

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

Thursday the 23rd day of June, Two thousand and Sixteen.

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

A.P.31/2015 D2

Between

M.Ramasamy and 6 others

..Appellants

And

1. The Joint Commissioner,
HR&CE Admn.Department, Madurai.

2. The Fit person,
Arulmigu Sundaravalliamman Temple,
Madurai North Taluk, Madurai.

.. Respondents.

In the matter of Arulmigu Sundaravalliamman Temple,
Madurai North Taluk, Madurai.

The Appeal Petition filed under Section 69 of the Tamil Nadu H.R.
& C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated
22.9.2014 of the Joint Commissioner, Madurai in dismissing the
O.A.14/2008 filed under Section 63(e) of the Act.

Annexure to Order in R.Dis.A.P.31/2015 D2 dated: 23.06.2016

The above Appeal petition came up for final hearing before
me on 14.6.2016 in the presence of M/s.J.Anandavalli Counsel for the
appellants, Thiru.E.Ganesh Counsel for the 2nd 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 of the Act against
the order dated 22.9.2014 of the Joint Commissioner, Madurai in
dismissing the O.A.14/2008 filed under Section 63(e) of the Act.

2. The appellants contended that they are the representative from
seven karaikarars. The 1st appellant is a Nattamai of the village and the
4th appellant is the second Nattamai of the village. The 3rd appellant is
the Kanakkupillai and originally 6th appellant was a maniyakar. The

temple namely Arulmigu Sundanavalliamman Temple, Thenur, Madurai Taluk is ancient temple and is under the control of and management of 7 karai people, Thenur village. The customary practice of having the jewels and key of the temple is with the Nattamai all along. The priest will visit the Nattamai house daily and take the key of the temple from him and handover the same to him after the closure of the temple. The temple is under the management of hereditary trustees and when there was an attempt to take the key and the jewels of the temple by the department by appointing the respondent, it has become necessary for the appellant to move an application before the Joint Commissioner, Madurai under Section 63(e) of the Act for declaration that the 1st and 4th appellant are entitled to have the custody of the jewels and key of the temple as per custom and usage prevailing in the temple. There was an interference for taking the jewels from the custody of the 1st and 4th appellants and there was a complaint from the respondent to the police and key was taken from the 1st appellant by the police at the instigation of the respondent on 18.9.2013. The actions of the respondent and the police were challenged by filing a writ petition before the Madurai Bench of Madras High Court in W.P.No.1564/2014. The writ petition was disposed on 25.9.2013 directing the 2nd respondent to handover the key of the temple to the 1st respondent forthwith and the 1st respondent viz. Inspector of Police was directed to handover the key within 2 days from 25.9.2013. The finding of the authority that Original Application is not maintainable in view of the provision under Section 42 is not correct. The authority failed to see that Section 42 opens with a non-absentia class wherein custom and usage gives a right for a person to have possession of the jewels and other valuable of the religious institutions. The authority ought to have seen that even under the custody of jewels, valuables and documents and disposable rules, the custody was permitted to the Hereditary Trustee on the Chairman Board of Trustees in temples where there are more than one trustees along with the Executive Officer, where

an offices been appointed and when there is no executive officer in the temple and even if he is there, the appellants are entitled to have the custody and since the same was obstructed, the petitioner has become necessitated. That the charges were not hand over by the appellants to the fit person itself shows that the appellants are in management and custody of the administration and jewels are concern and that being so, the dismissal of the petition by the Joint Commissioner is illegal and liable to be set aside.

