

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

Monday the 21st day of October, Two thousand and thirteen.

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

A.P. 2/2013 D2

Between.

R.V. Sadasiva Gounder (died) S/o Velayudha Gounder.
S. Jayabalan (Impleaded as L.R. in I.A. 10/2003) .. Appellant

And

1. The Joint Commissioner,
H.R. & C.E. Admn.Department, Vellore.
2. C.R. Chendamarai (died.)
3. S. Murugan
4. J. Kesavan.
5. Shanmugam.
6. Venugopal.
7. S. Rajamoorthy. ..Respondents

In the matter of Arulmighu Koothandavar Temple, Rajakkal, Gudiyatham Taluk, Vellore 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 30.10.2012 of the Joint Commissioner, HR & CE Admn.Department, Vellore in dismissing the O.A. 18/99 filed under Section 63 (b) of the Act. .

Annexure to Order in R.Dis. A.P. 2/2013 D2 dated : 21.10.2013.

The above appeal petition filed under Section 69(1) of the Act against the order dated 30.10.2012 of the Joint Commissioner, Vellore in dismissing the O.A. 18/1999 filed under Section 63 (b) of the Act.

2. The appellant contended that to establish the hereditary, it is enough, if a person remains in management for more than 60 years. The Joint Commissioner failed to analyze the documents and witnesses legally. The Appointment of non-hereditary Trustee by the department cannot take away

the right of Hereditary Trusteeship under Section 63 (b) of the act. The Joint Commissioner failed to see that the lease deed filed by the other side has nothing to do with the affairs of the temple. During emergency, the Village Administrative Officer has been appointed as a fit person latter which was cancelled. Even, if it is taken for granted, at least from 1976, the appellants father has been in management as Hereditary Trustee in the temple and now the appellant has succeeded to the office of the Hereditary Trustee. In view of the documents Ex.A1 to A33 filed in this case, it is clear that the appellant is holding office in the suit temple.

3. I heard Thiru W.C. Thiruvengadam, Counsel for the appellant and Thiru M. Subramanya Rao, Counsel for the 7th Respondent and perused the relevant records. The counsel for the appellant narrated and reiterated the grounds of memorandum of appeal filed by the appellant. The main argument put forth by the counsel for the appellant is that the Joint Commissioner has simply enumerated documents filed by the appellant without making legal analyse of the evidentiary value of the documents. On perusal of the annexure to order passed by the Joint Commissioner containing the grounds for the above decision, in Paras 11 to 15, the Joint Commissioner has discussed the each and every documents filed by both the appellant and the respondent herein and oral evidences of PW1, PW2 and RW1 and RW2 and gave a categorical finding on each evidence. Hence the above arguments have no substance.

4. The temple is situated in poramboke land. Non-hereditary Trustees were appointed by the department. The appellant's father was also appointed as Non-hereditary Trustee by the department. Even in the year 1999, 5 persons were appointed as non-hereditary trustee by the department. Nature of proof required for establishing hereditary trusteeship is, trusteeship should have been continuously exercised by members of the family of person who claims hereditary rights without any objection or hindrance from any source. Devolution of office of trusteeship for generation from father to son and son to grandson is prima-facie proof of devolution of office of Trustee by succession as

per law of inheritance. The onus is on the appellant to prove that he and his ancestors functioned as trustees of suit temple for more than three generation. But the appellant failed to produce any proof to show that the suit temple was managed by the ancestors as contended by him. The genealogical table has not been supported by any documentary evidence.

5.As per section 6 (11), "Hereditary Trustee" means the trustee of a religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically proved for by the founder, so long as such scheme of succession is in force. But the appellant case does not falls within any one of the category. The Joint Commissioner has not adduced any evidence to prove that his ancestors were the hereditary trustees of the suit temple and documents produced by the appellant are recent origin and created for the purpose of claiming hereditary trusteeship. The Joint Commissioner, after considering all the evidences placed before him, has rightly rejected the claim of the appellant.

For the foregoing reasons, I find no infirmity or illegality in the order passed by the Joint Commissioner, Vellore. Accordingly, the order dated 30.10.2012 of the Joint Commissioner; Vellore is hereby confirmed and appeal petition is dismissed as devoid of merits.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/by order/

Superintendent.