

**BEFORE THE COMMISSIONER, HR&CE ADMN.DEPARTMENT,CHENNAI-34.**

**Monday the 8<sup>th</sup> day of September, Two Thousand and Fourteen**

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

**A.P.55/2013 D2**

**Between.**

**V.R. Ramachandra Durairaja.**

**.. Appellant**

**And**

- 1. The Joint Commissioner,  
H.R. & C.E.Department,  
Trichy.**
- 2. G. M. Baluthevan.**
- 3. S. Samy Ayya.**
- 4. S. Govindaraju.**
- 5. R. Marimuthupillai.**
- 6. K. Rajendran.**
- 7. M. Rajendran.**
- 8. P. Manickavasakam.**
- 9. Madhurambal Rajayi.**
- 10. R. Suriyamurthy Panipoondar.**
- 11. M. Piragathambal Rajay.**

**.. Respondents.**

**In the matter of Arulmighu Anna Kamatchi Amman Temple,  
Kovilur, Gandharvakottai 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  
1.8.2013 of the Joint Commissioner, H.R. & C.E. Admn.Dept. Trichy in  
dismissing the O.A. 16/06 filed under Section 63 (b) of the Act.**

**Annexure to Order in R.Dis. A.P.55/2013 D2 dated : 8.9.2014.**

**The above appeal petition filed under Section 69(1) of the Act  
against the order 1.8.2013 of the Joint Commissioner, Trichy in  
dismissing the O.A. 16/06 filed under Section 63 (b) of the Act.**

**2. The appellant contended that the temple is known as  
Arulmighu Anna Kamatchi Amman Temple, situated in Gandarvakottai**

**Town and Taluk, Pudukottai District. The temple is an ancient private temple of 400 years old established in the Gandarvakottai Town being maintained by forefathers of the appellant and their legal heirs. The temple has been maintained by the ancestors of the appellant as a private temple. The temple has no other property except 32 shops belong to it. The appellant is the legal heir of the Gandavakottai Zamin. Since the temple being a private and managed by the hereditary Trustees, the expenditures were incurred by the hereditary trustees. The income derived from the shops of the temple is fully utilized to maintain the temple. No one outside has any claim or right over the management and administration or the temple. There is no dispute, disturbance or interference in the administration and management of the temple. The Joint Commissioner failed to consider that Section 6(11) of the HR & CE Act, 1959 provides hereditary trusteeship is in favour of the appellant and that the herein has been duly given evidence along with documents. The Joint Commissioner also failed to note that the appellant herein has duly maintained the temple and administering the properties of the temple without any complaints. The Joint Commissioner failed to consider that the appellant is the direct descendant as per the genealogical table furnished before the court below and on proper appreciation of the genealogical table and legal heir certificate. The Joint Commissioner failed to discuss the Exhibits A1 to A15 and evidence on the side of the appellant which has led to miscarriage of justice.**

**3. In the counter affidavit, the Respondents 2-8 have stated that the appellant relies on Ex.P1, the Genealogy Table on perusal of the genealogy table it would be seen that the appellant's father Rajkumar Durai Raja had been given in adoption to Kallakottai Zamin. As per Section 12 of Hindu Adoptions and Maintenance Act, 1956**

*“Effects of adoption – An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the*

*family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.”*

**It is the admission of the appellant that the appellant's father has been adopted by Kallakottai Zamin and hence the appellant cannot claim any right of Gandharvakottai Zamin for the administration of the temple has been rightly rejected by the Lower Court. The temple is situated in Survey No. 336/22 in a Grama Natham land which was built by Nayak of Tanjavur and administered by villagers of Gandharvakottai through a committee formed by them and never was under the administration of Gandharvakottai Zamin. The uncle of appellant was looking after the temple along with the villagers of Gandharvakotta from 1990 to 1997 as president of the temple committee. The source of income of the temple was through the 32 shops built adjoining the temple and through this income the temple was maintained and never Gandharvakottai Zamin contributed for the establishment, construction, maintenance and administration of the temple from the Zamin corpus. The said Gandharvakottai Zamin had become insolvent in the year 1947 and the properties of the Zamin have been auctioned through court order and the appellant's claim uncle Ramachandra Durai himself migrated to Pudukottai for survival. The said Ramachandra Durai had never acted as trustee of the temple he had been nominated to the committee as president from 1990 to 1997 by the villagers due to his lineage and the second respondent as Secretary and it was the village committee and the vegetable merchant of the 32 shops who had contributed and maintained the temple. In fact it is admitted in the evidence of the appellant that the rental income of the temple which was collected from 1997 to 2006 has not been deposited in any bank and has been accounted for. This amount came into the hands of the appellant since he was nominated for the Thiruppani Committee for the temple. The appellant admits the misappropriation and denies with regard the quantum of Rs. 2,91,600/-. The appellant relies upon is that Ramachandra Durai was referred as Hereditary Trustee as per Ex.P 11, Judgment rendered in O.S.No. 664 of**

