

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

Wednesday the 30th day of March, Two thousand and Sixteen.

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

A.P.22/2015 D2

Between

B.Rajaguru

..Appellants

And

1. The Joint Commissioner,
HR & CE Department, Chennai.
2. The Inspector (Circle-7)
HR & CE Department, Chennai.
3. The Executive Officer,
Arulmigu Renganathan Temple,
Thiruneermalai, Chennai.
4. M.Pandian
5. T.V.Raja

.. Respondents.

In the matter of Arulmighu Devi Gangai Amman Temple, Jamin Pallavaram, Malanganandapuram, Zamin Pallavaram , Chennai

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 11.8.2015 of the Joint Commissioner, HR & CE Admn.Dept., Chennai in appointing fit person under section 64(4) of the act.

Order in R.Dis.A.P.22/2015 D2 dated: 30.03.2016

The above Appeal petition came up for final hearing before me on 22.3.2016 in the presence of Thiru. R.C.Paul Kanagaraj, Counsel for the appellant, Thiru.R.Mahalingam Counsel for the 3rd Respondent and M/s.A.S.Kailasam Associates Counsel for the 4th and 5th respondents. 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(1) of the Act against the order dated 11.8.2015 of the Joint Commissioner, Chennai in appointing fit person under Section 64(4) of the Act.

2. The appellant contended that The Petitioner is the President of A/M.Sri Devi Gangaianman Temple Trust which is administering the

affairs of Sri Devi Gangaianman Temple, Malanganthapuram Zamin Pallavaram, Chennai 600 043. The members of the Trust filed an application in O.A.No.9 of 2010 before the First Respondent herein to frame a scheme of administration for due recognition. Pending Scheme petition the Second Respondent herein without issuing any notice to the appellant had inspected the temple and filed a report in O.A.No.569/2012 dated 31.12.2012 before the First Respondent herein. Based upon the report the First Respondent without giving an opportunity to the appellant to cross examine the inspector has appointed the Executive Officer of Arulmigu Renganatha Swamy Temple, Thiruneermalai, Chennai, the Third Respondent herein, as the fit person of the temple to administer the day to day affairs of the temple. Aggrieved over the same the appellant had filed an Appeal before the Commissioner HR&CE Department in A.P.No.17 of 2013 against the said appointment. After perusing the records and argument put forth by the appellant, the Commissioner has set aside the said order and remanded back the matter to the First Respondent herein for de nova enquiry and directed the First Respondent to pass appropriate orders after following due process of Law. The First respondent ought to have taken into consideration that his order to direct the Second Respondent for fresh inspection was challenged before the Hon'ble High Court in W.P.No.20234 of 2015 by the appellant and the Hon'ble High Court has clearly observed that opportunity has to be given to the appellant by reopening and recalling the Second Respondent for cross examination. The First respondent has not given opportunity to the appellant to cross examine in spite of the fact that the junior counsel of the counsel for the appellant sought for a very short adjournment. The Petitioner Trust has been maintaining accounts for all the income and expenditure of the temple and the same have been periodically produced and approved by the general public, devotees who contribute to the temple. The daily Poojas have been duly performed and there is no violation or deprivation of any of the daily rituals including that of Abhishegam, Neivaethiyam, and other Poojas and rituals. The temple has been a place of

congregation of communal harmony and that there is no displeasure to any of the common public, devotees of the temple on the administration of the temple by the appellant.

3. In the counter affidavit 3rd respondent contended that only based on the complaints received from the Public, the then Assistant Commissioner of the Department had passed orders of appointment of a Fit Person. But the said official was prevented by the Appellant and his supporters. Later, he filed a Petition before the Hon'ble High Court challenging the orders of the officials of the Department. Subsequently, he filed a Revision Petition before this Hon'ble' Court. The said Petition was allowed by this Hon'ble Court and the 1st Respondent was directed to conduct a de nova enquiry. But in the enquiry proceedings taken up by the 1st Respondent, the Appellant neither appear nor he filed his objections over the report of the Inspector of the Department. He even failed to maintain proper accounts relating to the collection of funds from the public including donations received by him from 2008 till the date of taking over the administration of the temple from Thiru Pandian who established the said Religious Institution. He himself admitted at the time of enquiry that he would maintain proper accounts and submitted to the Audit Wing of the Department. He even failed to open a Bank Account in the name of the Temple.

