
(1996) 11 MAD CK 0038
In the Madras High Court
Case No : S.T. Appeal No. 4 of 1987

Alamelu Ammal	Vs	APPELLANT
The District Collector		RESPONDENT

Date of Decision : 05-11-1996

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 12(2), 70

Citation : (1997) 1 CTC 669

Hon'ble Judges : Raju, J; Jagadeesan, J

Bench : Division Bench

Advocate : V.K. Nachimuthu, for the Appellant; A. Arumugham, Government Advocate, for the Respondent

Judgement

Raju, J.—The above appeal has been filed against the order of the Inam Abolition Tribunal (Principal Sub-Judge), Salem, dated 29.8.86 in

I.A.T.A.No. 17 of 1983 wherein the Tribunal below has chosen to reject the appeal on the ground that the appeal has not been filed within the

period of limitation stipulated in Section 12(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of

1963).

2. The lands in question were held to form party of an existing inam estate as defined u/s 2(4) of the Act. The inam in question was notified and

taken over by the Government in G.O.Ms.No. 781, Revenue dated 12.3.65 with effect from 15.4.65. Since no one preferred claim for ryotwari

patta in respect of the lands in question, suo motu enquiry was initiated and when notices were duly served on the interested persons and published

in the village, one Sellayee Ammal said to be the mother of Sadayan alias Sella

Gounder, claimed to be the husband of the appellant was examined as P.W. 1 by the Settlement Tahsildar, Salem and she projected a claim for patta. It was noticed from the materials on record that the deceased Sadayan alias Sella Gounder purchased Survey No. 83/2 from the inamdar under Document No. 1397/67 and one Nagammal has executed a settlement under Document No. 2262/67 who in turn got it from the inamdar after 1.7.50 and this is a post 1.7.50 case. The lands were therefore treated provisionally as assessed waste wet, and a direction was issued that separate action will be taken in respect of the lands for the issue of ryotwari patta in the order of the Settlement Tahsildar, Salem dated 30.11.70. Aggrieved, the appellant herein who claimed to be the wife of Sadayan alias Sella Gounder filed an appeal before the Tribunal below and contended that she was in possession of the property as the wife of late Sadayan alias Sella Gounder and that Sellayee Ammal was not entitled to patta. Unfortunately as could be seen from the appeal filed in the court below, only the District Collector, Salem has been impleaded as party/respondent without formally impleading Sellayee Ammal who staked her claim before the Settlement Tahsildar, Salem. As noticed earlier, the appeal was filed before the Tribunal below in the year 1983 against the order of the Settlement Tahsildar, Salem dated 30.11.70. Adverting to Section 12(2) and Section 70 of the Act, the appeal came to be summarily dismissed on the ground that it was barred by limitation, since it was not filed within a period of three months from the date of order viz., 30.11.70. As against the said order, the present appeal has been filed.

3. Heard the learned counsel for the appellant as also the learned Government Advocate appearing for the respondent. Sub-section (2) of Section 12 provides that against a decision of the Settlement Officer under Sub-section (1), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months from the said date, appeal to the Tribunal, provided that the Tribunal may, in its discretion, allow further time not exceeding six months for the filing of any such appeal. Section 70 which deals with the limitation under the Act stipulates that a copy of every decision or order in any proceeding against which an appeal or revision is provided for under this Act shall be communicated in such manner as may be prescribed and

for the purposes of computing the period of limitation in respect of any appeal or application for revision against any decision or order, the date of communication of a copy of the decision or order to the appellant or applicant shall be deemed to be the date of the decision or order. The appellant before us as also before the Tribunal below was not a party to the proceedings before the Settlement Tahsildar, Salem, the original authority. Though the appellant claims to be the wife of Sadayan alias Sella Gounder, without disclosing the existence of the wife, Sellayee Ammal the mother of Sadayan alias Sella Gounder appears to have her claim as the successor in interest of deceased Sadayan. Coming to know of this, the wife initiated the appeal proceedings before the Tribunal below. It is not the case of the respondent or even the authorities below that any copy of the order or decision of the Settlement Tahsildar, Salem dated 30.11.70 was served on the present appellant. Even the copy of the order of the original authority disclosed that copy of the said order has been communicated to the claimant noticed therein viz., Sellayee Ammal as also to the Tahsildar, Attur and the Assistant Settlement Officer and the Settlement Officer, Salem. The appellant appears to have moved and obtained the copy and it is noticed in paragraph 5 of the order of the Tribunal below that the order of the Settlement Tahsildar dated 30.11.70 was claimed to be available to the appellant on 15.9.83 and that therefore there can be no infirmity in the filing of the appeal within three months from the date of such receipt. Normally the period of limitation stipulated for any appeal or revision against any proceeding would run only from the date of knowledge or service of a copy of the order which ever is earlier. Unless there is any specific stipulation to the contra, Section 70 of the Act get attracted wherein it is made clear that a copy of every decision or order passed in any proceeding against which an appeal or revision is provided for shall be communicated in such manner as may be presented and that for purposes of computing the period of limitation in respect of any appeal or Revision the date of Communication of a copy of the decision or order shall be deemed to be the date of decision or order. This provision not only placed the issue beyond controversy as to how the limitation has to be computed but even that apart the claims of the person who was not a party to the proceedings in which an order was

passed behind his/her back cannot be rejected summarily though no such copy of order passed in the proceedings were also served on such

person. In view of the indisputable facts on record that no copy of order dated 30.11.70 was served in due course upon the appellant and that the

appellant came to secure a copy only in September, 1983, the appeal filed before the Tribunal below cannot be said to be beyond the period of

limitation and the Tribunal below committed an error in misconstruing the provisions relating to the computation of limitation for appeal before it.

4. The order of the Tribunal is hereby set aside. The Tribunal (Subordinate Judge), Salem is directed to restore M.I.A.No. 17 of 1983 to its file

and dispose of the appeal in accordance with law. No Costs.