

**BEFORE THE COMMISSIONER, H.R.&C.E. ADMN. DEPARTMENT,
CHENNAI.34.**

Tuesday the 11th day of August, Two thousand and Fifteen.

**Present :Dr.M.Veera Shanmugha Moni, I.A.S.,
Commissioner.**

A.P. 12/2014 D2

Between

S. Sundaralingam

..Petitioner.

S/o Late Shanmugam Vathiyar.

And

The Joint Commissioner,

H.R.& C.E.Department,

Trichirapalli.

.. Respondents

**In the matter of Arulmighu Subramaniaswamy Temple, Bazaar
Street, Ariyalur Town and District.**

The 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 26.9.2013 of the Joint Commissioner, H.R.&C.E. Admn.Department, Trichy in dismissing the O.A. 4/2009 filed under Section 63(b) of the Act.

Annexure to Order in R.Dis.A.P.12/2014/D2 dated: 11.08.2015

The above Appeal Petition came up for final hearing before me on 14.7.2015 in the presence of M/s. Andrew Vivek Counsel for the appellant. Upon hearing his 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 69(1) of the Act against the order dated 26.9.2013 of the Joint Commissioner, Trichy in dismissing the O.A.4/2009 filed under Section 63(b) of the Act.

2. The appellant contended that One Nataraja Vathiyar had looked after Pooja and Sthanigam in the temple. He obtained decree of declaration for hereditary trustee from the Hon'ble High Court, Madras in Second Appeal No.1486 of 1928. He died in the year 1950. Prior to his

death, he executed a registered will in which he has entrusted the Pooja and Management of the temple to his brother-in-law's son one Shanmuga Vathiyar. The said will has been executed on 3.1.1947. On the death of Nataraja Vathiyar, the shanmuga vathiyar had taken up the temple management and pooja works. After the demise of shanmuga vathiyar in the year 1983 the petitioner who is the eldest son to him had taken up the pooja and management of the temple. During the life time of Nataraja Vathiyar he has obtained an order from the Board of Commissioner for Hindu Religious Endowments to establish that the trusteeship is hereditary in his family. The Board order dated 21.7.1938 made in O.A.No.71/1938. In the year 1976 the department issued proceedings dated 5.6.1976 appointing petitioner's father as the fit person for the temple. In view of the fact the petitioner family was recognized as the hereditary trustee, the petitioner's family has been maintaining the temple records submitting the accounts to the department auditors including Hundial collections. The temple owns Punja lands of an extent of 1.59 acres in Ariyalur Village and vacant site of an extent of 3 cents in S.F.No.38/204A adjacent to the temple. The site has been let out as a shop and a house to the 3rd parties. It is further submit that a sum of Rs.2,400/- has a rent for the house and Rs.300/- has rent for the house of Rs.3,000/- the way of lease amount to the punja lands are received per year. Out of the said income the petitioner is doing daily pooja in the temple and special poojas on Karthigai day, Kanthasasthi, Panguni Uthiram and Taipusam days. He moved a petition under Section 63(b) of the HR&CE Act before the Joint Commissioner, Thiruchirapalli. The Inspector report has been marked has Exhibits C1 clearly established the hereditary rights in connection with the said temple and also he have filed 3 documents at the time of enquiry which has been also established his hereditary rights regarding management of the said temple. But the Joint Commissioner has failed to considered all

above aspect and documents which is in favour of the petitioner dismissed the original application.

3. I heard Thiru.Andrew Vivek Counsel for the appellant and perused the relevant records. The Joint Commissioner rejected the claim of the appellant on the ground that the Genealogical table filed by the petitioner was not supported with documentary evidence and no records and accounts filed to prove the uninterrupted management by his family.

