

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

Tuesday the 10th day of January, Two thousand and Seventeen.

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

A.P.No.34/2016 D2

Between

1. N.C.Athinaryanaperumal
2. T.Parthasarathi
3. T.Varadaraj
4. R.Chidambaranathan
5. J.Janarthanam
6. A.Ramachandra Nadar (died)

...Appellants

And

1. T.Vivekanandan, Trustee
2. N.Jeyaraj, Trustee
3. I.Ponranjan, Trustee
4. N.Manickadurai
5. Thamari Pushpam
6. Chidambaram
7. Executive Officer, Arulmigu Chidambareswarar
Iynthuveetusamy and Vinayagar Temple, Chettipathu
8. Othaiyandi
9. Gnanendra Prakash Amirthalingam
10. Raveendran
11. P.Athimuthu
12. Pauldurai Nadar
13. R.Karthikeyan
14. Sivanathan
15. R.Sivapaul
16. A.Ananthan
17. Varagunapandian
18. M.Raj.

...Respondents

In the matter of Arulmigu Chidambareswarar Temple, Chettiapathu,
Tiruchendur, Turicorin 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 29.7.2016 of the Joint Commissioner, Tirunelveli in dismissing O.A.2/2016 filed under Section 64(5)(a) of the Act.

Annexure to Order in A.P.34/2016 D2 dated: 10.01 .2017

The above appeal petition came up for final hearing before me on 29.11.2016 in the presence of Thiru.P.Murugesan Counsel for the appellants and Thiru.s B.Krishnakumar Counsel for the 6th , 8th to 15th and 18th respondents. Thiru.R.Amardeep counsel for the 7th 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 u/s 69(1) of the act against the order dated 29.07.2016 of the Joint Commissioner , Tirunelveli in dismissing the OA.2/2016 filed u/s.64(5) of the Act.`

2. The Apellants contended that they are the members of 4 families who are having right to manage the suit temple. The temple is managed by trustees selected by member of 4 families residing in the Chettiapathu village as per the scheme dated 03.06.2009 framed in O.A.4/1999. The trustees are being elected from 30 family divisions. There are no legal representative for 5 families. Hence members of 25 families are eligible for voting. But the members who are residing outside Chettiapathu village are denied voting rights. Further, in case election is conducted, family with more members will get trusteeship. There is no provision for electing female trustee. Hence, an application was filed to modify the existing scheme. The proposed amendments are vital to the implementation of the scheme. It is not correct to say that practical difficulties would arises if scheme is modified and the members residing outside the Chettiapathu Village cannot be traced out. If any difficulty arises in the implementation of the scheme, the act empowers the Joint Commissioner to rectify the mistake. It is duty of the trustees and

Executive Officers to prepare the electoral roll including the genuine list of voter. The existing scheme fails in this aspects. So the decision of the Joint Commissioner is incorrect.

3. The respondent 6, 8 to 15 and 18 have argued that the appellants do not have any locus standi to file the appeal petition. The reason stated by the appellants are baseless. The voter ID filed by the appellants was not credit worthy. If any modification are carried out as prayed by the appellants, it would amount to subjecting the temples, its valuable and administration to high risk. There is no mechanism to weed out strangers/third person who would claim voting right from other places. There was no proof on allegation of difficulties in implementation of the scheme. If a person from outstation gets elected as a Chairman Board of Trustee the Executive Officer and the remaining trustee would be forced to expect for his arrival for each and every proceedings. The counter filed by the trustees were not signed by them. The appellants did not choose to let any oral evidence or to file any documentary evidence. The Secretary to Government and the District Collector were not impleaded as party. The legal heirs of deceased 6th petitioner was not impleaded as party. Hence the appeal petition deserved to be dismissed for non joinder of parties.

4. I heard Thiru.P.Murugesan, Counsel for the appellants, Thiru.B.KrishnaKumar, counsel for the respondents 6, 8 to 15 and 18, Thiru.R.Amardeep, counsel for the 2nd respondent and perused the relevant records. The counsels reiterated the contentions raised in the grounds of appeal petition and written arguments filed by them.

5. Originally, a scheme was settled by order dated 03.06.2009 made in OA 4/99 with a provision to appoint 5 non – hereditary trustees elected by the members belonging to the 30 families residing in Chettiapathu Village. The appellants herein filed OA 2/2016 u/s.64(5) of the act to modify the scheme as follow:

(i) செட்டியாபத்து கிராமத்தில் 30 பங்காளிகளின் குடும்பத்தைச் சார்ந்த உள்ளூர் மற்றும் வெளியூரில் வசிக்கும் இந்து நாடார் குடும்பத்தைச் சார்ந்த பரம்பரை சாரா 4 அறங்காவலர் மற்றும் 1 பெண் அறங்காவலர் ஆக 5 அறங்காவலர்களால் நிர்வகிக்கப்பட வேண்டும்.

(ii) அறங்காவலர்கள் 4 பேர் நான்கு குடும்பத்தைச் சார்ந்த அந்தந்த குடும்பத்தாரர்களால் தேர்ந்தெடுக்கப்பட வேண்டும்.

(iii) பெண் உறுப்பினர் 4 குடும்பத்தைச் சேர்ந்தவர்களால் மாறி மாறி சுழற்சி முறையில் தேர்ந்தெடுக்கப்பட வேண்டும்.

The said modification was rejected by the Joint Commissioner for the following reasons.

(i) It is practically not possible to identify the members belonging to the 30 families residing outside the Chettiapathu Village.

(ii) If trustee or Chairman Board of Trustee is elected from the members residing outside the Chettiapathu Village, it will create problems in the day to day administration of the temple.

6. Under Section 64 of the Act, the Joint Commissioner may settle a scheme of administration for a religious institution, if he is satisfied that it is necessary or desirable in the interest of proper administration of an institution. When the subjective satisfaction of the Joint Commissioner is made mandatory, this forum cannot compel the Joint Commissioner to satisfy for modification of a scheme. The appellants ought to convince the Joint Commissioner with cogent evidence to modify the scheme, but they have failed to satisfy the Joint Commissioner.

7. Further a scheme can be settled in the interest of the proper administration of the temple. In this case , the Joint Commissioner has believed that if the scheme is modified as prayed by the appellant , it will cause hardship in the administration of the temple. Further, it will be an uphill task to prepare a voter list without any dispute. Even in the voter list filed by the appellants in many places the names were not mentioned and address of several persons were not given. Hence identification of genuine voters is not practically possible . Further, members belonging to the 30 families might

have settled in different parts of the country or abroad. If the scheme is modified to allow the persons residing outside the Chettiapathu Village, the persons who are residing in different parts of the country or abroad may also claim voting right in future. A scheme cannot be modified whenever there is change in the residential status of the members belonging to the 30 families.

Therefore, I find no infirmity in the order passed by the Joint Commissioner, Tirunelveli and it does not warrant any interference. Accordingly the order dated 29.07.2016 of the Joint Commissioner, Tirunelveli is hereby confirmed and appeal Petition is dismissed as devoid of merit. However it is open to the appellants to approach the Joint Commissioner, if they are able to prepare a voter list as desired by them without any dispute.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent