

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

Friday the 19<sup>th</sup> day of May, Two thousand and Seventeen.

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

**A.P.No.29/2016 D2**

**Between**

1. Chinnathambi
2. Pandurangan
3. Shanmugam
4. Jayaraman
5. Elumalai

...Appellants

**And**

1. The Joint Commissioner  
HR&CE Department, Villupuram.
2. N.Rangasamy Naidu
3. N.Renganatha Padaiyachi
4. K.Radhakrishna Reddiyar
5. K.Rajavel Padayachi
6. S.Narasinga Padayachi (deceased)
7. V.Narayana Padayachi
8. V.Arumugam Pillai (deceased)
9. P.Arumugam Pillai
10. V.Saravanan
11. V.Ranganathan
12. A.Sekar  
(Legal representative of deceased 7<sup>th</sup> respondent)
13. N.Kurichandran  
(Legal representative of deceased 5<sup>th</sup> respondent)
14. N.Chelladurai  
(Legal representative of deceased 5<sup>th</sup> respondent)

.... Respondents.

In the matter of Arulmigu Hari Puthra Ayyanar Temple, Periapettai  
village, Ulundurpet 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 16.8.2016  
of the Joint Commissioner, Villupuram in dismissing O.A.8/2006 filed under  
Section 64(1) of the Act.

**Annxure Order in R.Dis. A.P.NO.29/2016 D2 dated: 19.05.2017**

The above appeal petition came up for final hearing before me on 18.04.2017 in the presence of Thiru.M.Rukmangathan, Counsel for the appellants, Thiru.M.G.Selvaraj, counsel for the respondent R2 to R14 and perused the relevant records. 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 was filed u/s.69(1) of the of the Act against the order dated 16.08.2016 of the Joint Commissioner, Villupuram in dismissing O.A.8/2006 filed under Section 64(1) of the Act.

2. The appellants have stated that, there is a temple dedicated to Hariharaputhra Ayyanar temple which is situated in Periapattu village. There is a village called as Easwarakandanallur and this village is adjoining to Periapattu village. But, however the person belonging to Eswarakandanallur are interfering with the affairs of the persons belonging to Periapattu village. The appellants find very difficult to manage the rival group of Easwarakandanallur and accordingly. In order to manage the affairs of Arulmigu Hariharaputhra Ayyanar temple in a smooth manner, proposed to file a scheme petition in O.A.No.8 of 2006 on the file of the joint commissioner HR & CE department, Villupuram and the person residing in Periyapattu village can look after their own temple and perform festivals thereon. On the other hand, the persons belonging to Easwarakandanallur took up an hostile attitude towards the persons of Peripattu village and got themselves impleaded as party respondents in O.A 8 of 2006. The joint commissioner after enquiry, dismissed the scheme petition after framing four issues to decide the issue whether a scheme could be framed in favour of Periyapattu village, the object of person belonging to Periyapattu village is to incorporate a permanent provisions in this scheme for the appointment of trustees from and amongst

the members of Vanniykula Shathriyas consisting of 90 houses for whose benefits the institution has been chiefly intended and maintained. The joint commissioner while deciding the issue held the first issue in favour of Periyapattu. The joint commissioner also took the view that Padayachi family are managing the affairs of the temple. The joint commissioner has also held that the temple is not in Easwarakandanallur village. On the basis of the evidence given by village administrative officer of the village. The temple is situated in survey no.41/13 in Periyapattu village. This aspect was accepted by the joint commissioner. The inspector of the HR and CE department has held after the enquiry that the management of the affairs of community temple is with the members of Periyapattu village. The joint commissioner has rejected to frame a scheme even though the joint commissioner has categorically held three issues in favour of the appellants herein. They have examined persons from Periyapattu village to establish their case filed ex.A1 to A12 in support of their claim to held the office as community Trustees in Harharapudhra Ayyanar temple situated in periyapattu village. The Joint Commissioner did not go into the records Ex.A1 to A12 but answered the issues on the basis of the oral examination and rejected the claim to frame a scheme, which is exfacie illegal and apparent on the face of the records and is liable to be set aside. The Commissioner has no authority to frame a scheme for the temple and therefore, it is necessarily to remand back to the Joint Commissioner, HR&CE Department, Villupuram on the basis of the fact the learned judge had held 3 issues in favour of Periapattu Village.

