

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

Monday the 10th day of August, Two thousand and Fifteen.

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

A.P. 9/2015 D2

Between

P.S.Eswaran

...Appellant

And

1. The Joint Commissioner

HR&CE Department,
Madurai.

2. The Assistant Commissioner,

HR&CE Department,
Madurai.

3. The Executive Officer/Thakkar,
Arulmigu Jeyaneera Anjeneyar Temple,
Simmakkal, Madurai.

.... Respondents.

4. A.S.Amirtharaj

5. S. Murugan

.... impleaded as
respondents

In the matter of Arulmighu Iyappan Temple, K.Pudur,
Madurai.

The Appeal Petition filed under Section 53(5) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 4.5.2015 of the Joint Commissioner, Madurai in appointing fit person under Section 53(4) of the Act in Pro.Rc.No.1364/2015.

Order in R.Dis.A.P.9/2015/D2, dated: 10.08.2015

The above Appeal Petition having come up for final hearing before me on 28.7.2015 in the presence of Thiru.B.Sivakumar Counsel for the appellant and M/s.R.K.Gandhi counsel for the 3rd Respondent and impleading respondent and upon hearing their arguments and upon perusing the connected records the following order is made:-

ORDER

The above appeal petition filed under Section 53(5) of the Act against the order dated 4.5.2015 of the Joint Commissioner, Madurai in appointing fit person under Section 53(4) of the Act.

2. The appellant contended that the Joint Commissioner ought to have seen that before invoking provision under Sub Section 3 of

Section 53. The Joint Commissioner ought to have initiated proceedings under Sub Section (2) Section 3 wherein he has to frame charges as against the persons concerned, call for explanations from the concerned persons, hold an enquiry into the charges by giving opportunity to the person concerned to adduce oral evidence to defend him apart from the written explanation and thereafter only the Joint Commissioner ought to have invoked provisions under Sub Section 3 and 4 of Section 53 and pass an order of appointing a fit person to the temple. But in this case there is no enquiry at all by the Joint Commissioner to go into the charges as against the appellant in detail, but passed an order under Section 53 (3) and (4) of the Act by appointing the 3rd respondent herein as fit person for the temple which is contrary to the provisions of the Act and therefore the order of the 1st respondent dated 4.5.2015 is liable to be set aside. Depriving an opportunity of being heard is in total violation of the principles of natural justice since in this case the appellant is deprived of adducing oral evidence to disprove the charges leveled against as there is no enquiry conducted by the 1st respondent in the above case.

3. In the counter affidavit the 3rd respondent/fit person contended that as per the direction given by the Joint Commissioner, the appellants failed to handover the charge of the temple and they locked the temple. Hence charge has been taken in the presence of Revenue and Police officials after break open the lock.

4. Meanwhile, the appellant filed W.P.(MD).8420/2015 before the Madurai Bench of Madras High Court. The Hon'ble High Court by order dated 20.5.2005 directed the Commissioner, to consider the merits of the matter and dispose of the appeal within a period of eight weeks from the date of receipt of copy of the order.

5. Further One Thiru. A.S.Amirtharaj and Thiru.S.Murugan filed impleading petition claiming themselves as a devotee of the suit temple. Since they are person having interest in the temple, the

impleading petition is hereby allowed and they are impleaded as party respondent.

6. I heard Thiru.B.Sivakumar Counsel for the appellant and M/s.R.K.Gandhi counsel for the 3rd respondent and impleading respondent. I perused the relevant records. The suit temple is a public temple. A scheme of administration has been settled by Joint Commissioner Madurai in order dated 20.9.2011 made in O.A.10/2009 with a permanent provision to appoint non-hereditary trustees from the members of Pudur Iyyappasamy temple trust. But trustees have not been appointed as per the provisions of the said scheme. The appellant along with 4 others have managed the temple without getting any order from the competent authority. Several allegations were being received against them. Hence, the Joint Commissioner sent a notice dated 29.11.2015 pointing out certain irregularities in the administration of the temple and directed the appellants to rectify the irregularities within 30 days. Since, irregularities are not rectified within the time, Joint Commissioner issued a show cause notice on 14.3.2015 calling upon the trustees to show cause why a fit person should not be appointed to cure the irregularities. The appellant and one G.Veerachamy submitted explanation. After considering their explanation, the Joint Commissioner prima facie satisfied that the irregularities alleged against the appellants are proved and appointed fit person to cure the such irregularities.

7) In the impugned order the Joint Commissioner clearly stated that fit person has been appointed for the interregnum period till the constitution of Trust Board as per the scheme and to cure the irregularities committed by the defacto trustees. The management of the temple should be vested with legally constituted Trust Board. The appellant failed to administer the temple in accordance with the provisions of the Act. The Joint Commissioner afforded opportunity to the appellant to rectify the irregularities. Even thereafter, the appellant failed to cure the irregularities. Hence the Joint Commissioner appointed fit person to streamline the administration of the suit temple.

Therefore, I find no infirmity in the order passed by the Joint Commissioner and appeal deserves no merits. Accordingly the order dated 4.5.2015 of Joint Commissioner, Madurai is hereby confirmed and the appeal petition is dismissed as devoid of any merits.

/typed to dictation/

**Sd./- M.Veera Shanmugha Moni
Commissioner.**

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

Superintendent.

To

- 1. The Appellant through Thiru.B.Sivakumar, Advocate, No.478, Law Chambers, High Court Buildings, Chennai 104.**
- 2. Executive Officer through M/s.R.K.Gandhi, Advocate, No.294, New Addl.Law Chambers, High Court, Chennai 104.**
- 3. Respondents 4 and 5 through Thiru.K.Thiruvengadam, 294, Law Chambers, High Court, Chennai 104.**

Copy to

- 4. The Joint Commissioner, H.R. & C.E. Admn.Dept., Madurai.
(along with file in Rc.No.1364 of 2015/A1)- by RPAD**
- 5. The Assistant Commissioner, HR & CE Admn.Dept., Madurai.**
- 6. The Inspector, HR & CE Admn.Dept., Madurai North.**
- 7. N5 Section at Head office – Through numbering.**
- 8. Extra.**