

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

Monday the 17<sup>th</sup> day of November, Two thousand and Fourteen.

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

A.P. 9/2014

**Between**

1. K. Purushothaman.
2. P.N. Vajravel.
3. S. Sarangapani.
4. M. Tamil Selvam

.. Appellants.

**And**

1. The Joint Commissioner,  
H.R.&C.E. Admn.Department,  
Chennai.34.
2. A. Samiyya.
3. V.R.C. Pandian.
4. R. Sekar.

.. Respondents

In the matter of Arulmighu Selvaganapathi Temple, Selvaganapathi Koil Street, Narmada Nagar, Ullagaram, Chennai-91.

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 26.8.2013 of the Joint Commissioner, H.R. & C.E. Admn.Dept., Chennai in allowing the impleading petition I.A. 1/2011 in OA 12/2010 filed under Section 64 (1) of the Act.

**Order in D.Dis. A.P. 9/2014 D2 dated : 17.11.2014.**

The above Appeal Petition having come on for hearing before me on 30.09.2014 in the presence of Thiru N. Satyamoorthy Associates, Counsel for the appellants and Thiru R. Mahalingam, Counsel for the Respondents 2 to 4. Upon hearing their arguments and upon perusing the connected records the following order is made:-

**ORDER**

**The above appeal petition filed under Section 69(1) of the H.R. & C.E. Act against the order dated 26.8.2013 of the Joint Commissioner, Chennai in allowing the impleading petition filed by the respondent in O.A. 12/2010 filed under Section 64 (1) of the Act to frame a scheme of administration to the said temple.**

**2. The appellant contended that the O.A. 12/2010 was filed by the appellants under Section 64 (1) of the H.R. & C.E. Act in the year 2010 was filed in October, 2009 and numbered as O.A. 12/2010. At the same time the Respondents 2 to 4 has filed the impleading petition on 29.8.2011 . In between 2009 and 2011 there was number of Temple functions were conducted by the Appellants Sabha. Officials of H.R. & C.E. Department have also made enquiries about the subject matter involved in the above O.A. Being a native of the village Ullagaram, and having seen all the functions of the temple have been carried out periodically by the Appellants. The respondents 2 to 5 have filed the impleading petition with some ulterior motive and for the reasons best known to them. This aspect has not been properly appreciated by the 1<sup>st</sup> Respondent Authority and proceeded to allow the said I.A. for impleading the Respondents 2 to 4 is not sustainable in law and also on the facts of the case. The allegations pointed out by the Respondents 2 to 4 in their application for impleading the above O.A. was not supported by any documents and the 1<sup>st</sup> Respondent Authority has not specifically instructed them to produce those documents to establish the baseless allegations before allowing the I.A. in their favour. For proper adjudication of the matter the 1<sup>st</sup> respondent authority ought to have verified the correctness of the allegations leveled against the appellants by the Respondents 2 to 4 herein. They have filed elaborate counter denying the allegations as false and it has to be proved before passing any orders in the impleading petition filed by the Respondents 2 to 4**

without taking into consideration of the above said facts, the order was passed by the 1<sup>st</sup> respondent Authority.

3. In the counter affidavit, the Respondents 2 to 4 has stated that the appellants had clearly admitted in their petition filed under Section 64 (a) of the Act that donations were collected from the devotees of the temple for proper administration and maintenance of the temple. Hence, the appellants herein cannot take any special privilege or any kind of right over the temple's property by way of Hereditary Trustee or trustees. The said temple was come into existence about 30 years back. But the temple's actual income has not been brought into the Books for proper audit by the Audit Wing of the department. The office bearers are making North India Tour every year for which the un-accounted money is being utilized by them. The Appellants herein are closely associated with particular political party. Taking advantage of deep involvement in particular political party, no local people is permitted to enquire about the income of the temple till the administration of the temple is taken over by the Department. After taking over the administration of the temple by the Department, all kinds of Poojas including festival Poojas are being performed to the deities by the Fit Person through Donor's contribution. Hence, the averments stated in the petition that the petitioners are performing Poojas and festivals to the temple are nothing but a heap of lie. There is no motive to file the Impleading Petition before the 1<sup>st</sup> Respondent as stated by the appellants in their present petition.

4. I heard Thiru N. Sathyamoorthy, Counsel for the appellant, Thiru R. Mahalingam, Counsel for the Respondent 2 to 4 and perused the relevant records. The above O.A. has been filed under Section 64 (1) of the HR & CE Act to frame a scheme of administration. Section 64 (1) of the H.R.& C.E. Act itself provides that the Joint Commissioner shall consult all the persons having interest before frame a scheme of administration. Impleading petition may be filed by any

person having interest at any stage of the proceedings. There is no need to establish the right of the respondent and produce the document in the impleading petition itself. The Joint Commissioner considered that by impleading the Respondent 2 to 4 herein will help him to unearth the truth of facts if any and decide the case on its own merits.

5. The Hon'ble Supreme Court of India in their decision rendered in **Maria Margarida Sequeria Fernandes and Others 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."* The above decision squarely applies to this case.

6. Further, the proceedings under Section 64 of the Act contemplated elaborate enquiry. The Joint Commissioner should consider all suggestions and objections placed before him and hear all the parties including persons having interest. The appellants also have opportunity to put forth their case, objection and suggestion before the Joint Commissioner and establish their claim. And they have every opportunity to defend their case and to disprove the claim of the respondents.

7. Therefore, I see neither any infirmity nor illegality in the order passed by the Joint Commissioner. Hence there is no valid reason to interfere with the order dated 26.8.2013 passed in I.A. 1/2011 in O.A. 12/2010 by the Joint Commissioner, Chennai and the appeal petition deserved to be dismissed as devoid of any merit. Accordingly the impugned order be and is hereby confirmed and the appeal petition is dismissed as devoid of merits.

**8. The Joint Commissioner is directed to dispose of the O.A. in accordance with law within a period of 3 months from the date of receipt of this order after affording opportunity of hearing to all the parties. Both the appellants and respondents shall co-operate with the Joint Commissioner for the disposal of the O.A. within the stipulated time.**

**/ typed to dictation/**

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

**/true copy/by order/**

**Superintendent.**

**To**

- 1. The Appellants through Thiru N. Satyamoorthy, Advocate, No.62, New Law Chamber, High Court Buildings, Chennai.104.**
- 2. The respondents through Thiru R. Mahalingam, Advocate, No. 201, Addl.Law Chambers, High Court Buildings, Chennai.104.**

**Copy to:**

- 3. The Joint Commissioner, HR&CE Admn. Dept., Chennai.**
- 4. The Assistant Commissioner, HR & CE Admn.Dept., Chennai.**
- 5. The Inspector, HR & CE Admn.Dept., Circle 6, Chennai.**
- 6. Extra.**