

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

**Wednesday the 30<sup>th</sup> day of March, Two thousand and Sixteen.**

**Present: Dr.M.Veera Shanmugha Moni, I.A.S.,  
Commissioner.**

**A.P. 30/2015 D2**

**Between**

**C.Kuppusamy and 4 others**

**...Appellant**

**And**

**1. The Joint Commissioner  
HR&CE Department, Salem.**

**2. K.R.Palanisamy**

**3. A.Rajamanickam**

**4. M.Vijayakumar**

**5. K.M.Mariappan**

**6. V.Dhanasekar**

**7. P.Sasikumar**

**8. S.Murugan**

**9. The Fit person/ Executive Officer,  
Arulmigu Meenakshi Chokkanathar Temple,  
Mettur**

**.... Respondents.**

**In the matter of Arulmigu Kottai Periamariamman Thirukoil,  
Kottaiyur, Kaveripuram Village, Mettur Taluk, Salem District.**

**The 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 13.11.2015 of the Joint Commissioner, Salem in appointing fit  
person under Section 64(4) of the Act.**

**Order in R.Dis.A.P.30/2015 D2 dated: 30.03.2016**

**The above Appeal petition came up for final hearing before  
me on 22.3.2016 in the presence of Thiru.M.Rukmangathan, Counsel for  
the appellant, Thiru.R.Thamarai Selvan Counsel for the respondents 2 to  
8. Upon hearing their arguments and having perused the connected  
records and the matter having stood over for consideration till this day,  
the following order is passed.**

**ORDER**

The above Appeal Petition filed under Section 69(1) of the Act against the order dated 13.11.2015 of the Joint Commissioner Salem in appointing fit person under Section 64(4) of the Act.

2. The appellants contended that they are holding office Hereditary trustees in the aforesaid temple within the meaning of 6(11) and 63(b) of the Act. The respondents 2 to 8 herein proceeded to file a scheme petition under section 64(1) of the Act in O.A.No.8 of 2015 and prayed for the appointment of fit person for the temple. That was the relief sought for by the respondents 2 to 8 herein and beyond that there is no relief sought for under main scheme petition. An I.A.No.11 of 2015 has been filed in O.A.8 of 2015 for the appointment of Special Officer, that was not done. The respondents 2 to 8 rushed to the High Court and filed writ petition in W.P.No.25484 of 2015 and got an order dated. 17.08.2015 directing the authority under the Act to pass orders under Section 64(4) of the Act. In pursuance of the aforesaid order passed by the High Court, the Joint Commissioner, HR&CE Department, Salem has passed an order by appointing Fit person in Se.Mu.Na.Ka.No.6720/2015/B2 dated. 13.11.2015 without hearing the parties concerned. Under section 64(4) of the Act, the necessity for appointment of fit person should be enquired into and parties should be examined, documents should be marked. The appellants are in possession of documents relating to Festival Pathirikai for the performance of festivals. And they have also in possession of documents dated 08.06.2011 and 24.9.2004 relating to purchase of lands and another piece of property purchased in the year 1986 and one more land purchased in the year 1965 dated 20.09.1965 and given to the temple by the hereditary trustees. The appellants also

filed application under Sec.63(b) of the Act. The temple has not been taken over by the department till date. The provisions of the Act has not been extended to.

3. In the counter affidavit, the respondents 2-8 contended that the appellants claiming to be hereditary trustees are collecting funds from the hundial and donations nearly about Rs.10,00,000/- per annum and are misappropriating the same for their personal expenses. Under the guise of hereditary trustees, the mal-administration has been done by the appellants. Hence, in the interest of temple, it is absolutely necessary to appoint a fit person and the same has been rightly done by the Joint Commissioner. The Joint Commissioner has passed the order of appointment of fit person only as an interim measure. Also application under Section 63(b) is still pending and hence the status of the appellants will be determined only after the final disposal of the said application. Hence, the appellant have no locus-standi to challenge the impugned order.

4. I heard Thiru.M.Rukmangathan Counsel for the appellants, Thiru.R.Thamarai Selvan counsel for the Respondents 2-8 and perused the relevant records.

5. The counsel for the appellant argued that the Joint Commissioner has appointed fit person under Section 64(4) of the Act. As per Section 64(4), the Joint Commissioner may appoint a fit person pending settlement of a scheme for an Institution. But in this case the petition filed by the respondents was closed by the Joint Commissioner as not maintainable. When no scheme was settled, under Section 64(1) of the Act the interim order passed under Section 64(4) is also goes away.

6. The counsel for the appellant raised a issue involving question of law. I find some substance in the objections raised by the appellant's counsel. It is admitted fact that the suit temple has been managed by

appellants herein. The respondents herein had filed Original Application under Section 64(1) of the Act praying to appoint a fit person to administer the temple, to appoint Trustees from the villages and to appoint a special officer to conduct festivals. The said Original Application was dismissed by the Joint Commissioner, Salem as not maintainable by order dated 20.11.2015. But the respondents not preferred any appeal against the said order. It shows that respondents are only interested in disturbing the management of the appellants by appointing fit person. If they are interested in the better administration of the temple they ought to have challenged the order dated 20.11.2015 of the Joint Commissioner in dismissing the O.A.8/2015. As contended by the appellant, when the main Original Application filed by the respondent was dismissed as not maintainable, the interim order passed under Section 64(4) also goes away. Further, when the Joint Commissioner conducted enquiry on the preliminary objection of maintainability of the Original Application under Section 64(1) of the Act, she ought to have consider the application filed under Section 64(4) of the Act only after deciding the maintainability of the main application. If the Joint Commissioner wants to appoint fit person to streamline the administration of the temple till the constitution of Trust Board as per the provisions of the Act, should invoke Section 47 of the Act instead of Section 64(4) of the Act. The powers under Section 64(4) could be exercised pending settlement of scheme of administration only. But in this case no scheme was settled by the Joint Commissioner and the respondents also not prayed to settle a scheme of administration. Further the appellants herein have also filed Original Application under Section 63(b) of the Act to declare them as Hereditary Trustee of the Temple and the same is pending before the Joint Commissioner.

Therefore the order dated 13.11.2015 of the Joint Commissioner, Salem suffers from infirmity as stated above and liable to be set aside. Accordingly it is hereby set aside. The Joint Commissioner, Salem is directed to conduct enquiry in the Original Application filed by the appellants under Section 63(b) of the Act by affording an opportunity of hearing to the appellants and other persons having interest and pass orders in accordance with law within a period of 4 months from the date of receipt of this order. Till then "Status quo" to be maintained. With the above directions the appeal petition is disposed of.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni  
Commissioner

/t.c.f.b.o./

Superintendent

To

1. The Appellant through Thiru.M.Rukmangathan, Advocate, 65, Canal Bank Road, R.A.Puram, Chennai 28.
2. Respondents 2 to 8 through Thiru.R.Thamarai Selvan, Advocate, No.114, New Law Chambers, High Court Buildings, Chennai 104.
3. The Fit person/ Executive Officer, Arulmigu Meenakshi Chokkanathar Temple, Mettur

Copy to

4. The Joint Commissioner, H.R. & C.E. Admn.Dept., Salem.  
(Along with file in O.A.8/2015) by RPAD
5. The Assistant Commissioner, HR & CE Admn.Dept., Salem.
6. The Inspector, HR&CE Admn. Department, Mettur.
7. Extra.