

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

Monday the 26th day of December, Two thousand and Sixteen.

Present: Dr.M.Veera Shanmugha Moni,

Commissioner.

M.P.No.1/2016 in AP 30/16

Between

S.S.Veeramani

...Petitioner/Proposed
Respondent

And

1. V.Veera Rajendran,
2. V.Veeramani
3. The Joint Commissioner, HR & CE Admn.
Department, Madurai.
4. The Executive Officer
Veerabadrswamy Temple, Samayanallur,
Madurai North Taluk , Madurai.
5. The Fit Person/Executive Officer,
Arulmigu Dhandayuthapani Swami Temple,
Madurai.

...Respondents 1
&2/Appellants

...Respondents 3 to 5/
Respondents 1 to 3

In the matter of Arulmigu Vinayagar and Veerabadrswamy Temple,
Samayanallur, Madurai North Taluk , Madurai.

The Miscellaneous Petition filed to implead the petitioner in the Appeal
petition filed under Section 26(5) of the Tamil Nadu H.R. & C.E. Act, 1959
(Tamil Nadu Act 22 of 1959) against the order dated 9.7.2016 of the Joint
Commissioner, Madurai in Pro.Rc.No.2426/2016 supersede the Hereditary
Trustee of the above temple under Section 26(h)(4) of the Act.

Order in M.P.No.1/2016 in A.P.30/2016 D2 dated: 26.12 .2016

The above Miscellaneous Petition came up for final hearing before me on
20.12.2016 in the presence of Thiru. R.Rajesh Vivekananthan Counsel for the
Petitioner/Proposed Respondent, Thiru.A.Balaguru counsel for the
Respondents 1 and 2/Appellants and Thiru.E.Ganesh 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 Miscellaneous Petition filed to implead the petitioner in the Appeal petition filed under Section 26(5) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 9.7.2016 of the Joint Commissioner, Madurai in Pro.Rc.No.2426/2016 supersede the Hereditary Trustee of the above temple under Section 26(h)(4) of the Act.

2. The petitioner contended that the suit temple has been under the Administration of the descendants of Veerabadra pandaram, Arunachala pandaram and Chidambara pandaram. The poojas are performed by 60 families by turn system . He played a prominent role in perform in the kumbabhisekam in the year 2005. One Thiru.Veeraiah,Thiru.Veerabathran and Thiru.Veerasundaram have obtained declaration under section 63(b) of the Act . The petitioner is legal descendant of Thiru. Veeraiah. The said Veeraiah died on 04.02.2012 , hence the petitioner filed an application to record his succession as hereditary trustee under section 54(1) of the and the same is pending. The respondents 1 and 2 have acted in violation of the provisions of the Act and protracted in evicting the encroachers. There are numerous facts and information required to strengthen misconducts committed by them. Hence, his presence is necessary before this court to adjudicate the proceedings. As he is entitled to be appointed as Hereditary trustee and the persons interested in the welfare of the temple as envisaged under section 6(15) of the act he is necessary party to the proceedings.

3. In the counter affidavit filed by the appellants he has denied the averments made in the petitioner's affidavit. The Hereditary trusteeship vested with one Chiniayapillai . The appellants fathers were declared as hereditary trustee. The kumbabhisekam was performed by the family members of the appellants. One V.Lakshmi wife of M.Veeraiah has filed a petition to record her

succession in the place of deceased M.Veeraiah and the same is pending. Hence the third party/proposed respondent has no locus standi to file petition u/s 54(1) of the Act. The petitioner filed a suit in O.S.No.39/2012 praying to restrain the temple from evicting the petitioner . Hence the petitioner is not a necessary and proper party to adjudicate the case pending before this court.

4. I heard Thiru. R.Rajesh Vivekananthan Counsel for the petitioner/Proposed Respondent, Thiru.A.Balaguru counsel for the Respondents 1 and 2/Appellants and Thiru.E.Ganesh Counsel for the 4th and 5th respondents. The above appeal petition was filed against the order dated 9.7.2016 of the Joint Commissioner, Madurai in Pro.Rc.No.2426/2016 supersede the Hereditary Trustee of the above temple under Section 26(h)(4) of the Act. The petitioner filed this petition to implead him as party respondent in the appeal petition on the ground that he is the next person in the line of succession entitled to succeed in the permanent vacancy occurred due to the death of M.Veeraiah one of the Hereditary trustee of the temple. The respondents/appellants are opposing his impleadment on the ground that eviction proceedings has been initiated u/s 78 of the Act against the petitioner and he is not the person next in the line of succession to succeed the office of the trusteeship.

5. The respondents /appellants superseded from the post of hereditary trusteeship as they have acted adverse to the interest of the temple. They have filed appeal against the order passed by the Joint Commissioner u/s 26(h) of the Tamil Nadu HR & CE Act. Further the documents produced by the petitioner may enable this court to adjudicate the matter effectively. As the petition filed by the petitioner u/s 54(1) of the Act this pending before the Joint Commissioner for recording his succession to the post of hereditary trustee , it has to be construed that he is also a person having interest in the administration of the temple as contemplated u/s 6(15) of the Act.

6. Further, the facts putforth by the petitioner will be useful to decide the issue and also respondents/appellants will have an opportunity to disprove the facts. The Hon'ble Supreme Court of India in the decision reported

in *Maria Margarida Sequeria Fernandes Vs. Erasmo Jack de Sequeria*, : AIR 2012 SC 1727, held that the Court deciding dispute is duty bound to find out the truth and every endeavor should be made to find out the truth. In paragraph 52, the Supreme Court held thus:-

52. Truth is the foundation of justice. It must be the endeavor of all the judicial officers and judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Court must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth”.

Even though there is no lis between the petitioner herein and the respondents/appellants, by impleading the petitioner as proposed respondent, truth of the facts if any shall be unearthed which will be helpful for the authority to decide the case on its own merits. Therefore, the petition for impleadment filed by the petitioner is hereby allowed and the petitioner is impleaded as 4th Respondent in the appeal petition.

The enquiry in the appeal petition is Posted to 03.01.2017 for further hearing.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent

To

1. The Petitioner through M/s. R.Rajesh Vivekananthan, Advocate, No.152, Thambu Chetty Street, 3rd floor, Chennai.
2. The 1st and 2nd respondents/appellants through Thiru.A.Balaguru, Advocate, No.129/3,Ezhilnagar, Boiler Project Post, Tiruchirapalli.
3. The 4th and 5th respondents, through E.Ganesh, Advocate, No.61/23, Sakthi Avenue, South Lock Street, Kottur, Near Kotturpuram Railway station, Chennai-600 085.

Copy to

4. The Joint Commissioner, HR & CE Admn.Dept., Madurai.
5. The Assistant Commissioner, HR & CE Admn.Dept., Madurai.
6. Inspector, HR & CE Admn.Dept., Madurai (North).
7. Extra