

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

Friday the 27<sup>th</sup> day of September, Two thousand and thirteen.

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

A.P. 46/2013 D2

Between

C. Minnalkodi

.. Appellant.

And

The Joint Commissioner,  
H.R. & C.E. Department,  
Chennai.34.

.. Respondent.

In the matter of In the matter of Arulmighu Kalamman Temple,  
Kumarasamy Lane, Kalmandapam, Royapuram, Chennai.13.

Appeal Petition filed under Section 54 (4) of the Tamil Nadu H.R.&  
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated  
19.4.2013 of the Joint Commissioner, H.R. & C.E. Admn.Dept. Chennai  
in dismissing the petition filed under Section 54(1) of the Act.

Order in D.Dis. A.P. 46/2013 (D2) dated : 27.9.2013.

The above Appeal petition having come on for final hearing before  
me on 27.9.2013 in the presence of Thiru E. Ganesh, Counsel for the  
Appellant and upon hearing the arguments and having perused the  
connected records and the matter having stood over for consideration till  
this day, the following order is passed.

ORDER

The above appeal petition filed under Section 54 (4) of the Act  
against the order dated 19.4.2013 of the Joint Commissioner, Chennai in  
dismissing the Petition filed under Section 54 (1) of the Act.

2. The appellant contended that originally P. Rajamanickka Nadar, P. Rathna Nadar and Palanivel Nadar were declared as the Hereditary Trustees of the temple by order dated 22.4.1983 of the Deputy Commissioner, H.R. & C.E. (Judicial), Madras in O.A. No.38/1981. R. Raja Chandrasekaran @ R. Chandran, the last sole hereditary Trustee died on 13.11.2010, leaving behind him his widow, the Appellant herein, two daughters viz., Sonavati and Karpagam aged 30 years and 28 years respectively, since married and left to live with their in laws and a son C. Rajkumar, aged 24 years, employed in the Shipping Corporation. They are, therefore, not interested in the management of the affairs of the temple as at present. In view of the decision reported in 1990 (1) Law Weekly Page 144, there is no necessity whatsoever to the next hereditary trustee to make any application for recognition as such, under the provisions of the Act. However, to satisfy, the technical requirement, if any, the Appellant filed an application under Section 54 (1) of the Act in Rc.No. 9055 of 2011 on the file of the Respondent and accordingly sought to record her succession to the office of the trustee since 13.1.2010, consequent on the death of her husband, without prejudice to the claims of any other legal heir at any later point of time. The appellant has examined as witness and her deposition was recorded. Though the case was pending for more than a year, no one entered or impleaded themselves as person interested in the temple as contemplated under Section 6(15) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, to depose contra evidence against the claim of the appellant. That during the course of enquiry, the appellant herein had produced as much as 6 documents on their side to be marked as Exhibits. The Joint Commissioner, Chennai accepted the entire facts, however, dismissed the application citing that the Appellant has not filed any documents stating no objection from the other legal heirs of deceased Hereditary Trustee Thiru Raja Chandrasekaran @ R. Chandran. The respondent miserably failed to consider the fact that the respondent's predecessors have recorded the succession of the

Hereditary Trustee without insisting for no-objection certificate from the other legal heirs. The impugned order passed by the respondent is against well known principles of Legal Jurisprudence, and Mere reflection of non application of mind on part of the respondent.

4. I heard Thiru E. Ganesh, Counsel for the appellant and perused the relevant records. There is a delay of 30 days in filing the appeal and delay of 55 days in representation. The delay of 30 days in filing the appeal and delay of 55 days in representation of appeal is condoned.

5. As contended by the appellant, there is no necessity for making any application for the next in line of succession under Section 54 (1) of the Act. But for the administrative reasons, the next line of legal heir who succeeds to the office of the Hereditary Trustee has to inform the appropriate authority with necessary certificates for recording the legal succession. However such succession will not infringe the rights of any other legal heir's claim. But the Joint Commissioner without considering the said settled legal position simply rejected the claim of the appellant want of No-objection Certificate from other legal heirs. It is not correct to insist the petitioner to get No-objection certificate from all the legal heirs. If the Joint Commissioner wants to hear the legal heirs, she ought to have summon and enquire them, without doing so, the Joint Commissioner has simply dismissed the petition. The impugned order is not legal and also passed not in accordance with the provisions of the Act.

Therefore the impugned order suffers from infirmity as stated above and liable to be set aside. Accordingly the order dated 19.4.2013 of the Joint Commissioner, Chennai is hereby set aside and the matter is remitted back to the Joint Commissioner for fresh

consideration and to pass order in accordance with law. With the above direction the Appeal Petition is disposed of.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/ by order/

Superintendent.

To

1. The Petitioner through Thiru E. Ganesh, Advocate, No. 61/23, Sakthi Avenue, South Lock Street, Kottur, Chennai-85.

Copy to:

2. The Joint Commissioner, HR&CE Admn.Dept., Chennai.34.
3. The Inspector, HR & CE Department, Circle 4, Chennai.34.
4. The Assistant Commissioner, HR & CE Admn.Dept., Chennai.34.
5. Extra.