

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

Thursday the 29th day of May, Two thousand and Fourteen.

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

A.P. 23/2014 (Rc. 23720/2012 D2)

Between.

- 1. V. Srinivasa Varadhan.**
 - 2. Sudharsan V.K.**
 - 3. Rangamani K.G.**
- .. Appellants.**

And

- 1. The Joint Commissioner, HR & CE Dept.,
Chennai.**
 - 2. V. Raghavan.**
 - 3. R. Ranganathan.**
 - 4. T. Devanathan.**
 - 5. C.R. Vasudevan.**
 - 6. P.K. Lakshminarasimhan.**
 - 7. R.Sampath**
 - 8. R. Venkatesh.**
- ... Respondents.**

**In the matter of Arulmighu Sathyanarayanaperumal Temple, West
Mambalam, Chennai 600 033.**

**Appeal petition filed under Section 54(4) of the Tamil Nadu H.R.&
C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the Order dated
12.01.2012 in Pro. Rc.No. 7534/2010 C1 of the Joint Commissioner, HR
& CE Admn.Dept., Chennai in recording succession under Section 54(1)
of the Act.**

Order in A.P. 23/2014 (RC. 23720/2012) D2 dated : 29.5.2014.

**The above Appeal petition having come on for hearing regarding
maintainability of the appeal petition before me on 15.4.2014 in the**

presence of Thiru E. Ganesh, Counsel for the appellants and Thiru N. Sathyamorthy, 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 54 (4) of the Act against the order dated 12.1.2012 in Pro. Rc.No. 7534/2010 of the Joint Commissioner, Chennai in recording succession under Section 54 (1) of the Act.

2. The appellants are not party to the proceedings. Hence, they file petition craving leave to file appeal. The appeal petition is posted for hearing the counsel regarding the maintainability of appeal petition.

3. In the affidavit filed by the appellant, they have contended that the 1st petitioner is the Executive Committee member of Melamambalam Sri Sudarsana Sath Sangam and an ardent devotee of Sri Sathyanarayana Perumal Temple for many years; the 2nd petitioner is the President of Sri Sathyanarayana Perumal Sripadam Thangigal Association, hereinafter called the "Association", which is a Registered Societ, which does all services at the Temple and the 3rd petitioner is the Vice President of Sri Sathyanarayana Perumal Sripadam Thangigal Association, which does all physical religious services to Sri Sathyanarayana Perumal Temple, West Mambalam and as such, part from being devotees, the Appellants are vitally interested in Arulmighu Sri Sathyanarayana Perumal Temple and its activities and day-to-day affairs and as such are aggrieved by and have the locus standi to question the erroneous order made by the 1st Respondent made in his Proceedings Ref. Se.Mu.Na.Da.No. 7536/2910 E1 dated 12.1.2012. It is well settled principle of law that a person who is not a party to the suit may prefer an Appeal with the leave of the Court and such leave should

be granted, if he would be seriously affected by the Judgment and that in any event Section 54 (4) of the H.R. & C.E. Act specifically contemplates that “any person” aggrieved by the order of the Joint Commissioner may prefer an appeal to the Commissioner.

4. In the counter affidavit, the respondents contended that the impugned order has been passed by the Joint Commissioner, H.R. & C.E., Chennai to fill up the permanent vacancy occurred in the office of the “Hereditary Trustee” of the Temple, by the next in line of Succession, who, in accordance with the provisions made under Section 54 (1) of the Act. The impugned order was based on a petition filed by the Respondents 2 to 8 herein under Section 54 (1) of the Act after a detailed enquiry and as directed by the Commissioner in Rc.No. 10387/2011 D2 on 20.5.2011. There were no Respondents in the said Miscellaneous Petition. Even though, provisions has been made under Section 54 (4) of the Act, for filing an appeal by “Any persons” aggrieved by the order, the petitioners/appellants cannot be termed as “Persons Aggrieved” by the said order. The Respondents have no grievance against the petitioners/Appellants and have not made any allegation against them seeking for remedy and they were not impleaded as Respondent. The Respondents would therefore submit that the Miscellaneous Petition was between respectfully them and the Joint Commissioner, H.R. & C.E., Chennai and there was no prayer or remedy sought for against any other person. Hence, the petitioners/Appellants are not at all entitled to file this Petition/Appeal under Section 54 (4) of the Act. Admittedly that Appellants are Members of “Melamambalam Sri Sudharsana Sath Sangam” and Sripatham Thangigal Association” doing a Physical Religious Services and they are in no way connected directly with the Management of the Affairs of the said Temple. Further they are also not persons entitled to come under the “mode of succession” as prescribed by the Founder. Thiru P.V. Seshadri Bhattachariar, the founder Hereditary Trustee by filing a petition under Section 63 (b) of the Act has

obtained an order of Statutory declarations in O.A. 53/1965 on 18.4.1966 against which there was no appeal under Section 69(1) of the Act or Suo-motu Revision under section 69(2) of the Act. The said order has therefore become final and has been effectively in force for more than 46 years.

4. I heard M/s.A.S. Kailasam & Associates, Counsel for the appellant and Thiru N. Sathyamoorthy, Counsel for the Respondent. Admittedly the petitioners are ardent devotees and doing some physical religious services to the suit temple. And they are interested in the temple activities and as such they are aggrieved by the impugned order. Under Section 54 (4) of the Act "any person" aggrieved by the order of the Joint Commissioner may prefer an appeal to the Commissioner. The petitioners have raised the following issues:

- (1) The Will executed as a Deed of appointment nominating cluster of Trustees and creating a mode of succession is totally void and void abinitio;
- (2) The said Will was not probated.
- (3) The testator has nominated certain people, even before his death, which is not valid in law.
- (4) The Will came into effect only after the demise of the testator and as such all the Trustees who have been functioning before his death have acted as defacto trustees and not as trustees nominated under the Will.
- (5) Whether Cooption of Hereditary Trustee is valid as per the H.R. & C.E. Act.
- (6) Section 6 (11) of the H.R. & C.E. Act does not take in or envisage any nomination.

The above issues have to be decided in this petition.

The petitioners being ardent devotees and doing some service in the temple, they are persons having interest in the affairs of the temple as defined under Section 6 (15) of the Act and hence aggrieved by the impugned order they filed the appeal petition immediately after obtaining

connected papers through Right to Information. Therefore, it is held that the appeal petition is maintainable and filed within the time and leave is granted as prayed for by the petitioners.

The main appeal petition is posted for hearing on 27.6.2014 at 2.30 p.m.

/ typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/by order/

Superintendent.

To

1. The Petitioners through M/s A.S. Kailasam and Associates, Advocate, 86, Law Chambers, High Court Buildings, Chennai.104.
2. The respondents 2-8 through Thiru N. Sathyamoorthy, Advocate, No.62, Law Chambers, High Court Buildings, Chennai.104.

Copy to:

3. The Joint Commissioner, HR&CE Admn.Dept., Chennai.
4. The Inspector, HR&CE Admn.Department, Circle VII, Chennai.
5. The Assistant Commissioner, HR&CE Admn.Department, Chennai.34
6. Extra.