4. The appellant filed various documents to prove his claim. In the Board order No.1629 dated 21.7.1938, the erstwhile HR&E Board held that the trusteeship of the temple has been hereditary in the family of the petitioner and declare the temple as “excepted” under the Act. Further in the S.A.1486/1928 filed by Nataraja Vathiyar against the order made by District Court, Trichy in A.S.166/1922 (who was 3rd defendant in A.S) the Hon’ble High Court observed that “..... the 3rd defendant’s family has been the hereditary poojaris and managers of the temple”. Further in the will dated 3.1.1947 executed by the said Nataraja Vathiyar it has been stated that “கஸ்பா அரியலூர் பெரிய கடை வீதியில் இருக்கும் எனக்கு ஸ்தானிகமும், பரம்பரை பூஜை பாத்தியமும், பரம்பரை டிரஸ்டி பாத்தியமும் மதராஸ் ஹை கோர்ட்டு உத்தரவுபடி எனக்கு பாத்தியப்பட்டது.ஷண்முக வாத்தியார் எனக்கு மைத்துனர் மகனானாலும், அவரை சிறு வயதிலிருந்து நான் எடுத்து வளர்த்து வருவதாலும், என் குமாரர் தங்கவேலு வாத்தியாருடன் ஒத்தாசையாக இருந்து மேற்படி கோவிலின் சகல காரியங்களையும் பார்த்து வந்தாலும், மேற்படி தங்கவேலு வாத்தியார் இறந்த பிறகு எனக்கு ஒத்தாசையாக மேற்படி கோயிலின் பூஜை முதலிய சகல காரியங்களை பார்த்து செய்து வருவதாலும் எனக்கு பிற்காலத்திலும் அவரே பார்த்து வருவார் என நம்பிக்கை எனக்கு ஏற்பட்டிருப்பதாலும். மேற்படி கோயிலின் பூஜை முறை முதலிய சகல காரியங்களையும் மேற்படி ஷண்முக வாத்தியாரும், அவர் மூத்த வாரிசும் பார்த்து வர வேண்டியது ” || **As per the said will, the appellants father entered into the management of the suit temple. In the property register approval by the B.O.3077 dated 15.6.1951 it was mentioned that the temple was managed by M.Subramania Vathiyar and S.Nataraja Vathiyar.**

5. Further the appellant's father Thiru.Shanmuga Vathiyar was appointed as fit person of the suit temple in the year 1976, by the Assistant Commissioner, Trichy. In the report in Rc.No. 168/88 dated 12.11.88 sent to the Commissioner by the then Assistant Commissioner (V.O) it was stated that “தற்போது மேற்படி திருக்கோயிலுக்கு பரம்பரை அறங்காவலராக திரு.என்.சுந்தரலிங்கம் என்பவர் இருந்து வருகின்றார்” Further, as requested by the Hereditary Trustee, the Assistant Commissioner Ariyalur had accorded administrative sanction for the renovation of the temple in Rc.No.778/04 A4 dated 12.5.04. Further in the Kumbhabishegam invitation appellant was mentioned as Hereditary Trustee of the suit temple. All the above documents clearly proves that the management of the suit temple has been vested with appellant's family for more than 3 generations.

6. It is pertinent to point out that the nature of the office of the trusteeship of the suit temple has been already decided by the erstwhile HR&E Board and declared as Hereditary. The appellant has proved with cogent evidence that the suit temple has been managed by their family for more than 3 generations without any interruption. In the impugned order the Joint Commissioner observed that “இத்திருக்கோயிலின் பூஜை முறைகளை மனுதாரர் மற்றும் அவரது முன்னோர்களால் மேற்கொள்ளப்பட்டு வந்துள்ள நிலையில் நிர்வாகமும் அவரது குடும்பத்தாரால் திருக்கோயிலின் நலனில் அக்கறையுள்ள நபர்கள் என்ற முறையில் கவனிக்கப்பட்டு வருகிறது”. So, it is not in dispute that the suit temple has been administered by the appellants family either as person having interest or care taker without any interruption. There is no contra evidence to deny his claim. Non-hereditary trustees were not appointed by the Department. The documents filed by the appellant are sufficient to prove the uninterrupted management of the appellant's family.

Therefore the impugned order suffers from infirmity as stated above and liable to be set aside. Accordingly the order dated

26.9.2013 of Joint Commissioner, Trichy made in O.A.4/2009 is hereby set aside and the appellant is declared as Hereditary Trustee of the suit temple. In fine, the appeal petition is hereby allowed.

/typed to dictation/

**Sd./- M.Veera Shanmugha Moni
Commissioner.**

/t.c.f.b.o./

Superintendent.