1984 by Additional District Munsiff, Pudukottai in which a reference has been made that Ramachandra Durai is the Hereditary Trustee. It would be pertinent to note the suit was filed by one Subramania Pillai who was the Hereditary Priest of the temple against one Anbu @ Panchatcharam Chettiyar a vegetable merchant, a tenant of the temple. The dispute was with regard to collection of the rental income from the shop and to declare Subramaniya Pillai as Hereditary Trustee. The appellant cannot countenance on this Ex.P11 since the Ramachandra Durai is not a party to the proceedings and sought for any declaration for his rights over the temple. As per the HR & CE Act it is the Joint Commissioner/Deputy Commissioner who are the authorities to decide and declare Hereditary Trusteeship of a temple under Section 63 (b) of the Act and Section 108 there is a specific bar with regard to administration or management of temple by any other court except as provided in the Act. The appellant had never administered and contributed to the maintenance and welfare of the temple on the other hand he had been detrimental for the growth of the temple. The appellant have not produced any evidence both oral and documentary to sustain his claim that the appellant and his family members had been acting as Trustee of the temple continuously in succession for generation.

4. I heard Thiru R. Sivakumar, Counsel for the appellant, Thiru M. Nirmal Kumar, Counsel for the Respondents 2 to 8, Thiru K. Jeyaraman, Counsel for the Respondents 9 to 11 and perused the relevant records. On a perusal of the Annexure to order containing grounds for dismissal of the O.A., the Joint Commissioner has legally analyzed the evidentiary value of the documents filed by both the petitioner and respondents in O.A. and given clear findings on each document. Section 6(11) of the Tamil Nadu Hindu Religious and Charitable Endowments Act defines the term “Hereditary Trustees” as follows: *“Hereditary trustee” means the trustee of a religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force*”. **In the decision**

**reported in 1971 (84) LW 764 , The Division Bench of the Hon'ble High Court held** *“that the devolution of the office of trusteeship for generations from son to grandson is no doubt prima facie evidence that the office devolves by succession according to the laws of inheritance and the fact that members of a particular family held the office of the Dharmakartha continuously for more than a century and there was assertion by them that it was a hereditary would be good evidence that the office is hereditary”.* **But in this case, the appellant has not adduced any evidence to show that his ancestors were the trustees of the suit temple and he does not satisfy any one limb of the definition given under Section 6 (11) of the Act. The documents produced by the petitioner are of recent origin i.e. after 1982. Even in the cross examination the petitioner has stated that** “மனுக் கோயிலை கந்தர்வக்கோட்டை ஜமீன்தாரர்கள்தான் கட்டினார்கள் என்பதற்கும், நிர்வாகம் செய்து வந்தார்கள் என்பதற்கும் ஆதாரங்கள் எதையும் தாக்கல் செய்யவில்லை. சான்றவாணம் A10ல் 1982 முதல் 2005 முடிய பேணப்பட்ட வரவு செலவு புத்தகத்தில் ராமச்சந்திரதுரைராஜா கையெழுத்து போட்டுள்ளார் எனவும், இந்த ஆவணங்கள் அவர் தன்னை மனுக் கோயிலின் நிர்வாகி என்றோ, அறங்காவலர் என்றோ குறிப்பிடவில்லை” **So the petitioner himself admits that there is no evidence to show that the suit temple was founded, maintained and managed by his ancestors i.e. Gandharvakottai Jamindars. In the documents filed by the petitioner in the O.A., the petitioner and his paternal uncle Ramachandra Durai Raja neither referred as trustee nor as Manager of the temple.**

**The Hereditary Trusteeship is a valuable right, which excludes the right of the whole Hindu community from the management of the suit temple. The person who claims hereditary trusteeship should prove his case beyond doubt with clinching evidence. In this case, the petitioner has not adduced any valid evidence to prove that the management of the temple has been vested with their family for more than 3 generations.**

**Therefore, for the foregoing reasons stated supra, I find no valid reason to interfere with the order of the Joint Commissioner, Trichy and**

**appeal petition deserves no merits. Accordingly the order dated 1.8.2013 of the Joint Commissioner, Trichy 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.**