

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

Thursday the 23<sup>rd</sup> day of August, Two thousand and Eighteen.

Present: Tmt.R.Jaya, I.A.S.,  
Commissioner.

**A.P.2/2017 D2**

**Between**

1.R.Rajavel

2.R.Arthanareswaran

3.P. Mani

4.M.Palaniappan

5.S.R.Jayavel

6.S.Ganesan

... Appellants.

**And**

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

2. The Assistant Commissioner,  
HR&CE Admn.Department, Salem.

3. The Fit Person/Executive Officer,  
Appointed for Arulmigu Mariamman Temple,  
situated at Nattuvampalayam, Sankagiri R.S,  
Morur Village, Sankagiri taluk, Salem.

4. Venkatesh (Died)

5. Raja

6. K.Govindaraji

7. Murugesan

8.Asaithambi

9.P.Balakrishnan

10.Kasiel Murugan

11.V.Ravichandran

.... Respondents.

In the matter of Arulmigu Mariamman Temple, situated at Nattuvampalayam, Sankagiri R.S, Morur Village, Sankagiri taluk, Salem.

The Appeal Petition under Section 69(1) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 29.07.2016 of the Joint Commissioner, HR&CE Admn Department, Salem in dismissing the O.A.6/2013 filed under section 64(1) of the Act.

**Annexure to Order in R.Dis.A.P.No.2/2017 (D2) dated :23.08.2018**

The above Appeal petition came up for hearing before me on 02.07.2018 in the presence of Thiru.M.Rukmangathan, counsel for the appellants and Thiru.B.Vijayakumar, Counsel for the respondents. Upon hearing their arguments and having perused the connected records the

matter having stood over for consideration till this day, the following order is passed:-

**ORDER**

1. The above appeal petition was filed u/s 69(1) of the Act against the order dated 29.07.2016 of the Joint Commissioner, Salem in dismissing the O.A.6/2013 filed u/s 64(1) of the Act.

2. The appellants have stated that Arulmigu Mariamman temple situated in Morur village, Nattuvampalayam, Sankagiri taluk, Salem district, is a denominational temple and is in existence for the sole benefit of the members belonging to Kongu Vellalla gounder community who are permanently residing in Morur, Kasthuripatti, Sankagiri villages. It has been founded, established, maintained and managed by the members of the aforesaid community and their rights are well protected under Proviso to Section 64(1) of the Act read with Section 107 and 51 of the Act 22 of 1959. The community people out of their own funds to the tune of Rs.17 Lakhs renovated the temple and also performed Kumbabishegam on 29.01.2012. One Raja gounder, the grandfather of the first appellant herein, was elected by the community and managed and maintained the temple and thereupon his son Raju gounder looked after the affairs of the temple continuously without any interference from the outsiders in the village. The appellants have filed O.A. 6 of 2013 on the file of the Joint Commissioner, HR & CE, (admn) Salem for framing a Scheme for this incorporating a permanent provision for the appointment of Non-Hereditary Trustee from and amongst the members of Kongu Vellalla gounders of the aforesaid 3 villages. The temple is situated in Survey No.410/25 in a total extent of 13,301 sq.ft of land. There is no evidence in this case that any outsider had managed the

affairs of the community temple. The Joint Commissioner has simply mentioned the number of the exhibits but did not go into the legality of the documents. The evidence adduced in this case has not been discussed legally and has been ignored deliberately. The other side has filed certain documents of recent origin but did not file any documents to show that other community members ever functioned as Trustee in the temple. The Inspector of the Department has deposed in favour of the appellants and categorically held that the temple is a community temple and has been managed by the community members. It was admitted that One V.K.Arumugam has gifted a land measuring about 1600 sq.ft. but it will not take away the community character of the Institution.

