

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

Wednesday the 29th day of January, Two thousand and fourteen.

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

A.P.54/2013 D2

Between.

1. R. Sambandam. .. Appellants
2. S. Krishnaswamy.

And

1. The Joint Commissioner,
H.R. & C.E. Admn.Department,
Chennai.34.
2. G. Venugopal.
3. Jayamohan.
4. V.K. Subramanian.
5. R. Gopalan.
6. B. Kailasanathan.
7. M.S.Mathurubutham.
8. Arulmighu Ashta Siddhi vinayagar Temple,
rep.by its Trustee SHR Subramanian.
9. Rathna Ramalingam. .. Respondents.

In the matter of Arulmighu Astha Siddhi Vinayagar Temple,
Vidhyalakshmi Street, Sree Rajeswari Nagar, Selaiyur, Chennai-73.

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 18.6.2013 of the Joint Commissioner, H.R. & C.E. Admn.Dept. Chennai in issuing draft scheme in the O.A. 7/02 filed under Section 64 (1) of the Act.

Annexure to Order in R.Dis. A.P.54/2013 D2 dated: 29.1.2014.

The above appeal petition filed under Section 69(1) of the Act against the order dated 18.6.2013 of the Joint Commissioner, Chennai in issuing draft scheme in O.A. 7/2002 filed under Section 64 (1) of the Act. The said O.A. was filed to frame a scheme for the appointment of non-hereditary trustees to the suit temple among the persons duly selected and recommended by "Ganesalaya Trust".

2. The appellant contended that the suit temple has been founded, established, maintained and managed by the villagers for whose benefits the temple has been chiefly intended and maintained. The said Association "Ganesalaya" is nothing to do with the establishing, managing and maintaining of the temple. The said association was not a petitioner before the Joint Commissioner. The Joint Commissioner has not stated any reason for the framing of scheme. The Joint Commissioner failed to consider the report of the Inspector and oral and documentary evidences of the respondents and a scheme for a temple without any property is not sustainable in law.

3. I heard Thiru M. Rukmangathan, Counsel for the appellants and Thiru R. Natarajan, Counsel for the respondents. This appeal petition is filed against the draft scheme issued by the Joint Commissioner. The appellants stated that they have also filed objection before the Joint Commissioner. The Joint Commissioner considered their objection and issued final order confirming the draft scheme. In the judgment passed in 2002 (5) CTC 786, the Division Bench of Hon'ble High Court held that "dismissal of appeal against draft scheme on the ground that appeal had become infructuous since the final scheme has been framed is legal and valid. Challenge against draft scheme does not survive after the framing of final scheme". The above decision squarely applies to the case of the appellant.

Since final scheme has been issued by the Joint Commissioner, this appeal petition is liable to be dismissed. Accordingly this appeal petition is dismissed as infructuous. However, it is open to the appellant to challenge the final scheme issued by the Joint Commissioner.

/typed to dictation/

Sd. P.Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.