

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

Wednesday the 4th day of March, Two thousand and Fifteen.

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

A.P. 39/2014 D2

Between.

1. A.S. Vairappan S/o Subbaiya Thevar.
2. R. Kailasanathan S/o S. Ramamirtham. Appellants.

And

1. The Joint Commissioner, HR & CE
Admn.Department, Thanjavur.
2. The Assistant Commissioner, H.R. & C.E.
Admn.Dept., Nagapattinam.
3. The Inspector, H.R. & C.E. Admn.Dept.,
Vedaranyam, Nagapattinam District.
4. Smt. G. Thilakavathi W/o Late A.S. Gandhi. .. Respondents.

In the matter of Arulmighu Kailasanathaswamy Temple,
Pazhaiyapuram, Ayakkaranpulam-I Sethi, Vedaranyam Taluk,
Nagapattinam District.

Appeal petition filed under Section 54(4) of the Tamil Nadu H.R.&
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the Order dated
7.8.2014 on the file of the Joint Commissioner, HR & CE Admn.Dept.,
Thanjavur in recording succession under Section 54 (1) of the Act.

Order in D.Dis. A.P. 39/2014 D2 dated : 4.3.2015.

The above Appeal Petition having come on for final hearing before
me on 9.1.2015 in the presence of Thiru S. Sathiamurthi, Counsel for
the appellants and Thiru M. Rukmangathan, Counsel for the 4th
Respondent. Upon hearing their arguments and perusing the connected
records the following order is made:-

ORDER.

The above appeal petition filed under Section 54 (4) of the Act
against the order dated 7.8.2014 passed by the Joint Commissioner,
Thanjavur in recording succession under Section 54 (1) of the Act.

2. The appellant contended that the order of the Joint Commissioner is in violation of Section 54(3) and 55(2) of the H.R.& C.E. Act since no person shall be entitled to be appointed to any vacancy merely on the ground of he/she is in the next line of succession to the last holder of the office. The other trustees including the appellants were not heard and objections were not called for before appointing the 4th respondent as hereditary trustee. The Joint Commissioner appears to have relied upon the report of the Inspector, H.R. & C.E., Vedaranyam who has not conducted any enquiry and he has not intimated the other trustees before sending the report to the 1st respondent. The 1st respondent relied on the legal heir certificate issued by the Tahsildar dated 6.5.2014 which was given for some other purpose, even assuming the 4th respondent is the legal heir, she cannot claim as a matter of right that she should be appointed in the place of A.S. Gandhi since she is not the legally wedded wife. The 4th Respondent was living as “live-in-partner” with A.S. Gandhi and there was no legal marriage between them and her 1st husband is still alive. There is no divorce between the 1st husband and the 4th respondent before marrying Sri A.S. Gandhi. The said factors could be known only if a detailed enquiry is conducted and if the other hereditary trustees were heard by the 1st respondent. However it was not done by the 1st respondent and the impugned order was passed in a hasty manner. The appointment of hereditary trustee to Arulmighu Kailasanathaswamy Temple is not merely by succession but only male members alone succeed to the trusteeship for the past 100 years. The 4th respondent is admittedly employed as staff nurse and she cannot devote anytime in the temple affairs and she has no experience also in the said administration. The Thirupani of the said temple is fast approaching and a proper and eligible person alone can look after the construction of the said Thirupani and the 4th respondent cannot effectively discharge the function of a hereditary trustee that too as managing trustee.

3. In the counter affidavit, the 4th respondent contended that she is the wife of one A.S. Gandhi and has succeeded to the office of the hereditary trustee in the aforesaid temple under Section 54 (1) of the Act. It is contemplated under Section 54 (1) of the Act, that when a permanent vacancy occurs in an office of the Hereditary Trusteeship, the next in the line of succession can be succeeded to the office of the hereditary trusteeship. The 4th respondent, wife of A.S. Gandhi who has held office as Hereditary Trustee and also functioned as Fit Person during the suspension period of S. Ramamirtham, who held office as hereditary trustee. The averments contained in the appeal are outcome of the personal enmity between the relatives and due to such animosity the appellants, who are holding office as Hereditary Trustees are objecting to the succession of G. Thilakavathi, W/o (Late) A.S. Gandhi without any material records. It is not correct to contend that this respondent is the living partner of A.S. Gandhi. This respondent is the wife of Gandhi. And therefore, Section 54 (1) applies to her.

4. I heard Thiru S. Sathiamurthi, Counsel for the appellant, Thiru M. Rukmangathan, Counsel for the 4th Respondent and perused the relevant records. The office of the Trusteeship of the suit temple was declared as Hereditary in O.A. 10/1978. The appellants are functioning as Hereditary trustees along with 2 others including the husband of the 4th Respondent Late A.S. Gandhi. After the demise of the said A.S. Gandhi, the 4th respondent herein was recorded as Hereditary Trustee in the permanent vacancy. The appellants are opposing the said order on the ground that she is not a legally wedded wife of A.S. Gandhi. But in the legal heir certificate issued by the Tahsildar, the 4th respondent was mentioned as wife of A.S. Gandhi. The Joint Commissioner after verifying all the records has recorded the succession of the 4th respondent. If there is a permanent vacancy in the office of Hereditary Trustee, the next in the line of succession is entitled to succeed. The succession under Section 54 (1) is automatic one. There is no need to

hear the appellants before recording the succession under Section 54 (1) of the Act. Further, if it is the case of the appellants that the 4th respondent is not legally wedded wife of deceased A.S. Gandhi, the Joint Commissioner is not competent to decide the said issue. The appellants have to approach the competent civil court.

5. Therefore, for the foregoing reasons stated supra, I find no infirmity in the impugned order and it deserved to be confirmed. Accordingly, the order dated 7.8.2014 is hereby confirmed.

However, the Joint Commissioner is directed to take necessary action to elect one among them as Managing Trustee in accordance with law within a period of one month from the date of receipt of this order. With the above direction the appeal petition is disposed of.

/typed to dictation/

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

/ true copy/by order/

Superintendent.

To

1. The Appellants through Thiru S. Sathiyamurthi and S.Raghupathi, Advocates, No. 154, Additional Law Chambers, High Court Buildings, Chennai 600 104.
2. The Assistant Commissioner, HR & CE Admn.Dept., Nagapattinam.
3. The Inspector, HR & CE Admn.Dept., Vedaranyam, Nagai District.
4. Smt. G. Thilakavathi W/o Late A.S. Gandhi, Hereditary Trustee, Arulmighu Kailasanathaswamy Temple, Ayakaranpulam-I Sethi, Pin. 614 707, Vedaranyam Taluk, Nagapattinam District.

Copy to:

5. The Joint Commissioner, HR&CE Admn.Department, Thanjavur.
6. Extra.