

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

Monday the 13th day of February, Two thousand and Seventeen.

Present: Dr.M.Veera Shanmugha Moni,
Commissioner.

A.P.43/2014 D2

Between

V.Murugesan Chettiar

...Appellant

.....

In the matter of Arulmigu Elangan Mariamman Temple, Crawford,
Tiruchirapalli

The Appeal Petition filed under Section 69(1) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 28.11.2013 of the Joint Commissioner, HR & CE Admn.Dept., Trichy in dismissing the O.A.2/2009 filed under Section 63(b) of the Act.

Annexure Order in R.Dis. A.P.43/2014 D2 dated: 13.02 .2017

The above appeal petition came up for final hearing before me on 10.01.2017 in the presence of Thiru.G.Ramadurai, Counsel for the Appellant. Upon hearing his 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 28.11.2013 of the Joint Commissioner, Trichy in dismissing the O.A. 2/2009 filed under Section 63 (b) of the Act.

. 2. Previously the above Appeal Petition was dismissed by this court by order dated 04.03.2015. The said order was challenged by the appellant before the Hon'ble High Court in the W.P.33140/2016. The Hon'ble High court by order dated 22.09.2016 have allowed the above writ petition by setting aside

the order dated 04.03.2015 and remanded for fresh disposal. Accordingly the appeal petition was reopened and notice issued to the concerned.

3. The appellant contended that the Joint Commissioner even by taking into account the evidence of both oral and documentary, Ex.A1 to A6 and also the History of the temple, photos ought to have held that it is only the appellant who is the founder of the temple and also by taking into account of Ex.A6 ought to have held that the appellant has been and is managing the temple and also maintaining the accounts of the petition mentioned temple which has been duly audited by the H.R. & C.E. Department ought to have held that the appellant is entitled to Hereditary Trusteeship and ought to have allowed the claim of the appellant. The Appellant founded the temple by planting Soolam depicting Arulmighu Elangan Mariyamman and worshipped the same by performing Pooja and thereafter installed stone deity of Elangan Mariyamman and thereby constructed the temple with Vimanam and Rajagopuram. At the time of performing Kumbabishegam in the year 1997, he installed Sub-Deity of Arulmighu Selva Vinayagar, Balamurugan, Ondikaruppu, Madurai Veeran, Yoga Dakshinamoorthy, Kasi Viswanathar, Durga, Navagraham, Thillai Natarajar, Astakai Mahalakshmi etc. The evidence of the Temple Inspector C.W.1 which clearly spoke about the fact that the petitioner is the Founder of the temple, constructed the temple and also maintaining the accounts for the temple which has been duly audited by the H.R. & C.E. Department and further he would depose that the management of the temple has been and is with the Founder/Appellant and ought to have passed orders in favour of the appellant who is in management of the temple.

4. I heard Thiru.G.Ramadurai, Counsel for the Appellant and perused the relevant records. It is case of the appellant that the suit temple was established and maintained by him. Hence, he has filed OA 2/2009 u/s 63(b) of the Act to declare him as Hereditary Trustee of the temple. He had filed 6 documents in support of his claim. In the impugned order, the Joint Commissioner has discussed the evidentiary value of the said documents and rejected the same as the temple was maintained from the contributions made

by the public. But the Joint Commissioner failed to consider that the appellant is not claiming the temple as a private one but claiming the office of the Trustee as Hereditary by admitting it as a public temple. The temple was founded in the year 1991. The Inspector who caused local enquiry on the Original application filed by the appellant, has reported that the temple has been managed by the appellant. The appellant subjected himself to the jurisdiction of the department in the year 2008. But no trustee was appointed by the department under provisions of the Act so far. From the date of inception, the temple has been managed by the appellant without any interruption. There is no contra evidence or claim in respect of trusteeship against the appellant regarding management of the temple.

5. Though the claim of appellant does not fall under any one of the mode defined u/s.6(11) of the HR&CE Act, it cannot be rejected by applying the same formula in view of the recent origin of the temple. In the impugned order the Joint Commissioner has observed as follow:- “மனுக்கோயிலின் நிர்வாக செலவினங்கள் தற்போது உபய வரவு மற்றும் உண்டியல் வருமானம் மூலமாகவே மேற்கொள்ளப்பட்டு வருகிறது. மனுக்கோயில் சித்திரை பெளர்ணமி விழா அழைப்பிதழ்கள் ஆலய நிர்வாகக் குழு மற்றும் பொதுமக்கள் சார்பாக வெளியிடப்பட்டுள்ளதிலிருந்து மனுக்கோவிலில் நிர்வாகமானது உள்ளூரில் உள்ள முக்கியஸ்தர் என்ற முறையிலும், மனுக்கோவில் மனுதாரரால் திருக்கோயில் நலனில் அக்கறையுள்ள நபர் (Care taker and person having interest) என்ற முறையில் மட்டுமே கவனித்து கொண்டு வருவதும் தெரிய வருகிறது.” So , it is not disputed that the appellant is managing the temple either as founder or Trustee or care taker or person having interest. The definition “Hereditary Trustees” envisaged u/s.6(11) of the Act will be helpful to decide the claim in respect of the religious institution whose origin is not known or when there is dispute regarding Trusteeship. The Act is silent about deciding the nature of Trusteeship of the Temples of recent origin. In such cases, it ought to be decided based on the uninterrupted management by a person or family. Hence, in my considered opinion as the suit temple has been managed by the appellant without any interruption, he is entitled for declaration as prayed by

him. Accordingly the appellant is declared as Hereditary Trustee of Arulmigu Elangan Mariamman Temple and appeal petition is hereby allowed.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent