

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

**Monday the 9<sup>th</sup> day of June, One Thousand and Fourteen**

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

**A.P. 10/2014**

**Between**

**A.Bhuvaneshwari**

**.. Petitioner**

**And**

- 1. The Joint Commissioner,  
HR&CE(Admn) Department, Villupuram**
- 2. The Assistant Commissioner,  
HR&CE (Admn) Department, Villupuram**
- 3. Mrs.N.Sagunthala, W/o.Narayanasamy,**
- 4. Mr. N.Thulasidass, S/o.Narayanasamy,**
- 5. Mr.N.Kannan, S/o. Narayanasamy,**
- 6. Mrs.N.Hema, W/o.Duraikannu,**
- 7. Mr.N.Manikandan, S/o.Narayanasamy,**

**.. Respondents**

**In the matter of Divanur Arulmighu Poyya Mozhi Vinayagar Temple,  
Dhivanur village and Post, Tindivanam Taluk, Villupuram District.**

**Appeal Petition under Section 54(4) of the Tamil Nadu H.R. & C.E. Act,  
1959 (Tamil Nadu Act 22 of 1959) against the order dated 23.09.2013 of the  
Joint Commissioner, HR&CE Admn. Department, Villupuram in dismissing the  
petition filed under section 54(1) of the Act**

**Order in D.Dis. A.P. 10/2014 (D2) dated : 9.6.2014.**

**The above Appeal petition having come on for final hearing before  
me on 22.4.2014 in the presence of Thiru P. Suresh Babu, Counsel for the  
appellant and Thiru N. Padmanabhan, Counsel for the 3<sup>rd</sup> Respondent. Upon  
hearing their 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 23.9.2013 of the Joint Commissioner, Villupuram is dismissing the Petition filed under Section 54(1) of the Act. The Joint Commissioner, Villupuram in dismissing the petition filed under Section 54 (1) of the Act. The Joint Commissioner rejecting the claim of the petition on the ground that there is no permanent vacancy arise in the office of the Hereditary Trusteeship.

2. The petitioner contended that the post of Hereditary Trustee of Arulmighu Poyyamozhi Vinayagar Temple has been consistently held by eldest heir of her family by way of succession irrespective of their sex. At present her mother viz. Mrs. Sagunthala, the 3<sup>rd</sup> respondent herein who is aged about 70 years is holding the post of Hereditary Trustee of the above temple. She is the eldest heir for the 3<sup>rd</sup> respondent and she is the only eligible person to hold the post of hereditary trustee after the demise of her mother, 3<sup>rd</sup> respondent herein. Due to old age of the 3<sup>rd</sup> respondent, she is not able to administer the temple for the last 10 years and hence her younger son is assisting her in the administration of the temple. This being so, in the month of January 2012 her mother was suffered by paralysis disease and she is not able to walk also. Hence, her younger son is assisting her in the administration of the temple. This being so, in the month of January, 2012 her mother was suffered by paralysis disease and she is not able to walk also. Hence her younger son is administering the temple for the time being. In these circumstances, to shock and surprise now a days all the communication in connection with the temple is addressed to her younger son namely N. Manikandan, who claims to be the Hereditary Trustee of the said Temple. On enquiry, the appeal petitioner was given to understand that her mother is trying to transfer the post of Hereditary Trustee to her younger son viz. V. Manikandan, who is younger than the Appeal Petitioner. However, the post of Hereditary Trustee is not transferable and the same is to be succeeded by the eldest member of the Appeal Petitioner's family. The Appeal petitioner's mother also gave general power of

attorney to her younger son, since she was suffering by paralysis disease and she is not able to walk and administrate the said temple. She came to know that the temple administration was mismanaged and the accounts are not properly maintained. Due to the above illegal activities of the 3<sup>rd</sup> and 7<sup>th</sup> respondent would create a bad impression on the temple and it would be fatal to the Appeal petitioner's ancestors' faith. The 2<sup>nd</sup> respondents have the power to suspend, remove or dismiss the hereditary trustee, if the Religious Institution is mismanaged under Section 53 of the HR & CE Act, 1956. As already stated the Appeal petitioner has brought to the knowledge of the 2<sup>nd</sup> respondent about the mismanagement of the temple property through her representation dated 16.5.2012. The appeal petitioner is the eldest member of her family and eligible to hold the post of Hereditary Trustee by way of succession. Now the Hereditary Trustee of Divanur Poyya Mozhi Vinayagar Temple is affected by Paralysis diseases and not able to administrate the day to day affairs of the temple, which is evident from the General Power of Attorney dated 25.1.2012, the notice dated 17.10.2012 sent in W.P.No.27310 of 2013 and the counter affidavit filed in W.P.No.27310 of 2013. However for the reasons best known to the Joint Commissioner, H.R. & C.E. Villupuram concluded that Mrs. N. Sagunthala, the 3<sup>rd</sup> respondent herein was not affected by Paralysis disease, since she appeared in person before him. The Joint Commissioner ought not to have made observation that "when vacancy occurs in office of Hereditary Trustee, there is no rule or law to appoint eldest heir only as Hereditary Trustee, and also observed that the rights of the other heirs also would be considered", which is against the custom and usage.

3. I heard Thiru P. Suresh Babu, Counsel for the appellant, Thiru N. Padmanabhan, Counsel for the 3<sup>rd</sup> respondent and perused the relevant records. The appellant's mother/3<sup>rd</sup> respondent herein is the present Hereditary Trustee of the suit temple. The appellant sent a representation to the Joint Commissioner to recognize her as Hereditary Trustee under Section 54 (1) of the Act stating that the present Hereditary Trustee is suffering by paralysis disease and she is not able to administer the temple and the temple is managed by the Hereditary Trustee. The Joint Commissioner conducted

enquiry after issuing notice to the concerned. The present Hereditary Trustee also appeared before the Joint Commissioner and objected the claim of the appellant. There is no permanent vacancy in the office of the Hereditary Trustee. Hence the Joint Commissioner rightly rejected the claim of the appellant. Further the Joint Commissioner also directed the Assistant Commissioner to enquiry into the allegations levelled against the Hereditary Trustee.

Therefore, there is no infirmity in the order passed by the Joint Commissioner and it does not warrant any interference. Accordingly, the order dated 23.9.2013 of the Joint Commissioner, Villupuram is hereby confirmed and the appeal petition is dismissed as devoid of any merit.

/typed to dictation/

**Sd. P. Dhanapal,  
Commissioner.**

/ true copy/by order/

**Superintendent.**

To

1. The Petitioner through M/s. P.Suresh Babu & S.R.Hem Kumar, Advocate, No.299 Additional Law Chambers, High Court Buildings, Chennai.104
2. The Respondents 3 and 7 through Thiru N. Padmanabhan, Advocate, No.30, Rajampettai Street, Tindivanam -604 001.
3. Mr. N.Thulasidass, S/o.Narayanasamy, Gingee Main Road, Dhivanur Village & post, Tindivanam Taluk, Villupuram District
4. Mr.N.Kannan, S/o. Narayanasamy, Gingee Main Road, Dhivanur Village & post, Tindivanam Taluk, Villupuram District
5. Mrs.N.Hema, W/o.Duraikannu, Pillaiyar Koil Street, Dhivanur Village & post, Tindivanam Taluk, Villupuram District

Copy to:

6. The Joint Commissioner, HR&CE Admn. Dept., Villupuram.
7. The Assistant Commissioner, HR & CE Admn.Dept., Villupuram.
8. The Inspector, HR & CE Admn.Dept., Tindivanam.
9. Extra.