

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

Tuesday the 20<sup>th</sup> day of October, Two thousand and Fifteen.

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

**A.P.21/2015 D2**

**Between**

Shri Devi Adi Sakthi Karumariamman Alaya  
Arappani Nilayam represented by its Secretary ..Appellants

**And**

1.The Joint Commissioner,  
HR&CE Admn.Department,  
Vellore.  
2. R.Devanandham .. Respondents.

In the matter of Arulmighu Adi Sakthi Karumariamman Temple,  
Thiruverkadu, Poonamallee Taluk, Tiruvallur District.

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 13.3.2014 of the  
Joint Commissioner, HR & CE Admn.Dept., Vellore in dismissing the  
O.A.20/1999 and filed under Section 63(b) of the Act.

**Annexure to Order in R.Dis.A.P.21/2015 D2 dated: 20.10.2015**

The above Appeal petition came up for final hearing before me on  
15.9.2015 in the presence of Thiru.R.Murugesan Counsel for appellant and the  
2<sup>nd</sup> respondent. 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 13.3.2014 of the Joint Commissioner, Vellore in  
dismissing the O.A.20/1999 filed under Section 63(b) of the Act.

2. The appellant contended that Arulmigu Adhi Sakthi  
Karumariamman Arappani Nilayam was registered society which founded the  
temple. The O.A.20/99 was dismissed for default on 10.4.2012 and posted for  
cross examination of the PW 1. But after restoration, final order was passed

without cross examining the PW1. The appellant filed 24 documents before the Joint Commissioner. But the Joint Commissioner failed to analyse the evidentiary value of the those documents. The documents filed by appellants were not marked and considered by the Joint Commissioner.

3. I heard Thiru.R.Murugesan Counsel for the appellant and the 2<sup>nd</sup> respondent. I perused the relevant records.

4. The term “Hereditary Trustee” is defined under Section 6(11) of the HR&CE Act. As per the said definitions,

**“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;

But the case of the appellant is not fall under any one of the 3 categories. The suit property is not the personal property of the members of the Association. Both the appellant and the 2<sup>nd</sup> respondent are claiming that the temple was founded by them. The appellant association is a body of persons. Even assuming that the temple was constructed by the appellant but it was from the contribution made by the public only. Further, the appellant Arappani Nilayam was formed in the year 1964 and registered in the year 1982, therefore the question of any long usage being in existence does not arise. The department has appointed fit person in the year 2000. Now the temple has been managed by the fit person. It is not proved by the appellant that the management has been vested with the appellant without any interruption.

5. The appellant is an association registered under the societies registration Act. In the judgment of Vedhantha sabha case, reported in AIR 2004 SCC 3634, the Hon’ble Supreme court held that “..... that the sabha was founder of the temple in question or that as founder it had every right to provide for the administration of the affairs and management of the temple and its property, if any, and for future management as well, pales into insignificance and really does not call for our decision to determine the question as to whether the sabha could get itself declared as Hereditary

Trustee under the provisions of the Act. Similarly, the question as to whether a body could be a trustees or constituted Board of Trustees also is decide the point. Even, as a body whether it could claim to be trustee or not, in the case on hand is concerned , it cannot, as held by us, claim to be trustee.....”. Accordingly a fluctuating body which has no perpetual succession cannot be a Hereditary Trustee. The appellant is also an fluctuating body which has no perpetual succession is not entitled to claim Hereditary Trusteeship of the suit temple. When the claim of the appellant itself is not maintainable in view of the *ratio decidendi* laid down by the Hon’ble Supreme Court in the Vedhantha Sabha case, there is no need to consider the documents filed by the appellant. Accordingly, the documents filed by the appellant were not considered by the Joint Commissioner. The Joint Commissioner rightly rejected the claim of the appellant.

Therefore, I find no infirmity in the impugned order and it does not warrant any interference. Accordingly the order dated 13.8.2014 of the Joint Commissioner Vellore made in O.A.20/1999 is hereby confirmed and the appeal petition is dismissed as devoid of merits.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni  
Commissioner.

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

Superintendent.