

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

**Tuesday the 25<sup>th</sup> day of November, Two Thousand and Fourteen**

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

**A.P. 37/2014**

**Between**

**1) S.P.Alagan (Died)**

**2) Palaniappan**

**S/o (Late) S.P.Alagan**

**.. Petitioner**

**And**

**The Joint Commissioner,  
HR&CE Admn Department,  
Trichy.**

**..Respondent.**

**In the matter of Arulmighu Kuravanikattu Ayyanar Temple,  
Kandiyathanam, Tirumayam Taluk, Pudukottai District.**

**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  
28.11.2013 of the Joint Commissioner, HR&CE Admn.Department, Trichy  
in dismissing the O.A.13/1995 filed under Section 63(b) of the Act.**

**Annexure to Order in R.Dis. A.P. 37/2014 D2 dated : 25.11.2014**

**The above Appeal Petition having come on for final hearing before me  
on 25.11.2014 in the presence of Thiru J.Anandkumar, Counsel for the  
appellant. Upon hearing his argument and perusing the connected records  
the following order is made:-**

**ORDER.**

**The above appeal petition filed under Section 69(1) of the Act  
against the order dated 28.11.2013 of the Joint Commissioner, HR&CE  
Admn Department, Trichy in dismissing the O.A.13/1995 filed under  
Section 63(b) of the Act.**

2. The appellant contended that there is a temple dedicated to Kuravanikkattu Ayyanar Deity which situate at Kandianatham village, Thirumayam Taluk, Pudukottai District. It is an ancient temple constructed by the petitioner's ancestors some 200 years ago. The documents relating to the construction and names of the persons who constructed the temple have been lost in antiquity. For over 3 generations the petitioner and prior to him their ancestors were looking after the administration of the temple in their capacity as Hereditary trustees cum poosaries. Neither public at large nor the villagers ever interfered in their administration of the temple in question. Temple was originally managed by 2 families namely Chinna Azhagan family and Ramasamy family present Appellant belongs to Chinna Azhagan family. The legal heirs of both the families did not have any objection for appellant being appointed as hereditary trustee. The impugned order of the first respondent has been passed without considering the exhibits marked on the side of the appellant which relates back to the year 1957. The exhibits filed in support of the petitioner which are certified copies of the adangal register and the notice issued in the name of the petitioner and his pangalis. Therefore the petitioner herein has proved the fact that the temple in dispute has been under the management and the poojas are being done by the petitioner herein hereditarily and hence the finding of the respondent herein that no document was filed is incorrect and false. The official witness who was examined as CW 1 has categorically deposed that he has enquired the petitioner and the outsiders and submitted a report. However the respondent does not deal with the same and does not give any finding with regard to the above said report. Therefore the respondent herein has given reasons to suit his convenience and his conclusions. The reasons given to disbelieve the evidences and exhibits by the respondent herein are not genuine reasons and has been found to non suit the petitioner herein. When the exhibits are related to 1957 onwards the respondent herein ought to have seen that whether the document is genuine or not? However without debuting the veracity of the same disbelieving the document on the ground that they are not in a

continuous running year is a clear example of total non application of mind and unsustainable in law. The finding of the respondent that the petitioner has not taken steps to prove his genealogy and the trusteeship is also incorrect and false since the same devolves on succession and the documents and the evidences of other witnesses and the report of the officer who was examined as CW1 would amply support the claim of the petitioner.

3. I heard Thiru J.Anandkumar, Counsel for the appellant and perused the relevant records. The counsel for the appellant narrated and reiterated the grounds of memorandum of appeal filed by the appellant. On a perusal of the annexure to order passed by the Joint Commissioner containing the grounds for the above decision, the Joint Commissioner has simply enumerate documents filed without discussing its evidentiary value in proper manner. Further the Joint Commissioner examined the Inspector as CW 1 and marked his report as EX C1, But he failed to discuss about the said evidences and he does not give any findings on the Ex C1. The Joint Commissioner failed to apply his mind judicially where deciding the matter. Therefore the order dated 28.11.2013 of the Joint Commissioner, Trichy suffers from infirmity as stated above and deserved to be set aside and accordingly it is hereby set aside. The matter is remitted back to the Joint Commissioner to hold an enquiry denova after affording the appellant and other an opportunity of being heard and dispose the same in accordance with law within a period of 3 months from the date of receipt of copy of this order. With this direction, the Appeal Petition is disposed of.

/typed to dictation/

/ true copy/ by order/

Sd. P. Dhanapal,  
Commissioner.

Superintendent.