

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

Thursday the 25th day of February, Two thousand and Sixteen.

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

A.P.20/2015 D2

Between

1. R.Muthumani (Died)
2. Muthalagar
3. C.Sonaimuthu
4. B.Muthu (Died)
5. P.Mani.
- 6.K.Baskaran
- 7.M.Gurumoorthy
- 8.M.Gurunathan

..Appellants
(Appellants 6 to 8
substituted for 1st, 4th
and 5th appellants)

And

- 1.M.Muthuramalingam (Died)
2. P.Murugesan
3. M.Chellapandy
4. A.Kalimuthu (Died)
5. K.Ramar
6. S.Selvam
7. I.Kannan
8. L.Ramakrishnan
9. A.Ramakrishnan
10. The Fit person,
Arulmigu Soottukkol Ramalingaswamy Temple,
Arappalayam, Madurai.
- 11.K.Ravikumar
12. R.Krishnan

.. Respondents.
(Respondents 11&12
substituted for 1st
and 4th respondents)

In the matter of Arulmighu Soottukkol Ramalingaswamy Temple,
Arappalayam, Madurai.

The Appeal Petition under Section 69(1) of the Tamil Nadu H.R. & C.E.
Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 11.4.2014 of the
Joint Commissioner, HR & CE Admn.Dept., Madurai in dismissing the
O.A.9/2002 filed under Section 63(a) of the Act.

Annexure to Order in R.Dis.A.P.20/2015 D2 dated: 25.02.2016

The above Appeal petition came up for final hearing before me on
2.2.2016 in the presence of Thiru.K.Jeyaraman Counsel for the Appellants,

Thiru.P.Gopalan Counsel for the 10th respondent. The other respondents and their counsel called absent. 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 is filed under Section 69(1) of the Act against the order dated 11.4.2014 of the of the Joint Commissioner, HR & CE Admn.Dept., Madurai in dismissing the O.A.9/2002 filed under Section 63(a) of the Act.

2. The Appellant contended that there is no dedication of properties in favour of the suit institution which is a samathi. The mortal remains of five disciples of Soottukkol Ramalinga Swamigal who belong to kulalar community, were buried in the suit institution and in that place samadhis were constructed. To find out whether the mortal remains are placed in the suit institution, no steps for inspection was taken, inspector report was also not obtained and marked as a document and the inspector was also not examined as a witness on the side of the court which is against the rules and procedure as provided in the Tamil Nadu Hindu Religious and Charitable Endowments Act 22/1959. The respondents 1 to 10 has not examined themselves as witness and has not produced any documents in their favour to prove that the suit institution is not a Samadhi and it is only a temple. Mere denial of pleadings will not prove their case. The suit institution, which is a Samadhi is also a religious institution without considering the amendment to Section 6(18) of the TNHR&CE Act 22/1959 namely the Section 2 of the TNHR&CE Act 2008 which excludes samathi from the purview of the Act. Though in a samathi a Sivalingam idol was installed and daily poojas and Gurupooja's were performed and festivals were celebrated and people from different sect pay homage there, will not change the character of Samadhi into a religious institution, since the performance of poojas and Gurupoojas and celebration of festivals and for the salvation of the families of the disciples of Sootukkol Ramalingaswami swamigal. Merely because of the reason that stone statues of all other deities

namely Muniyandiswami, Sidhi Vinayagar, Mariamman, Meenakshiammna, Anjaneyar, Dhakshinamoorthy, Sivan, Durgai, Thandapani, Lakshminarayanan and Navagraham were put up adjoining the Samadhi and regular poojas to those deities were performed, it cannot be constructed as a religious institution. The Joint Commissioner in the impugned order dated 11.4.2014, has simply reproduced the allegations raised by the respondents 1 to 10 in their statement of objections and passed orders believing it to be true but without any oral and documentary evidences on the side of the respondents 1 to 10 and the same is very clear from the order dated 11.4.2014, in which there is no details about the list of witnesses and documents on both sides and also about the court witness namely the Inspector of the Department and his report which is vital for an enquiry under Section 63 of the Act 22/1959. That the performance of specific endowments namely 1st day mandagapadi during chithirai festival at Sri Meenakshi Sundareshwarar Temple, 1st day mandagapadi during puttuthiruvizha in the Tamil month of Avani at Sri Meenakshi Sundareshwarar Temple, 1st mandagapadi during Theppathiruvizha in the Tamil month of Thai at Sri Meenakshi Sundareshwarar Temple by the Kulalar community people comprising both the appellants and respondents herein will not make the suit institution a temple. Unless the character of the institution decided first, the department cannot assume jurisdiction and further more merely giving of the consent confer jurisdiction to the department. Hence the appointment of fit person is not valid.

