

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

Tuesday the 7th day of August, Two thousand and Eighteen.

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

A.P.46/2017 D2

Between

1. V.N.Ramamoorthy
2. M.Soundarapandian
3. M.Arumugam
- 4.K.Rajendran
- 5.K.Arjunan

...Appellants

And

The Joint Commissioner
H.R&C.E.Admn.,Dept.,
Sivagangai.

... Respondent

In the matter of Arulmigu Angala Eswari Amman Temple and Muniappaswamy Temple, Kamuthi, Ramanathapuram 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 03.01.2017 of the Joint Commissioner, HR&CE Admn Department, Sivagangai in O.A.No.02/2013 filed u/s.64(1) of the Act.

Annexure to Order in R.Dis. A.P.No.46/2017 D2 dated:07.08.2018

The above appeal petition came up for hearing before me on 06.02.2018 in the presence of Thiru.P.Natarajan, counsel for the appellants. Upon hearing his arguments and having perused the connected records 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 Act against the order dated 03.01.2017 of the Joint Commissioner, Sivagangai in O.A.No.2/2013 filed u/s.64(1) of the Act.

2. The appellants have stated that the Joint Commissioner has failed to appreciate the distinction between legal proposition of settling the scheme for the institution in the interest of the proper administration of an

institution and the smooth running of the institution as laid down under Section 64 (1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and to appreciate the distinction between the consultation in the prescribed manner with the Trustee and the persons having interest to settle the Scheme of administration for the Institution. There is no bar to settle the Scheme of administration for the Institution for the smooth running of the institution. The Joint Commissioner has failed to consider the documentary evidence of Ex P-1 to P-30 marked on the side of the Appellants. The Ex P-6 was the undertaking/ declaration of the Chettiar Community that the Temple in question is a common Temple belongs to the 12 communities and not exclusively belongs to the Chettiar Community alone at any point of time. The Ex P-10, was a joint resolution of committee members representing all the communities to conduct the festival of the Temple. The Ex P-11, was an application to appoint the committee members representing all the communities including the respondents S.Pitchai Muniyandi and G.Arumugam. The Ex P-12, was a joint resolution of members representing all the communities to appoint 5 members as Trustees. The Ex P-13, was a joint resolution of members representing all the communities to conduct the festival of the Temple by the 5 Trustees. The Ex P-14, was an objection Petition filed by the Mudaliar Community members addressed to the Sub Registrar, Kamuthi objecting the registration of Trusteeship of Temple. The Ex P-15, was a joint resolution of members representing all the communities to conduct the festival. The Ex P-16, was an application by one of the Trustees S.R.Gopalakrishnan,

belongs to Chettiar Community seeking permission from the Joint Commissioner to open and count the 'Hundi' of the Temple. The Ex P-17, was a Press Publication by the Mudaliar Community through their Counsel announcing the Temple is common Temple belongs to the 12 communities. The Ex P-18, was a list of members of Chettiar Community members of Madurai, Ex P-19, was a list of members of Chettiar Community members of Paramakudi, Ex P-20, was a list of members of Chettiar Community members of Paramakudi and Ramanathapuram, Ex P-21, was a list of members of Ahamudaiyars Community members, Ex P-22, was a list of members of Maravar Community members and Ex P-23, was a list of members of Aasari Community members. The Ex P-24, was a Hundial Assortment Register showing the remittance of 'Hundi' amount by one of the Trustees S.R.Gopalakrishnan, belongs to Chettiar Community. The Ex P-25, was a declaration of members belong to 'Ondi Veeran one of the three Sub Sects of 'Senkundar Muthaliyar' Community, not supporting the illegal activities of the G.Arumugam and S.Pichai Muniyandi belong to another Sub Sects 'Ambalavanan' & 'Angappan' as against the interest of the Temple. The Ex P-26, was a set of TNEB, Electric Bills payment Receipt paid by the Chettiar Community members clearly shows the complete maintenance of the Temple by the Chettiar Community. The Ex P-27 was a set of documents of accounts book and legers of the Temple which clearly shows the complete administration and maintenance by the Chettiar Community. The Ex P-28, the agreement between all the 12 community members to follow the mode and method of

rituals and respective honor of festival as per their custom and conventions. The Ex P-29, was a Settlement document paving way for performing 'Puja' and 'Naivethiyam' in the Temple out of the income derived from settled property executed by the member of Senkunthar Muthaliyar Community and the same was only a 'Charge' on Temple and not an 'Endowment' at any point of time and therefore it cannot be construed that this property is a property of Temple or an Endowment of Temple. The Ex P-30, was a joint resolution of committee members representing all the communities.

3. I heard Thiru.P.Natarajan, counsel for the appellants and perused the relevant records.

4. The appellants have filed O.A.No.2/2013 u/s.64(1) of the Act to frame a scheme of administration for Arulmigu Angala Easwari Amman and Muniyappa Swamy Temple, Mandalamanickam, Kamuthi Taluk, Ramanathapuram District. The said Original Application was dismissed by the Joint Commissioner, Sivagangai.

