

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

Friday the 30th day of September, Two thousand and Sixteen.

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

A.P. 19/2016 D2

Between

1. V.Lakshmipathy Raj
2. V.Dasarathan
3. V.Muthukrishnan

...Appellants

And

Nil

.... Respondent

In the matter of Arulmigu Santhana Karuppanaswamy Temple, Punnapatti, Natham Taluk, Dindigul District.

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 20.5.2016 of the Joint Commissioner, Madurai in O.A.24/2004 filed under Section 63(b) of the Act.

Annexure to Order in R.Dis.A.P.19/2016 D2 dated: 30.09.2016

The above Appeal petition came up for final hearing before me on 6.9.2016 in the presence of M/s.J.Anandavalli, 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 19.5.2016 of the Joint Commissioner, HR&CE Admn.Department, Madurai in dismissing the O.A.24/2004 filed under Section 63(b) of the Act.

2. The appellants contended that the office of the trusteeship of Arulmigu Santhana Karuppanaswamy Temple at Veerappanayakkanpatti, Punnapatti, Natham Taluk, Dindigul District is hereditary in nature and the administration of the said temple is all

along with the appellants' family. The 1st appellant was examined as P.W.1 and documents were marked to substantiate the continuous administration. When there was interference in the administration by the department by appointing Executive Officer, the same was challenged by the appellant's ancestors and though the trustees were appointed, they never took administration. So far as the appointment of Executive Officer is concerned, the same are not within the knowledge of either the appellants or their ancestors. Even assuming without admitting that Executive Officer was appointed, the same cannot take away the right over the appellant's hereditary right. In so far as the appointment of non hereditary trustees are concerned, on coming to know of the said appointment, the appellants preferred application in O.A.No.6 of 1997 and thereafter as there was no interference in the administration of the temple by the appellants, the said application was dismissed as withdrawn in the year 2004. The settlement patta granted in favour of appellant's ancestors though described as worshippers, the inference that can be drawn only if really there was a trustee or a poojari for the temple, at that time their name alone would have found place rather it stands in the name of the appellant's ancestors. Therefore the interpretation of the settlement register by the Joint Commissioner is incorrect. The appellants are in continuous administration of the temple and the persons who opposed the administration by making applications have lost their right upto this Hon'ble Court. The Joint Commissioner having looked into the report of the Inspector in the year 2005 and if he finds variation in respect of the report in the year 2015, should have examined the Inspector or given an opportunity to the appellants to meet out the contradictions. The Joint Commissioner misinterpreted the document Ex.P1. In so far as EX.P2 is concerned, though it states that inam lands was granted for support of Santhana Karuppannaswamy Temple, the said lands are still in the possession of appellants. Though

patta stands in the name of Thirukkan, there is no record to show except the patta in the name of Thirukkan, that he is administering the temple. The ryotwari patta was granted in favour of the temple under Section 8(2)(ii) of the Act and the appellant's ancestors name finds place in the same. The lands are dry lands and there was no income from the same and that being so, the production of account for the income received does not arise. The Joint Commissioner does not give any reason why the deposition of independent witnesses cannot be believed.

3. I heard M/s.J.Anandavalli Counsel for the appellants and perused the relevant records. The appellants are claiming the Hereditary Trusteeship on the ground that the suit temple has been managed by their ancestors continuously for more than three generations without any interference from any source. But the temple was administered by the Non Hereditary Trustees appointed by the department from the year 1979. Though the contention of the appellants that the appointment of Non-Hereditary Trustees will not take away their right may be correct, but Non- Hereditary Trustees were appointed by the Department for nearly 18 years from 1979 to 1993 and the same was never objected by the appellants. They had filed O.A.6/97 for declaring them as Hereditary Trustees and later withdrew the same in the year 2004. The appellants who are claiming Hereditary Trusteeship should establish their claim with clinching evidences. But they had filed extract of Inam Fair Register and order of settlement Tahsildar in support of their claim before the Joint Commissioner. The said documents were legally analyzed by the Commissioner and gave categorical findings on the said documents. The temple has been granted with Ryotwari Patta. In the settlement proceedings, the temple was represented by one Thirukkan S/o. Vellayan as a Trustee of the temple. He was not an ancestor of the appellants.

4. As per Section 6(11) of the Act, **“Hereditary trustee” means the trustee of a religious institution, the succession to whose office**

devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force.

5. The appellants failed to produce any documents to prove that the management of the suit temple has been uninterruptedly vested with their family for more than 3 generations. The Hereditary Trustee is a valuable right available against the whole world excluding others. The persons who are claiming such right to prove their claim by adducing both oral and documentary evidences. But the appellants failed establish their claim with clinching evidences.

Therefore, for the foregoing reasons stated supra, I find no infirmity or illegality in the order passed by the Joint Commissioner, Madurai and it is liable to be confirmed. Accordingly the order dated 19.5.2016 of the Joint Commissioner, Madurai is hereby confirmed and the appeal petition is dismissed as devoid of merit.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent