

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

Tuesday the 18<sup>th</sup> day of March, Two thousand and Fourteen.

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

R.P. 53/2012 D2

Between.

M. Gangadaran

.. Petitioner

And

1. The Joint Commissioner,  
H.R. & C.E. Admn.Department,  
Vellore.

2. The Assistant Commissioner,  
H.R. & C.E. Admn.Department,  
Kancheepuram.

3. The Fit Person/Executive Officer,  
Arulmighu Kasiviswanathar Temple,  
Karukkupettai.

... Respondents

In the matter of Arulmighu Kasiviswanathar Temple,  
Karukkupettai, Ekanampettai, Kanchipuram District.

Revision petition filed under Section 21 of the Tamil Nadu H.R.&  
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated  
21.3.2012 of the Joint Commissioner, HR & CE Admn.Department,  
Vellore in Pro. Rc.No. 2502/2012.

Order in D.Dis. R.P. 53/2012 (D2) dated : 18.3.2014.

The Revision Petition having come on for final hearing before me  
on 20.09.2013 in the presence of Thiru B.S. Ramesh, Counsel for the  
petitioner, Fit Person of the temple and Thiru K. Sivapragasam,  
Impleading Respondent in person. Upon hearing the 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 Revision Petition is filed under Section 21 of the Act against the order dated 21.3.2012 of the Joint Commissioner, Vellore in Pro. Rc.No.2502/2012 . In the said order, the Joint Commissioner has cancelled the lease of 48 persons given by the petitioner herein.

2. The petitioner contended that the property in S.No. 59/1, 59/3 and 56 were in Dimmayanpettai Madura, Karukkupettai village stands in the name of Sengunthar Community people of the said village. Revenue Department have issued patta in favour of Sambanda Mudaliar, Murugesu Mudaliar and Thanigaimalai Mudaliar. Due to the efforts taken by the petitioner, villagers agreed to hand over the above property to the temple. Therefore, the petitioner has leased out the property to 48 persons to augment the income of the temple. But the Joint Commissioner without considering the above facts passed the impugned order cancelling the above lease and also directed to initiate criminal proceedings against the petitioner. The impugned order was passed based on the false report submitted by the Fit Person Thiru Vedamoorthy. The petitioner prayed to conduct fresh enquiry by appointing another Executive Officer.

3. I heard Thiru B.S. Ramesh, Counsel for the petitioner, Fit Person of the temple and Thiru K. Sivapragasam, Impleading Respondent and perused the relevant records. In the impugned order the Joint Commissioner cancelled the lease of 48 persons. But the said order was not challenged by the lessees. The petitioner contended that the said property did not belong to the temple, but to the Sengunthar community of the said village. On verification of the 1-15 register maintained in the suit temple, the said properties are stands in the name of the temple. By the efforts taken by the petitioner the said properties were handed over to the temple. The petitioner himself admitted that the said properties were handed over to the temple. Hence, the properties should be leased out as per the provisions of the Tamil Nadu H.R. & C.E. Act. As per Rule 2 of

**the Religious Institution (Lease of Immovable property) Rules, 1963, “Lease of Immovable property and rights belonging to religious institution shall be made by Public auction”. Further as per Section 34 (A) of the Act, “the lease rent payable to, or given or endowed for the purpose of any religious institution shall be fixed by the Committee constituted under the above Section. But the petitioner unilaterally fixed the lease rent and leased out the properties without following the procedures laid down under the provisions of the Act and rules made there under.**

**The 3<sup>rd</sup> respondent/fit person has filed a petition requesting the petitioner to provide the address and details of the 48 persons. In the reply filed by the petitioner, he has stated that those details are available in the D.C.B register of the temple. But on perusal of the D.C.B. register only name of the persons are mentioned in the D.C.B. Register.**

**Further, as per Section 28 of the Act, “the trustee of every religious institution is bound to administer its office and to apply its funds and properties in accordance with the terms of the trust.. .. and as carefully as a man of ordinary prudence would deal with such office, funds and properties if they were his own”. In this case, though the petitioner levelled various allegations of mismanagement of Temple properties, against the previous trustees, but he failed to take any steps during his tenure to recover the properties alienated by the previous trustees. It is bounden duty of the petitioner as a trustee of the temple to protect the properties from any encroachment. A person who failed to perform his lawful duty cannot question the order issued by the lawful authority to cure the misdeed committed by him.**

**Therefore, for the foregoing reasons stated above, I find no infirmity in the order passed by the Joint Commissioner, Vellore. Accordingly, the order dated 21.3.2012 of the Joint Commissioner is hereby confirmed and the Revision Petition is dismissed as devoid of any merits. The fit person directed to take necessary steps to recover the**

**properties illegally alienated by the previous trustees and lease out the properties in public auction in accordance with the provisions of the Act.**

**/ typed to dictation/**

**Sd. P. Dhanapal,  
Commissioner.**

**/ true copy/ by order/**

**Superintendent**

**To**

- 1. The Petitioner through Thiru B.S. Ramesh, Advocate, Kanchipuram.**
- 2. The Fit Person/Executive Officer, Arulmighu Kasiviswanathar Temple, Karukkupettai, Kanchipuram Taluk and District.**
- 3. Thiru K. Sivaprakasam, Trustee, Arulmighu Mandaleswarar Temple, 415/3, Bhhavasagippettai, Ekanampettai Post, 631 601.**

**Copy to:**

- 3. The Joint Commissioner, HR&CE Admn.Dept., Vellore.**
- 4. The Inspector, HR&CE Admn.Department, Uthiramerur.**
- 5. The Assistant Commissioner, HR&CE Admn.Department, Kancheepuram..**
- 6. Extra.**