

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

Friday the 5th day of May, Two thousand and Seventeen.

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

A.P.No.6/2017 D2

Between

1. K.Mariappan
2. S.Rakumuthu
3. R.Rakumuthu
4. M.Paramasivam
5. Lakshmi

...Appellants

And

The Joint Commissioner,
HR&CE Admn.Department,
Sivagangai.

.. Respondents

In the matter of Arulmigu Kaliyandi Ayyanar Temple, Chokkanathanpudur,
Rajapalayam Taluk, Virudhunagar 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 16.12.2016 of the Joint Commissioner, HR&CE Admn Department, Sivagangai in dismissing the O.A.17/2012 filed u/s 64 of the Act.

Annexure to Order in R.Dis.A.P.6/2017 D2 dated: 05.05.2017

The above Revision petition came up for final hearing before me on 21.03.2017 in the presence of Thiru.A.S.Narasimhan, Counsel for the appellants. Upon hearing his 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 was filed u/s.69(1) of the Act against the order dated 16.12.2016 of the Joint Commissioner, HR&CE Admn. Department, Sivagangai in dismissing the O.A.No.17/2012 filed u/s.64 of the Act.

2. The appellants have stated that the respondent erred in dismissing the application on the ground that the appellants have not shown the other community members as respondents to the above appeal. Other community

members have tendered evidence stating that the appellants are the persons administering the temple for time being. The respondent only with the object of extracting money from the institution properties has delayed the decision on the application and appointed a fit person to manage the affairs of the institution. This act of the respondent clearly shows that the Board is interested only in collecting money from the institutions towards contribution but not interested in administering the institution properly. The respondent ought to have framed a scheme even if there is no dispute among various **community** members who are residing in the village. In the original application the appellants has sought for not only to appoint the Yadava Community people as administrators but also sought for the scheme to administer the temple. The respondent failed to act on the application properly by making publication on the application in the village chavadi and by tom tom to invite objections if any and only if such an objection is received it should consider the appointment of administrators consisting of representative from each community. In the application the appellants have pointed out to avoid chaos in the administration due to interference by the persons coming from outside villages to offer prayer a scheme has to be prepared. For the effective 'administration people residing in the same village has to be appointed as trustees. The report of the Inspector, H.R. & C.E. Department clearly states that appointment of the appellants along with an S.C. trustee will be not only in the interest of the association but also in accordance with the provisions of the 1959 Act.

3. I heard Thiru.A.S.Narasimhan, Counsel for the appellants and perused the relevant records. The appellants herein have filed the O.A.No.17/2012 u/s.64(1) of the Act to frame a scheme of administration to the suit temple with permanent provisions to appoint 4 non-hereditary trustees from Yadhava Community and other community people residing in the said village. Among the appellants 4 are belonging to Yadhava Community and 1

belongs to the SC community. In the enquiry before the Joint Commissioner, Sivagangai they had prayed to frame a scheme by incorporating a provision to appoint 4 trustees from the Yadhava Community and 1 from SC community, which was contrary to the prayer made in the Original Application.

4. Further the appellants have stated in the Original Application that “மேற்படி சொக்கநாதன்புத்தூர் கிராமத்தில் அனைத்து சமுதாய மக்களும் வாழ்ந்து வருகின்றனர். இன, குல வேறுபாடுகள் இல்லாமல் எல்லோருமே மேற்படி திருக்கோயில்களை வழிபட்டு பயனடைந்து வருகிறார்கள்.”

“ஓவ்வொரு வருடமும் நடைபெறும் மகாசிவராத்திரி விசேடத்தினையும், குடமுழுக்கு போன்ற வைபவத்தினையும் சொக்கநாதன்புத்தூர் கிராமத்தினைச் சேர்ந்த யாதவர் சமுதாயத்தை சேர்ந்த மக்களும் மற்றும் அந்த திருக்கோயில்களில் வழிபாடு செய்து வரும் பிற சமுதாய மக்கள் விரும்பிக் கொடுக்கும் நன்கொடையினை வைத்தும் நடத்தி வருகிறார்கள்”.

So, the appellants themselves admitted that all the community people are worshipping the deity as of right and the temple is being maintained from the contributions made by all the communities. It was not established by the appellants with cogent evidence that the suit temple was chiefly intended or maintained for the benefit of the Yadhava and SC community residing in the said village.

5. As per Section 64(1), **“When the Joint Commissioner has reason to believe that in the interest of the proper administration of an Institution, shall settle a scheme of 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 shall consult in the prescribed manner the trustee and the persons having interest and if, after such consultations, he is satisfied that it is necessary or desirable to do so, he shall, by order, settle a scheme of administration for the institution”.**

When the subjective satisfaction of the Joint Commissioner is made mandatory to settle a scheme for the proper administration of the temple, the

appellants ought to satisfy the Joint Commissioner with valid evidence to settle a scheme. This forum while exercising the appellate jurisdiction could not compel the Joint Commissioner to subjectively satisfy to settle a scheme as prayed by the appellants.

6. In the impugned order both oral and documentary evidences were legally analyzed by the Joint Commissioner and also he gave categorical findings on each evidence. He adduced valid reasons for rejecting those evidences.

Therefore for the foregoing reasons stated supra, I find no infirmity in the order passed by the Joint Commissioner, Sivagangai and it does not warrant any interference. Accordingly the order dated 16.12.2016 of the Joint Commissioner, Sivagangai made in O.A.No.17/2012 is hereby confirmed and the appeal petition is hereby dismissed as devoid of merits.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

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

Superintendent