4. In the counter affidavit respondents 4&5 contended that the affairs of the Temple are not being managed in a transparent manner as per the Act and the Rules. The averments of the appellant that the Trust and the Trustees of the Trust Board have been administering the Temple from the inception of the Temple is hereby denied as false since the Temple is an ancient Temple due to which the question of the Trust or members of the Trust administering the same from the date of inception will never arise. There is no question of format for maintenance of records and the only requirement is that records should be maintained since it is a public temple and collections of money from general public takes place. The appellant having examined PW-3 was at liberty to examine any member of the general public being a devotee to

highlight the actual situation regarding the alleged administration of the Temple. The undertaking of the Appellant to maintain records in the regular format for the future would not have any effect on the past acts of omissions and commissions. The management, administration and possession of the Temple had been taken over by the 3rd Respondent herein which has also been admitted by the appellant by filing a petition for restoration of possession and administration.

5. I heard Thiru.R.C.Paul Kanagaraj Counsel for the petitioner, Thiru.R.Mahalingam Counsel for the 3rd Respondent and M/s.A.S.Kailasam Associates counsel for the 4th and 5th respondents and perused the relevant records.

6. The counsel for the appellant contended that the Joint Commissioner failed to afford an opportunity to cross examine the Inspector. The Joint Commissioner before passing the impugned order, had provided sufficient opportunity to the appellant. But he did not appear for enquiry despite receipt of notice. The copy of the Inspector report was also furnished to him. He had also filed his objection. It is 3rd round of litigation, originally fit person was appointed in the year 2007 and the same was challenged by the petitioner, on the ground that order was passed without affording an opportunity. Subsequent orders were also challenged on the same ground. But when opportunity was given, he was neither ready to appear for enquiry nor to cross examine the Inspector, only interested in drag on the proceedings. Hence the contention of the appellant is not sustainable.

7. The suit temple is a public temple. It is maintained from the funds collected from the General public. But the affairs of the temple were not managed in a transparent manner in accordance with the provisions of the Act. The income received from various sources were not deposited in the name of the temple and accounts were not maintained. Though the fit person was appointed by the Assistant Commissioner in the year 2007, the petitioner formed the Trust in the year 2008 only and he also filed Original Application in the year 2010 in the name of the Trust to settle a scheme of administration. Even after that the trust failed

to maintain the accounts properly. There is dispute regarding the administration of the temple and several complaints were received regarding maladministration of the temple by the alleged Trusts. Hence in order to streamline the administration of the temple fit person has been appointed as an interim measure till the constitution of the Trust Board as per the provisions of the Act. The appointed fit person has already taken over the administration and is effectively managing the temple. As the Original Application No.9/2010 filed by the appellant to settle a scheme of administration under Section 64(1) of the Act is pending before the Joint Commissioner, Trustees will be appointed based on the outcome of the said Original Application.

Therefore for the foregoing reasons stated supra, I find no reasons to interfere with the impugned order and it is liable to be confirmed. Accordingly the order dated 11.8.2015 of the Joint Commissioner, Chennai is hereby confirmed. The Joint Commissioner is directed to dispose the O.A.9/2010 filed by the appellant in accordance with law within a period of 4 months from the date of receipt of this order. The Appeal Petition is hereby disposed with the above directions.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent

To

1. The Appellants through Thiru R.C.Paul Kanagaraj, Advocate, Flat A, Srilalitha, Door No.16 , Sripuram 1st Street , Royapettah , Chennai 14.
2. The Executive Officer through Thiru.R.Mahalingam, Advocate, No.20, Additional Law Chambers, High Court Buildings, Chennai 104.
3. R4&5 through M/s.A.S.Kailasam and Associates, No.86, Law Chambers, High Court Buildings, Chennai 104.

Copy to

4. The Joint Commissioner, H.R. & C.E. Admn.Dept., Chennai
5. The Assistant Commissioner , HR & CE Admn.Dept., Chennai.
6. The Inspector (Circle-7)
7. Extra