3. In the counter affidavit the respondents 2 to 14 have stated that the suit temple is situated in Eswarakandanallur village and the adjoining village is Periyapattu village more than 500 family are living in the Eswarakandanallur village. The villages of the Periyapattu village were migrated from nearby village to work in the agricultural lands. The respondents never interfere with the petitioners but they had interfered with the management of the respondents. They never administer the temple and

performed festivals and pooja. They are occupying the lands belonging to the temple. They did not produce any records to prove that the suit temple was founded by them. The witness of the Village Administrative Officer was not admissible. The location of the suit temple should be proved by obtaining records from the Tahsildhar. In Original Application the petitioners did not mention about the lands belonging to the temple. The suit temple was built 2000 years ago by the King Varagunapandian. The petitioners had failed to prove that the temple has been managed hereditarily by them. But as per the report of the Inspector, the temple has been maintained, managed and poojas, festivals has been performed by the village of the Eswarakandanallur village and EB connection was also obtained by the temples of Eswarankandanallur village. Hence there is no ground to remand the matter for fresh enquiry.

4. I heard Thiru.M.Rukmangathan, Counsel for the appellants, Thiru.M.G.Selvaraj, counsel for R2 to R14 and perused the relevant records.

5. The appellants herein had filed the O.A.No.8/2016 u/s.64(1) of the Act to settle a Scheme of administration with provision for appointment of Trustees from the elected members of the Mahajana Sabai of 36 padayachi family of Periyapattu village. The same was opposed by the respondents who are belonging to the Eswarankandanallur village.

6. In the said Original Application 6 persons were examined as witnesses and 12 documents were marked on the petitioners' side. Further, 3 persons were examined and 10 documents were marked as documents on the side of respondents. In the impugned order the Joint Commissioner had legally analyzed the evidentiary value of the both oral and documentary evidences and gave categorical findings on each evidence.

7. After perusing all the documents and depositions the Joint Commissioner has framed the following 4 points for consideration:

(i) Whether the petition temple is situate at Periyapattu Village?

(ii) Whether the members of the 36 Padayachi families of Periyapattu Village are in management of the petition temple and whether it belonged to them?

(iii) Whether the persons of the Easwarakandanallur Village were in management of the petitioner temple from time immemorial as claimed

(iv) Whether the petitioners are entitled for a scheme for the management of the temple as prayed for by the petitioners in the original application?

Though the Joint Commissioner had answered the 1<sup>st</sup> point affirmatively in favour of the petitioners, the 2<sup>nd</sup> and 4<sup>th</sup> points were answered against the petitioners and the 4<sup>th</sup> point was answered against the respondents.

8) In the impugned order, the Joint Commissioner has observed that the petitioners were not able to give accurate particulars like date of the founding of the temple, dates and names of the members of 36 Padayachi families who took charge as Trustees. No records like account books, ledgers, income and expenditure receipts, trustees resolution books were filed by the petitioners to prove that they were in management of the temple.

9. The appellants are claiming that it is their kuladeivam. As held by the Joint Commissioner, worshipping the deity cannot give a right of management to the worshipper. It has to be proved beyond doubt with cogent evidence that the person claiming right has founded the temples and are in management without any interruption. From the records produced in the Original Application it is evident that the temple has been maintained from the contribution made by all the communities. The temples were all along managed by the Non-Hereditary Trustees appointed by the Department. The villages of Easwarakandanallur were also appointed as Non-Hereditary Trustees by the department. As the petitioners have failed to

prove that the management of the temple has been vested with 36 padayachi families of Periyapattu village, their claim was rightly negative by the Joint Commissioner, Villupuram.

10. Further as per Sec 64 of the Act as follow ***“When the Joint Commissioner or the Deputy Commissioner, as the case may be, has reason to believe that in the interest of the proper administration of an institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application, in writing, stating that in the interest of the proper administration of an institution a scheme should be settled for it, the Joint Commissioner or the Deputy Commissioner, as the case may be, shall consult in the prescribed manner the trustee and the persons having interest and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, settle a scheme of administration for the institution”.***

As per the said provision the following there conditions are mandatory to settle scheme of administration for a temple:-

- (i) In the interest of proper administration of an Institution.
- (ii) The Joint Commissioner should consult the trustees and the persons having interest
- (iii) The Joint Commissioner should satisfy subjectively to settle a scheme.

Accordingly, the onus is on the persons who are claiming to settle a scheme to satisfy the Joint Commissioner to settle a scheme with valid evidence. But in the case on hand, the appellants have failed to satisfy the Joint Commissioner with valid evidence. Hence, the Joint Commissioner after hearing the petitioners and the persons having interest had decided that a scheme is not necessary for the proper administration of the temple. The appellants have also failed to establish that the temple was founded by

them and chiefly intended or maintained for the 36 padayachi families of Periyapattu village. Hence their claim was rejected by the Joint Commissioner.

Therefore, for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner, Villupuram and it does not warrant any interference. Accordingly, the order dated 16.08.2016 of the Joint Commissioner, Villupuram is hereby confirmed and the appeal petition is hereby dismissed as devoid of merit.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni  
Commissioner

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

Superintendent