

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

Tuesday the 20th day of March Two thousand and Eighteen.

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

A.P.No.44 & 45/2017 D2

Between

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|-----------------|---------------------------------|
| 1. Sivasankaran | ...Appellants in A.P.No.44/2017 |
| 2. Mrs.E.Amudha | ...Appellants in A.P.No.45/2017 |

And

The Joint Commissioner ,
HR&CE Department,
Vellore.

.... Respondents

In the matter of Arulmigu Sampangi Pichandeswarar Temple, Arani Village, Ponneri Taluk, Tiruvallur District.

The Appeal petitions filed under Section 53(5) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 31.10.2013 of the Joint Commissioner, HR&CE Admn Department, Vellore in suspending the hereditary Trustees u/s.53 of the Act.

Order in D.Dis. A.P.No.44 & 45/2017 D2 dated: 20.03.2018

The above Appeal petitions came up for hearing before me on 02.01.2018 in the presence of Thiru.K.Anbarasan, 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 Petitions were filed u/s.53(5) of the Act challenging the order passed by the Joint Commissioner, Vellore in Pro.Rc.No.8066/2013/C1 dated 31.10.2013.

2. The appellants have stated that they are functioning as the Hereditary Trustees of Arulmigu Sampangi Pichandeswarar Temple situated at Arani Village, Ponneri Taluk from the year 2011 without any adverse remarks. The Joint Commissioner has forwarded a letter dated 03.10.2013 to attend an enquiry with records pertaining to the properties of the temple in particular about S.No.861/15 and 861 A/1 and its sale and mortgage respectively. He furnished a reply to the same by explaining the reason, on 12.10.2013 and 14.10.2013. The said property was brought into public auction after getting necessary approval from the Commissioner, HR & CE Department, Chennai.

The auction was approved by the Commissioner vide his proceedings Na.Ka.No.75239/73/C4 dated 25.01.1974. The remaining part of 0.75 cents was subsequently granted to the Post Office. There was some miscreants who unauthorizedly trespassed and occupied the same. The then Trustee initiated civil suit, after getting permission from the Commissioner, which is pending. The amount received from the auction was properly brought into the accounts of the temple and subjected to audit. Even without issuing show cause notice and giving an opportunity, the Joint Commissioner has passed the impugned order. As far as charge no.1 is concerned, the funds collected as sale price from the auction was deposited in the fixed deposits are only recurring deposits and no Interest received. The said factor was brought for internal auditing. As far as the 2nd charge is concerned, the fact of encroachment was duly brought to the knowledge of the then Commissioner and after getting permission, Civil suits were filed which are still pending. As far as the charge No.4 is concerned, civil suits were initiated against the lessee. The appellants filed W.P.No.31228 of 2013 and 31229/2013 challenging the impugned order which came up for final hearing on 23.08.2017, the Hon'ble Court while passing final order, directed the appellants to file appeal within fifteen days from the date of receipt of order and directed the Commissioner to decide the said appeal within a period of one month. Without considering all these facts, the reply submitted by the appellants and audit reports, the impugned order has been passed which is not sustainable in law and liable to be set aside.

3. I heard Thiru.K.Anbarasan, counsel for the appellants and perused the relevant records.

4. The trusteeship of the suit temple was declared as hereditary by the then Deputy Commissioner, Chennai in O.A.No. 5/1985 and Thiru. K.Subramaniya Chettiyar and K.Krishnasamy Chettiar were declared as Hereditary trustees. After death of K.Subramaniya Chettiar, the appellant in A.P.No.44/2017 has been recorded as Hereditary Trustee by order dated 06.01.2009 in M.P.No.1/2006. Tmt.E.Amutha, appellant in A.P.No. 45/17 is also recorded as Hereditary Trustee in the permanent vacancy caused due to

the death of Thiru.K.Krishnasamy Chettiar by order dated. 03.04.2012 made in M.P.No.2/2012. The temple owns several properties. The Trustees mismanaged the properties. They had failed to lease out the properties in public auction and to take action u/s 78 the Act to remove the encroachments. Hence, the Joint Commissioner, Vellore has framed 6 Charges against the appellants u/s 53 of the Act and pending enquiry into the charges they were placed under interim suspension and Inspector, Ponneri was appointed as Fit Person in the impugned order. The said order was challenged by the appellants before the Hon'ble High Court in W.P.No.31228 & 31229/2013. The said writ petitions were disposed of by order dated.23.08.2017 to file appeal before the Commissioner. Accordingly he has filed this appeal petition.

5) The impugned order was passed on 31.10.2013. The appellants had submitted explanation on 11.11.2013. At the same time, they have filed the W.P.No.31228 & 31229/2013 challenging the impugned order. Due to pendency of the Writ Petitions, final order was not passed in the disciplinary proceedings initiated against the appellants and it is still pending before the Joint Commissioner, Vellore. At this stage, this forum cannot go into the merits of the charges. As the matter is pending before the Joint Commissioner, Vellore, the appellants can very well canvass their case before the Joint Commissioner and prove their innocence with supporting documents.

Accordingly, the Joint Commissioner, Vellore is directed to conduct enquiry on the charges framed against the appellants by affording opportunity of being heard to the appellants and pass final order in accordance with law within a period of 2 months from the date of receipt of this order. The appellants are also directed to cooperate with the Joint Commissioner to complete the enquiry within the stipulated time. The appeal petitions are disposed of with the above directions.

/typed to dictation/

Sd./- R.Jaya
Commissioner

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

Superintendent

To

1. The Petitioners through Thiru.K.Anbararsan, 172, New Additional Law Chambers, High Court Buildings, Chennai-600 104.

Copy to

2. The Joint Commissioner, HR & CE Admn.Dept., Vellore.(Along with file in R.C.No.8066/2013, R.C.No.8564/2016, R.C.No.2777/2014, R.C.No.8890/2013 and M.P.No.2/2012) (BY RPAD)

3. The Assistant Commissioner, HR & CE Admn.Dept., Tiruvallur.

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