
(1952) 03 MAD CK 0038
In the Madras High Court

Andiappa Pillai and Others

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 17-03-1952

Acts Referred:

Citation : (1953) 66 LW 67 : (1953) 1 MLJ 112

Hon'ble Judges : Subba Rao, J

Bench : Division Bench

Judgement

Subba Rao, J.—This is an application for issuing a writ of certiorari to quash the order of the Government of Madras, notifying the village of Athankothangudi, under Madras Act XXX of 1947. The simple question is whether the village is an estate within the meaning of the Act. It would be an estate if originally the entire village was granted to the petitioners' ancestors. The only document filed in the case is the Inam Fair Register. The Inam Fair Register shows the history of the grant. The village was situate in the Zamindari of Ramanadhapuram. Half of the village was granted for the support of Sri Adi Jagannadhaswami in Tiruppullany and the remaining half as Dharmasanam.

2. The former grant was a permanent one and the latter was a hereditary grant. Column 11 of the Inam Fair Register indicates that the name of the grantor in regard to one half is not known, whereas the name of the other grantor is given as Raghunatha Sethupathi. Column 8 shows that one half was granted to Dharmasanam and the other half for the support of Sri Adi Jagannadhaswami. From the recitals of the document it is manifest that the grantors, the grantees and the purpose of the grant were all different. The Inam Commissioner confirmed the grant to two different persons and issued separate title deeds. On these facts it is not possible to hold that the Dharmasanam grant, with which I am now concerned, is a grant of a whole inam village at the time it was made. The Supreme Court in the decision in District Board, Tanjore v. Moor Mohammad Rowther (1952) 2 M.L.J. 586, had to consider the scope of a grant, which was the subject-matter of the appeal before them. There the grant was made in one

deed of different extents of a village to different persons. Even so, their Lordships expressed the view that the grant would not satisfy the definition of an estate. Mahajan, J., observed at page 590 as follows:

It is difficult to hold positively, though it is probable, that the grant to Mudali as well as the Yerayali grant were by the same Paravangi, but even so, these will be two separate grants though written on one piece of paper, the contracting parties being two different persons. Neither of these: grants can be held to be a grant of a whole village.

It follows from the abovesaid observations that the grant made to separate persons cannot be clubbed together to form a whole village for the purpose of the definition of an "estate" under the Act. It would be an a priori case if the two grants were made on different dates. When the grant was made to the petitioner's ancestor only a share of the village was granted and therefore it could not have been a grant of a whole village. I therefore hold that the Dharmasanam Athankothangudi village is not an estate to which the Act applies.

3. The notification, therefore, is quashed. The petitioner will have his costs.