5. In the Original Application they have stated that Arulmigu Muniyappaswamy and Angala Easwariamman are family deities of 12 community of Mandalamanickam. They are Chettiar, Sengunthar, Mudaliar, Maravar, Servai, Asari, Moopnar, Naidu, Yadhavar, Brahmins, Vannar, Maruthuvar and Kuravar communities. All the communities have been entrusted with some specific work relating to the administration, maintenance of the temple and conduct of various festivals. It is admitted by the appellants that earlier the temple and its properties were administered and managed by

the Chettiar community. Previously a scheme was settled by order dated 17.06.2004 in O.A.No.2/2002 filed by the representatives of Chettiar community with a provision to appoint Non-Hereditary Trustee from the Chettiar community. The said order was set aside by order dated 18.12.2012 in the appeal filed by the poojaris of the temple before the Commissioner in A.P.No.3/2006 and remanded to the Joint Commissioner for fresh enquiry. Later the said Original Application was dismissed as withdrawn on 06.06.2013 based on the compromise memo filed by the parties concerned.

6. The present Original Application was filed by 5 persons representing 5 communities. In the said Original Application they have prayed to settle a scheme with a provision to appoint Non-Hereditary Trustees each one from Chettiar, Sengundha Mudaliar, Maravar, Servai and Asari community.

7. In the meeting of the community people held on 26.05.2013, the following decision was taken “ அனைத்து கிராமங்களில் வசிக்கும் கோவில் குடிகளான நாம் அனைவரும் கலந்து பேசி இந்த கோவில்கள் நமது குடிகளுக்கு பொதுவான குலதெய்வம் என்பதால் யாருக்கும் தனித்து பாத்தியப்பட்டது அல்ல என்பதால், கடந்த காலங்களில் தொடுக்கப்பட்ட வழக்குகளை வரும் 06.06.2013-ல் வழக்குரைஞர்களை வைத்து வாபஸ் பெறுவது என கேட்டுக் கொண்டதை ஏற்று வாபஸ் பெறுவது என தீர்மானிக்கப்படுகிறது. மேலும் கோவில் சம்பந்தமாக வரும் அனைத்து செயல்பாடுகளிலும் அனைவரும் பொறுப்பேற்று நடத்துவது என தீர்மானிக்கப்படுகிறது.

கோவில் சம்பந்தமாக உள்ள வழக்குகளை வாபஸ் பெற்றப்பின் அனைத்து கோவில் குடிகளுக்கும் பாத்தியப்பட்டது என பதிவு செய்துவது என ஏகமனதாக ஏற்றுக்கொள்ளப்படுகிறது.

வரும் காலங்களில் நடைபெற உள்ள கோவில் திருவிழாக்களை ஆண்டு தோறும் விழா கமிட்டி ஏற்படுத்தி விழா நடத்துவது என இதன் மூலம் ஏகமனதாக ஏற்றுக் கொள்ளப்பட்டது”.

Further in the memo filed on 06.06.2013 in the O.A.No.2/2002, it was stated that “ We submit that due to the withdrawal petition to withdraw the O.A.No.2/2002 unanimously by the worshippers of the temple, all the representative of 12 communities who are worshipping the temple have decided to select the management committee to look after the temple and affairs...”.

So, when admittedly, the 12 communities are involved in the administration of the temple and its properties , the said Original Application was filed by the representatives of 5 communities with prayer to appoint non-Hereditary Trustee from said 5 communities alone. No reason was given by the appellants for the exclusion of other 7 communities in the administration of the temple. Further the administration of temple and conducting various festivals are carried out by all the communities by assigning specific work to each community. The documents filed by the appellants itself prove that previously the management of the temple had been vested with Chettiar community till the year 2013. They have give up their right in favour of 12 communities. But the Original Application was filed to frame a scheme of administration with a provision to appoint Non-Hereditary Trustees from 5 communities alone. Admittedly, the temple has been managed from the contribution made by all the 12 communities and festivals are being conducted with cooperation of all community people. In the said circumstances, if the scheme is settled with a provision to appoint trustees from 5 communities, it

will create problems in the smooth administration of the temple and also disturb the communal harmony in the village.

8. Sec 64(1) of the Act read as follows:- ***“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”.***

So Sec 64(1) envisage that if the Joint Commissioner is subjectively satisfied that in the interest of the proper administration of the temple, a scheme is necessary or desirable, he shall settle a scheme of administration for the institution. When the subjective satisfaction of the Joint Commissioner is made mandatory to settle a scheme of administration, the persons who are claiming to settle a scheme, should satisfy the Joint Commissioner by producing relevant documents. This forum while sitting on appellate jurisdiction cannot compel the Joint Commissioner to subjectively satisfy to settle a scheme. In the impugned order the Joint Commissioner has clearly

stated that “ மனுவில் குறிப்பிட்டுள்ளது போல் 12 குலத்தவருக்கும் வழிபாட்டு உரிமை உள்ள பொதுகோயிலான மனு கோயில் வழிபாடு மற்றும் நிர்வாகம் தொன்று தொட்டு பழக்கவழக்கங்களின் அடிப்படையில் நல்ல முறையில் அமைதியாக நடந்து வரும் நிலையில், குறிப்பிட்ட சில சமூகத்தினர் மட்டுமே அறங்காவலர்களாக நியமிக்கப்பட்ட, நிர்வாகத்திட்டம் கோரும் மனு தள்ளுபடி செய்யப்படுகிறது”. In the impugned order the Joint Commissioner has categorically held that the scheme is not necessary in the interest of the proper administration of the temple and dismissed the Original Application by adducing valid reasons .

Therefore for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner, Sivagangai and it is liable to be confirmed. Accordingly, the order dated 03.01.2017 made in O.A.No.2/2013 passed by the Joint Commissioner, Sivagangai is hereby confirmed and the appeal petition is hereby dismissed as devoid of merit.

/typed to dictation/

Sd./- R.Jaya
Commissioner

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

Superintendent