3. In the Counter Affidavit, the Respondents have stated that the temple is a public temple worshiped by all communities and the right of management does not belong to one community alone. It is an ancient temple existing from the time immemorial and had been constructed in poramboke land. Members of different communities were in the management of the temple at various points of time. Donations were received in cash and kind from all the community members. The temple was renovated with the donation received from various communities and kumbabhishekam was conducted. The building was constructed in the land donated by Pandaram and Mudhaliyar community people and the communities like Nadar, Adi Dravidas and Dalit have contributed their mite for construction of buildings. It is denied that the appellants spent Rs.17 Lakh for the renovation of the temple and no evidence or proof of such

spending has been submitted by them in the court. The lands, idols, construction materials have been contributed by various community people. The PW1 having admitted in his evidence that the management of the temple has been carried out on behalf of all the community and various community people having managed the temple at various point of time from the time immemorial. Festival are being conducted by the special officer and the temple management is run by Fit Person/Executive Officer. Section 47 and Section 7-A(4) of the H.R & C.E Act are giving representation for Adi Dravida community in the matter of appointment of trustees. The appellants had filed O.S.No.331/2012 for a declaration that temple is denomination temple and for an injunction that the H.R. & C.E Department shall not interfere in the management of the temple, and the said suit is still pending. O.A. 6/2013 filed for a scheme to be framed under Section 64(1) of the H.R. & C.E Act. The scheme can be framed only for public temple under section 1(3) of the Act, therefore the appellants have taken double stand.

4. I heard Thiru.M.Rukmangathan counsel for the appellants Thiru.B.Vijayakumar, counsel for the respondents and perused the relevant records.

5. The appellants herein had filed O.A.6/2013 u/s 64(1) of the Act before the Joint Commissioner, Salem to frame a Scheme of Administration with a provision to appoint Trustees amongst the members of Kongu Vellalla Gounder who are permanently residing in three villages namely Morur, Kasthuripatti and Sankagiri villages. It was strongly objected by the respondents and they are claiming it as a public temple. After perusing the

documents filed by both sides, the Joint Commissioner has dismissed the O.A.

6. The appellants are claiming that the suit temple is in existence for the sole benefit of Kongu Vellalar Community of said 3 villages. But they have failed to prove that the suit temple was founded by the Kongu Vellalar Community and there was no corroborative evidence to prove their claim. Further it was not proved by the appellants that the suit temple has been managed and maintained by the Kongu Vellalar Community from the date of its inception.

7. On the other hand, the temple has been maintained from the contribution made by all the community people residing in the said locality. One S.N.Kesavan S/o.Narasimma Mudaliar belonging to Mudaliar Community donated lands in favour of the temple. Further one V.K.Arumugam, S/o.Kandasamy Pandara belonging to Pandara Community had donated land in favour of the temple for the use of the public as Pathway. The respondents have stated that one Duraisamy Pandaram has consecrated Urchavamoorthy in the year 1975; Thiru.V.K.Govindaraja Pandaram had donated a Hundial and Thiru.Ponnusamy Pandaram has built water tank. These facts were not denied by the appellants. The above facts clearly proved that all the communities are involved in the maintenance of the suit temple.

8. As per section 64 of the Act, the Joint Commissioner may settle a Scheme for the administration of any temple, if he is satisfied that it is necessary for the proper administration of the temple. Further while

making provision for appointment of Trustees in the said Scheme, due regard shall be given to the persons belonging to the religious denomination for whose benefit the institution is chiefly intended or maintained.

9. But in this case, it was not proved by the appellants that the suit temple is chiefly intended or maintained for the benefit of the Gongu Vellalar Community. Further the suit temple has been brought under the supervisory control of the HR&CE Department in the year 2012. Since there was law and order problem due to the dispute between the Kongu Vellalar community and other communities regarding conducting festival in the said temple, Peace Committee meeting was conducted by the RDO in the year 2012. Further, the Assistant Commissioner, Salem has appointed a special officer to conduct festival in the year 2014. Hence, if the Scheme is settled in favour of one community as prayed by the appellants, it will create law and order problem and disturb the peace in the said location. Further, the appellants have also filed O.S.331/2012 to declare the suit temple as denominational temple belonging to Kongu Vellalar community and the same is pending. By filing the OA u/s 64(1) of the Act, they have admitted suit temple is a public temple, hence they cannot claim it as a denominational temple.

As the Joint Commissioner is not satisfied that the Scheme is necessary for the proper administration, he has rightly dismissed the Original Application. Therefore for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner, Salem and it does not warrant any interference. Accordingly the order dated 24.07.2016

of the Joint Commissioner, Salem made in O.A.6/2013 is hereby confirmed and the appeal petition is dismissed as devoid of merit.

/typed to dictation/

Sd./- R.Jaya  
Commissioner

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

Superintendent