

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

Friday the 2nd day of December, Two thousand and Sixteen.

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

A.P.23/2016 D2

Between

R.Arunachalam

...Appellant

And

1. The Joint Commissioner,
HR&CE Admn.Department,
Villupuram

2. U.Muthusamy Gounder

.... Respondents.

In the matter of Arulmigu Lakshmi Narayana Perumal and Adhi
Narayana Perumal Temple, Deevanur Village, Tindivanam Taluk,
Villupuram 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
23.5.2016 of the Joint Commissioner, Villupuram in allowing the O.A.
6/2013 filed under Section 63(b) of the Act.

Annexure to Order in R.Dis.A.P.23/2016 D2 dated: 02.12.2016

The above Appeal petition came up for final hearing before me
on 11.11.2016 in the presence of Thiru. R. Thirugnanam counsel for the
appellant and Thiru.R.Veeramani counsel for the 2nd Respondent. 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 23.05.2016 of the Joint Commissioner, Villupuram
allowing the O.A. 6/2013 filed under Section 63(b) of the Act.

2. The appellant contended that the suit temple was taken over by the department in the year 2012 and fit person was appointed in the year 2013. But the same was not challenged by the 2nd respondent. The impugned order was passed based on assumptions and presumptions. The Joint Commissioner failed to appreciate the oral evidence let in by the appellant clearly proved that the renovation, festivals were performed from the donations and contribution made by the public. The 2nd respondent has not filed any documents to prove that he had spent the amount for the renovation of temple and performance of the festivals.

3) In the counter affidavit, the 2nd respondent has stated that he had filed 27 documents and examined 9 independent witnesses to prove his claim but the appellant not filed any documents to disprove the claim. The order passed by the Commissioner will not take away the right of the respondent to claim the office of the Hereditary Trustee. The order passed by the Assistant Commissioner dated 26.02.2013 is not final. On the basis of the documents, oral testimonies and report of the Inspector, the Joint Commissioner passed the impugned order. The document of the year 1947 marked as Ex A1 proves that the respondent's predecessors in administration and control over the suit temple. No contra evidence was let in by the appellant.

4) I heard Thiru.R.Thirugnanam counsel for the appellant, Thiru.R.Veeramani counsel for the 2nd respondent and perused the relevant records. The counsel for the appellant reiterated the contention raised in the grounds of the appeal petition.

5) The appellant mainly opposing the claim of the 2nd respondent on the following two grounds.

(i) The suit temple was taken over by the department in the year 2012 and fit person was appointed in the year 2013.

(ii) The temple was renovated and festivals were celebrated from the contribution of the public.

6) The 2nd respondent has filed Original application to determine the nature of the office of the Trusteeship not the nature of the Temple. He has admitted that suit temple is a public temple. If he has claimed that the suit

temple is a private temple, then only the right of public to participate in the worship of the temple ought to be tested. But the issue is regarding management of the temple. The suit temple was taken over by the department in the year 2012. But no evidence was produced by the appellant to prove that the suit temple was managed by other than the 2nd respondent's family prior to the year 2012. On the other hand, the 2nd respondent has filed 27 documents and examined 9 independent witnesses to prove his claim and one such document relates to the year 1947.

7) Further, the appointment of fit person is an interim arrangement and it will not take away the rights of a person to claim Hereditary Trusteeship, if he has valid documents to prove his claim. In this case the 2nd respondent has proved his claim with cogent evidence. No contra evidence was produced by the appellant. Hence both the grounds raised by the appellant are unsustainable .

8) In the impugned order, the Joint Commissioner has elaborately discussed the evidentiary value of the documentary evidences filed by the 2nd respondent herein and oral evidences let in from both the sides and has given categorical findings on all the evidences. He has adduced valid reasons in support of his decision.

Therefore I find no reason to interfere with the order passed by the Joint Commissioner, Villupuram and the appeal petition deserves no merits. Accordingly, the order dated 23.05.2016 of Joint Commissioner , Vilupuram in allowing the O.A. 6/2013 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