

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

Friday the 2nd day of January, Two thousand and Fifteen.

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

A.P. 17/2014

Between

**Arulmigu Kumara Kovil Saiva Vellalar Sangam
Rep.by one of its member T.S.Karthikeyan .. Appellant.**

And

**1. C.M.Siva Babu,
District President Hindu Makkal Katchi,
No.180/32, Ayyakannu Mudaliar Street,
Tiruvannamalai 606 601**

**2.The Executive Officer,
Arulmigu Kamatchiamman & Kumara
Temples,
Tiruvannamalai 606 601.**

**3. The Assistant Commissioner,
HR&CE Admn Department,
Tiruvannamalai 606 601.**

**4. The Joint Commissioner,
HR&CE Admn Department,
Villupuram.**

.. Respondents

In the matter of Arulmighu Kumaran Kovil Temple, Tiruvannamalai.

**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 08.10.2013 of
the Joint Commissioner, HR&CE Admn. Department,
Villupuram in allowing the O.A.No.1/2013 filed under Section 64(5)(A) of the
Act.**

Annexure to Order in R.Dis. A.P. 17/2014 D2 dated : 2.1.2015.

The above appeal petition filed under Section 69(1) of the Act against the order dated 8.10.2013 of the Joint Commissioner, Villupuram allowing the O.A. 1/2013 filed under Section 64 (5)(A) of the Act.

2. The appellant contended that without perusing the documents based on which the scheme was framed the 4th respondent merely going through the false and created documents filed by the 1st respondent herein had erroneously decided to cancel the scheme. The 4th respondent misunderstood the earlier order made in O.A.No. 10/97 dated 27.8.2001 as though the order stipulate that the suit temple namely Kumara Kovil is a "Denominational Temple". The earlier order contains provision for appointment of non-hereditary trustee only from among the members of the Thondai Mandala Saiva Vellalar Mudaliar Community who are natives of Kumara Kovil Street, Seda Street and Thiruvoodal Street, of Thiruvannamalai Town will be exclusively be eligible to be appointed as non-hereditary trustee to hold office as per the provisions of the H.R. & C.E. Act and the right of appointment of Executive Officer under Section 45 (1) of the Act is absolutely reserved by the Department if necessary. Even if the 4th respondent had come to the conclusion that the management was done not according to the provision of law, there is no detriment to the welfare of the temple since there is no misappropriation no misuse of funds and in fact the 'person in-charge' had developed the temple to a well condition and hence the 4th respondent ought not to have cancelled the scheme itself. The 4th respondent without proper appreciation of the fact that how patta was obtained by the said Thiyagaraja Gurukkal in his name for a 'maniam land' which were later sold by their legal heirs and his relatives contrary to the Section 34 of the H.R. & C.E. Act. When the fact is that the said land was donated by the Thondai Mandala Saiva Vllalar Mudaliar Community people given for the purpose of doing puja service by the Gurukkal will be only a "maniam land" as per Section 6 (17) Explanation No.1 of the HR & CE Act and not an absolute property of the Gurukkal. Without holding any enquiry about whether the property still exist as an endowment or not and the patta which is

not in existence and when the endowed property being already sold contrary to provisions of the Act, the 4th respondent should not have cancelled the scheme based on such illegal, bogus and an unreliable document. The 4th respondent had failed to note that the Hon'ble High Court in CrI.O.P.No. 30891/2013 and in CrI.O.P.No. 30892/2013 dated 29.11.2013 had admitted the quash petitions filed by the 1st and 2nd accused in crime number 48/2013 dated 18.1.2013 on the file of the Inspector of Police, Thiruvannamalai Town Police Station, which was filed on the complaint of the 2nd Respondent herein and further when the criminal case was not yet completed by referring this as a ground had failed to follow the well founded legal principle that "when a matter is ceased off before the Hon'ble High Court, Madras the lower forum had no legal authority to enquire and make findings on it". Only after perusing the documents marked as Ex.A1 to Ex.A4 the Joint Commissioner, HR & CE, Vellore had framed scheme for the temple. Without going to those documents the order passed by the 4th respondent herein cancelling the scheme framed in O.A.No. 10/97 is bad in law and hence liable to be set aside.

3. The appellant filed this appeal petition representing Arulmighu Kumara Kovil Saiva Vellalar Sangam as one of its member. But he does not produced any document authorizing him to represent the said Sangam. Hence, he has no locus standi to represent the Sangam in the absence of any authorization. However, any person aggrieved by the order passed by the Joint Commissioner under any of the Section in Chapter V of the HR & CE Act may file appeal before the Commissioner under Section 69(1) of the Act. Accordingly this appeal petition is entertained.

4. I heard Thiru S. Vediappan, Counsel for the appellant, Thiru J. Ashok, counsel for the 1st respondent and perused the relevant records. Originally the Joint Commissioner, Vellore has settled a scheme of administration to the suit temple by order dated 1.7.2002 made in O.A. 10/97 with a permanent provision for appointment of non-hereditary trustees from among the members of the Thonda Mandala Saiva Vellalar Mudaliar community who are

natives of Kumara Kovil Street, Seda Street and Thiruvoodal Street of Thiruvannamalai Town by the competent authority. Even though the scheme is framed in the year 2002, trustees were not appointed as per the scheme provisions so far. But some persons formed a Sangam in the name of "Arulmighu Kumara Kovil Saiva Vellalar Sangam" registered in the year 2009 and taken over the administration of the temple defeating the very purpose of the scheme settled in O.A. 10/1997. Members of the said Sangam collected huge amount from General public in the name of the temple. But the said amount is not deposited in the temple name but in the name of Sangam. They renovated and perform Kumbabishegam without getting any permission from the Department by collecting donations from General Public. But they did not maintain any account. It is pertinent to point out that the petitioners in O.A. 10/1997 are also the office bearers of the said Sangam. The Assistant Commissioner, Thiruvannamalai, who conducted enquiry on the allegation received against them has found that all the allegation were held to be proved. As per Section 64 (1) of the Act, "when the Joint Commissioner has reason to believe that in the interest of the proper administration of an institution, a scheme should be settled for institution ... he shall, by order settle a scheme of administration for the institution". But in these case those who had filed an application before the Joint Commissioner to settle a scheme under Section 64 (1) of the Act, they themselves formed a Sangam for the administration of the temple to defeat the very purpose of the scheme settled by the Joint Commissioner. The Sangam misappropriated the funds collected in the name of temple and there were several irregularities. And they failed to administer the temple in accordance with the provisions of the Act. The Sangam used the name of the temple for minting money. The suit temple was not properly managed. Due to the activities of the members of the Sangam, the provisions of scheme become unworkable. That compels the Joint Commissioner to cancel the scheme settled in O.A. 10/1997.

Therefore for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner and it does not warrant any

interference and the appeal petition deserves no consideration. Accordingly, the order dated 8.10.2013 of the Joint Commissioner, Villupuram made in O.A.1/2013 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.