

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

Friday the 1st day of August, Two Thousand and Fourteen

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

A.P. 15/2014

Between

- 1. N. Anandhan.**
- 2. G. Annadurai.**
- 3. M. Chander.**
- 4. C. Rajavel.**

.. Appellants.

And

- 1. The Joint Commissioner,
HR & CE Admn.Department, Chennai.34.**
- 2. G. Selvam.**
- 3. K.P. Thangavel.**
- 4. L.G. Selvam.**
- 5. M. Vishnu.**

. Respondents

**In the matter of Arulmighu Bhavani Amman and Kamatchi Ambika
Samedha Ekambareswarar Temple, 4th Layout, Teachers Colony,
Lakshmipuram village, Chennai-99.**

**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
18.9.2013 of the Joint Commissioner, HR&CE Admn. Department,
Chennai 34 in I.A.No. 1 of 2012 in O.A.No.4/2012 on the impleading
petition filed under Section 63 (a) of the Act.**

Annexure to Order in R.Dis. A.P. 15/2014 (D2) dated : 01.08.2014.

The above appeal petition filed under Section 69(1) of the Act against the order dated 18.9.2012 of the Joint Commissioner, Chennai in allowing the impleading petition filed by the respondents herein in I.A.No. 1/2012 in O.A. 4/2012 filed under Section 63 (a) of the Act.

2. The appellants contended that they have filed O.A. 4 of 2012 before the Joint Commissioner, Chennai making a claim that Arulmighu Bhavani Amman and Kamakshi Ambika Samedha Ekambareswarar Temple, situated in 4th Lay out, Teachers Colony, Lakshmipuram, Chennai-99 is not a temple coming under Section 63 (a) of the HR & CE Act for adjudication of the issue, the real character of the Institution in question. The respondents 2 to 5 herein have filed I.A. 1/2012 on the file of the Joint Commissioner, Chennai for impleading themselves as party respondents in O.A. 4/2012. The counter was filed and the matter was argued elaborately on the question of law. The Joint Commissioner after hearing the parties concerned allowed the I.A. 1 of 2012 without assigning any reason whatsoever and stated that they are the persons necessary to decide the character of the Institution. The Joint Commissioner did not look into the question of law involved in this case. Anyone can implead as party respondent in the O.A. whenever such O.A. is filed under Section 63 (b) of the Act on the basis of the Section 6 (15) of the Act. But the appellants are claiming relief under Section 63 (a) of the Act to the effect that the Institution is a Private Institution. To be a public Institution, the necessary ingredients are as follows:

(i) There must not be any dedication of property in favour of the deity.

(ii) There can be no, as a matter of right any one can enter the temple.

(iii) There must be a easy public association.

The above all the 3 ingredients are yet to be proved and established under Section 63 A of the Act. This litigation is to decide the character of the Institution, it is a fight between the petitioners of the O.A. and that of the Joint Commissioner, Chennai and third party have no right to attack the appellants as regular appeal. Hence, the impleading petition is devoid of merits and liable to be dismissed.

3. I heard Thiru W.C. Thiruvengadam, Counsel for the appellants and Thiru R. Muthamizh, Counsel for the Respondents and perused the relevant records. The Hon'ble Supreme Court of India in their decision in the case "*Maria Margarida Sequeria Fernandes Vs. Erasmo Jack de Sequeria*" reported in AIR 2012 SC 1727, held that "*Truth is the foundation of justice. It must be the endeavour of all the judicial officers and judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Courts must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth.*" So the court deciding dispute is duty bound to find out the truth and every endeavour should be made to find out the truth. By

impleading the respondents herein, truth of the facts if any shall be unearthed from the parties which will be helpful for the authority to decide the case on merits. Impleading petition by persons having interest can be filed in any proceedings related to religious institutions. Further the proceedings under Chapter V of the H.R. & C.E. Act contemplates elaborate enquiry. The Joint Commissioner should hear all the parties before deciding the character of the Institution. And the appellants/petitioners have opportunity to establish their claim and to disprove the contention of the respondents. Order 1 Rule 10 CPC gives ample discretion to the Court to implead any necessary parties. Hence, the Joint Commissioner decided that the presence of the respondents herein may help him to adjudicate upon the issue pending before him.

Therefore, for the foregoing reasons stated supra, I see neither any infirmity nor illegality in the order passed by the Joint Commissioner and deserves to be confirmed. Accordingly, the order dated 18.9.2013 of the Joint Commissioner, Chennai 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