3. In the counter affidavit the Fit person/ 2nd respondent contended that as per Section 63(e) of the Act there should be lis or dispute to be adjudicated by the Joint Commissioner in terms of Section 63(e) of the Act, the pleadings of the Appellants would show that there is no lis or dispute in order to be adjudicated by the Learned Joint Commissioner in terms of Section 63(e) of the Act. The temple is administered by this respondent, it is well laid principle of Law and in the light of the provisions of the Act, the jewels, valuables shall be in the custody of the fit persons, however, the appellants who are having a illegal custody of the same and despite several notice, they have not handed over the same to this respondent. Now, this respondent is taking appropriate proceedings in order to recover the same. The above factum would show that they have acted adverse to the interest of the institution and as such they are not entitled to any relief before the Court of Law. The present appeal has not been filed including all the persons who are party to the original application before the Joint Commissioner, as such the above appeal is not maintainable for non joinder of necessary parties. The jewels and valuables ought to be in the hands of Trustees of the temple. The appellants have not obeyed by the instructions given by the department for producing the jewels and valuables for verification and they have not come forward to produce the jewels for verification before the verification officer of the department. As per Section 42 of the HR&CE Act, provides that no office holder or servant of a religious

institution or other person shall have the right to possess the jewels, unless there is a direction by the Hon'ble Commissioner. Therefore, the petitioners have no right to retain the jewels and valuables. The Rule 3 to 5 of the Religious Institutions custody of Jewels, Valuables and Documents and Disposal Rules has to be read along with Section 42 of the Act.

4. I heard M/s.J.Anandavalli, Counsel for the appellants, Thiru.E.Ganesh, Counsel for the 2nd respondent and perused the relevant records.

5. The appellants herein filed an Original Application before the Joint Commissioner under Section 63(e) of the Act to recognize the customary practices of keeping the jewels and the key with the 1st appellant. In support of their claim they have filed the jewel verification report pertaining to the year 1986 and 1997.

6. As per Rule 5 of Religious Institutions custody of Jewels, Valuables and Documents and Disposal Rules “where the institution has an Executive Officer, Jewels and Valuables shall be in the joint custody of the Executive Officer and the Trustee or if the number of Trustees exceeds one, the Chairman of the Board of Trustees”. In this case the appellants are not the Trustees of the temple. The Original Application filed by them under Section 63(b) of the Act was also dismissed. A fit person has been appointed by the Department to administer the temple in the year 1997.

7. The appellants relied upon the Jewel verification reports pertaining to the year 1986 and 1997. In the said report it was stated that “...இத்திருக்கோயிலுக்கு முன்னாள் கிராம நாட்டாமை திரு.எம்.முத்துநாயகம்பிள்ளை, த/பெ.முத்துநாயகம்பிள்ளை என்பவர் தற்சமயம் பொறுப்பில் இருந்து வருகிறார். இவர் தனக்கும் கிராம கரைகாரர்களுக்கும் நிர்வாக உரிமை இருப்பதாகவும், 1959ஆம் ஆண்டு இந்து சமய அறநிலையச் சட்டத்தில் 63(பி) பிரிவின்படி பரம்பரை உரிமை கோரி மனு தாக்கல் செய்துள்ளதாகவும் அதன் காரணமாக மேற்படி திருக்கோயில் நகைகள் தன்னிடம் இருப்பதாகவும் தெரிவித்தார் ...”. So the persons

in the management of temple only entitled to keep the Jewels in their custody. In this case the appellants right to manage the temple was negated by the Joint Commissioner under the statue.

8. Further the custody of Jewels and Valuables is not a customary practice to be recognized under Section 63(e) of the Act. The Joint Commissioner shall decide whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution and what the established usage of a religious institution is in regard to any other matter. In this case the appellants failed to prove their case with documentary evidence. Further as per Section 42 of the Act no person shall have the right to be in possession of the Jewels or other valuables belonging to religious institution except under the direction of the Commissioner. The Jewels and Valuables of any religious institutions shall be in possession with the Trustees appointed by the competent authority under the provisions of the Act. Unless the appellants get an order from the competent authority or from any court of law regarding the management of the temple, they cannot have any right to keep the Jewels. Accordingly the Joint Commissioner rightly rejected the claim of the appellants.

Therefore for the foregoing reasons stated supra, I find no infirmity in the impugned order and it does not warrant any interference. Accordingly the order dated 22.9.2014 of the Joint Commissioner, Madurai made in O.A.14/2008 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