

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

Tuesday the 16th day of December, Two thousand and Fourteen.

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

A.P. 8/2014 D2

Between

K. Sampathu Chettiar S/o Kannappa Chettiar. .. Appellant.

And

1. The Joint Commissioner,
H.R.&C.E. Admn.Department,
Villupuram.
2. The Fit Person/Executive Officer,
Arulmighu Renukambal Amman Temple,
A.K. PadaiVeedu, Polur Taluk,
Thiruvannamalai District. .. Respondent

In the matter of Arulmighu Sakthi Pillaiyar Temple, Kannanur,
Sethupattu, Polur Taluk, Thiruvannamalai 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 7.10.2013 of the Joint Commissioner, H.R. & C.E. Admn.Dept., Villupuram in appointing Fit Person under Section 54 (3) of the Act in Pro.Rc.No. 8290/2013.

Order in D.Dis. A.P. 8/2014 D2 dated : 16.12.2014.

The above appeal petition having come on for final hearing before me on 16.12.2014 in the presence of Thiru N. Sathyamoorthy, Counsel for the Appellant and M/s. A.S. Kailasam Associates, Counsel for the 2nd respondent/Fit Person. 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 7.10.2013 of the Joint Commissioner, Villupuram in appointing fit person under Section 54 (3) of the Act.

2. The appellant contended that his father was declared as Hereditary Trustee of the suit temple. After the demise of his father in the year 2008, Tmt. Sankari, Thiru Purushothaman and Tmt. Amudha, the other legal heirs of his father Thiru V. Kannappa Chettiar, have given no objection and also given their consent to the appellant for continuing as Hereditary Trustee of the said Temple. To that effect they have sworn an affidavit before the Notary Public and submitted to the authorities concerned. The Appellant has submitted accounts properly to the Audit wing of the HR & CE Department and the same was audited till Fasli 1421. The appellant has also issued notices to all the tenants and fixed the fair rent in accordance with G.O.No. 456/9.11.2007 and the fair rents have been collected from the concerned tenants. He is also taking necessary steps to file petitions under Section 78 of the HR & CE Act against the tenants who is not coming forward to pay the fair rent. The Joint Commissioner has not at all applied his judicious mind or not making any proper enquiry either to the appellant who is holding the office of the Hereditary Trustee from 2008 onwards and exercise all his right of Hereditary Trustee in respect of the administration of the said temple or to any other person or persons who is connected with the affairs of the said temple, the authority has wrongly come to a conclusion that there is no administration to the said temple. The appellant has filed a Miscellaneous petition before the Joint Commissioner under Section 54 (1) of HR & CE Act and the same is pending. It is also mentioned that the succession of the Hereditary Trustee is automatic and hence even without filing petition under Section 54 (1) of the Act the appellant can be treated as Hereditary Trustee of the said temple. The Hon'ble High Court has also accepted this view in various judgments.

3. In the counter affidavit, the 2nd respondent/fit person has stated that on the death of Hereditary Trustee, the next in line has to get himself/herself recorded as the Hereditary Trustee as contemplated in law. That no legal heir has been recorded under Section 54(1) of the Act and therefore to safeguard the properties of the temple, a Fit Person

has been appointed. The 1st Respondent has also stated that the fair rent fixed has not been implemented and due to that the Temple has been put to heavy loss and he has stated that due to the Temple's administration has come to a standstill. The number of shops belonging to the Temple as recorded in the D.C.B is 76, but the actual shops are 96 in number, which goes to show that the petitioner has illegally allowed 20 new shops to be build without any permission/sanction from the authorities. For the additional 20 shops no fair rent has been fixed at all for any of the shops. As per the demand raised, total arrears of rent for 76 shops as on date is approximately Rs. 84 lakhs and this one issue would go to show that even the rents are not being collected.

4. I heard Thiru N. Sathyamoorthy, Counsel for the appellant, M/s A.S. Kailasam Associates, Counsel for the 2nd Respondent/Fit Person and perused the relevant records. In the impugned order, the Joint Commissioner has appointed Fit Person to the suit temple since the legal heirs of the deceased Hereditary Trustee failed to record their succession under Section 54 (1) of the Act and fair rent fixed by the fair rent Committee was not collected by the appellant. The appellant's father Thiru Kannappa Chettiar was declared as Hereditary Trustee by the Sub-Court, Thiruvannamalai in O.S.No. 218/1971. The said Kannappa Chettiar expired in the year 2008. The appellant who is legal heir of Thiru Kannappa Chettiar succeeded to the office of the trusteeship after the demise of his father and looking after the administration of the suit temple. As per Section 54 (1) of the Act "when a permanent vacancy occurs in the office of the Hereditary Trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office. The succession under Section 54 (1) of the Act is automatic one. The Joint Commissioner has to verify whether the legal heir is qualified as per law for being a Trustee of the suit temple. Accordingly, the appellant herein also filed a petition under Section 54 (1) of the Act and the same is pending on the file of the Joint

Commissioner. But without disposing the above petition, the Joint Commissioner has appointed the Fit Person in violation of Act.

Therefore, the impugned order suffers from infirmity as stated above and liable to be set aside. Accordingly, the order dated 7.10.2013 of the Joint Commissioner, Villupuram is hereby set aside. The Joint Commissioner is directed to pass order in the application pending under Section 54 (1) of the Act within one month from the date of receipt of this order. Further the fit person has stated that the appellant illegally allowed 20 new shops to be built without any sanction from the authorities and no fair rent has been fixed for the said additional 20 shops and there is total arrears of rent for 76 shops is approximately Rs. 84 lakhs. Hence, the Joint Commissioner is directed to conduct a detailed enquiry and take action in accordance with law. With the above directions the appeal petition is disposed of.

/ typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ True copy/ by order/

Superintendent.

To

1. The Appellant through Thiru N. Sathyamoorthi, Advocate, No.62, New Law Chambers, High Court Buildings, Chennai 104.
2. The Fit Person/Executive Officer through M/s A.S. Kailasam Associates, No.86, Law Chambers, High Court Buildings, Chennai. 104.

Copy to:

3. The Joint Commissioner, HR&CE Admn. Dept., Villupuram. (along with file in Rc. 8290/2013) By R.P.A.D.
4. The Assistant Commissioner, HR & CE Admn.Dept., Thiruvannamalai.
5. The Inspector, HR & CE Admn.Dept., Polur.
6. Extra.