3. In the written submissions the 10th respondent/fit person contended that though the appellants claimed that the suit temple is a "Samadhi" belongs to 60 families, no documents have been filed to prove their claim. But the contesting respondents filed their counter statement contending that they also belong to the Kulalar community and that the suit temple has got the characteristics of public temple viz., Gopuram, Praharam, Hundial etc., In order to worship, Muniyandi Idol, Siddhi Vinayagar Idol, Mariyamman Idol, Meenakshi Amman Idol, Anjaneyar Idol, Dhakshinamurthy Idol, Sivan Idol, Durgai Idol, Dhandapani Idol, Lakshminarayanan Idol, Navagraham Idols were

installed in the temple. Only when the properties of the temple were sought to be encumbered by the appellants, in order to protect the properties of the temple, the contesting respondents invited the attention of the HR&CE Department, for taking appropriate action. During the course of enquiry, the appellants admitted that the above said idols were installed for worship. The appellants also admitted that the properties of the temple were also sold. Under Section 63(a) of the Act, the appellants have not proved their claim by way of documentary evidence to show that the suit temple is only Samadhi and it is not a religious institution. While so, the temple being a public temple, the appellants are not entitled to claim that the institution is not a religious institution.

4. I heard Thiru.K.Jeyaraman Counsel for the appellants, Thiru.P.Gopalan Counsel for the 10th respondent and perused the relevant records. The counsel for the respondents 2,3,5 to 9, 11&12 called absent. It is case of the appellants that the suit institution is not a temple but it is a Samadhi. The term “Religious Institution” defined under Section 6(18) of the HR&CE Act also includes Samadhi.

Section 6(18) read as follows:- [(18) “Religious institution” means a math, temple or specific endowment and includes, —

(i) a Samadhi or brindavan; or

(ii) any other institution established or maintained for a religious purpose

Explanation:

(1) “Samadhi” means a place where the mortal remains of a guru, sadhu or saint is interned and used as a place of public religious worship;

(2) “brindavan” means a place established or maintained in memory of a guru, sadhu or saint and used as a place of public religious worship, but does not include Samadhi;)

As per the said definition “Samadhi” means a place where the mortal remains of a guru, Sadhu or saint is interned and used as a place of public religious worship. In this case also the appellants admitted that the mortal remains of the Suttukol Ramalinga Swamigal and his disciples

Mayandiswamigal, Yalpanam Muthukumaraswamigal, Karunanidhi swamigal and Kunadammal swamigal were interned on the said premises. Further the appellants are claiming themselves as followers of the said Suttukol Ramalinga Swamigal. Several properties were purchased from the funds collected from the public for the upkeep and maintenance of the said institution and for conducting the Guru pooja.

5. The issue to be decided in this case is whether it is a Religious Institution or not. The various averments of the appellants itself proves that it is a Religious Institution as defined under Section 6(18) of the Act. The following facts are admitted by the appellants.

(i) There is a Lingam on the Samadhi. The figure of “Balasubramanian” is behind the Lingam.

(ii) There are stone statute of deity of Arulmigu Muniyandisami, Siddhi Vinayagar, Mariamman, Meenakshi amman, Anjaneyar, Dhakshinamurthy, Lord Siva, Durgai, Dhandapani, Lakshminaryanan and Navagraham.

(iii) Daily poojas and Gurupooja are performed. Various festivals are celebrated and people from different sect used to participate without any restriction. Several Mandagapadi’s are being performed in the said institution.

The above facts clearly prove that it is a public Religious Institution.

6. The appellant contended that the Inspector report was not obtained and no opportunity was given to cross examine the Inspector. But it is not mandatory to obtain report from the Inspector. The deposition of the appellants and respondents were sufficient to decide the case. The onus of proof lies with the appellants to prove their case with corroborative evidence.

7. Further, in the General body meeting of Suttukol Ramalinga Swamy Madalaya Trust held on 25.5.2014, it was resolved as follows: தீர்மானம் 1: நமது மடாலயத்தில் உள்ள ஜீவ சாராதுகளுக்கு கும்பாபிஷேகம் நமது உறுப்பினர்களிடம் குடிவாரி வசூல் செய்து நடத்துவது என்று முடிவு செய்யப்பட்டது. தீர்மானம் 2: குடிவாரியாக ரூ.1000 நிர்ணயிக்கப்பட்டது.

Generally, Kumbabishegams are performed only to the Religious Institution not to the Samadhis of individuals. They are collecting funds from community people to perform kumbabishegam. Hence it is clear evidence to held it as a "Religious Institution".

8. The appellants filed a deed of compromise entered between the appellants and respondents. In the said compromise, it was agreed to withdraw all the cases including O.A.9/2002. But the Joint Commissioner decided the case as per the direction of the Hon'ble High Court dated 22.3.2002 made in W.A.646/2002. Hence, the said compromise could not bind the authorities and it is not a impediment to decide the character of the institution.

9. Further the judgments relied upon by the appellants related to denomination. It is neither proved by the appellant nor declared by any Court of law that the appellant community is a religious denomination. Hence, the said decisions are not applicable to their case.

Therefore, viewed from any angle, I find no infirmity or illegality in the impugned order. The appellants failed to prove their case and the appeal fails. Accordingly the order dated 11.4.2014 of the Joint Commissioner, Madurai made in O.A.9/2002 is hereby confirmed and appeal petition is dismissed as devoid of merits.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent