுள்ளது. ஆனால் மனுவில் தாவாக் கோயிலுக்கு மனுதாரர்கள் தந்தை மற்றும் இரு நபர்களை பரம்பரை அறங்காவலர்களாக நியமனம் செய்யப்பட்டுள்ளதாக முரண்பாடாக தெரிவிக்கப்பட்டுள்ளது. இந்து சமய அறநிலையச் சட்டம்

54 (1)-ல் **next in the line of succession-** க்கு வாரிசு அடிப்படையில் பரம்பரை உரிமையினை பதிவு செய்ய வேண்டுமென தெரிவிக்கப்பட்டுள்ளது. ஆனால் மனுவில் மூன்று நபர்களுக்கு பரம்பரை உரிமையினை பதிவு செய்யுமாறு கேட்கப்பட்டுள்ளதால் மனுவினை தள்ளுபடி செய்து உத்தரவிடப்படுகிறது” .

**The Joint Commissioner failed to consider that the petitioner under Section 54 (1) is filed by the appellant herein to record their succession in the permanent vacancy arisen due to removal of his father Thiruvengadam from the Hereditary Trusteeship. I am of the view that there is no necessity for making any application for the next in line of succession under Section 54 (1) of the Act. At the same time the next line of legal heir who succeeded to the office of the Hereditary Trustees has to inform the appropriate authority with necessary certificates for recording the legal succession and for**

other administrative reason. Further, the expression “the next in line of succession” under Section 54 (1) should not be construed as singular. Unless it is specified by the founder that only one person is entitled for the next in line of succession, all the legal heirs are entitled to succeed to the office of the Hereditary Trusteeship. The Joint Commissioner without analyzing the legal aspects involved in this case dismissed the petition on wrong footing.

Therefore, the impugned order suffers from infirmity as stated supra and is liable to be set aside. Accordingly, the order dated 18.1.2013 of the Joint Commissioner, Salem is hereby set aside. The matter is remitted back to the Joint Commissioner, Salem for fresh disposal 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.

To

1. The Appellants through Thiru K. Jayaraman, Advocate, No. 35, Law Chambers, High Court Buildings, Chennai.104.

Copy to:

2. The Joint Commissioner, HR&CE Admn.Dept., Salem. ( Rc. 2413/2013 PC)  
The file in M.P. 13/2009 pages 86+4 is returned herewith by Regd.Parcel.  
The receipt of the record should be acknowledged immediately.
3. The Assistant Commissioner, HR&CE Admn. Department, Salem.
4. The Inspector, HR & C.E. Admn. Department, Mettur.
5. Extra.