

(1970) 10 MAD CK 0007
In the Madras High Court
Case No : Writ Petition No. 604 of 1967

K. Satyamurti and Others	Vs	APPELLANT
The State of Madras and Others		RESPONDENT

Date of Decision : 22-10-1970

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 1(4), 2(9)

Citation : AIR 1971 Mad 385 : (1971) 84 LW 309

Hon'ble Judges : K. Veeraswami, C.J.;Gokulakrishnan, J

Bench : Division Bench

Judgement

K. Veeraswami, C.J.—What is the effect of enfranchisement of what is known as the Pudukottai Inams on the tenure as such? That is the

common question in these petitions to quash the notification of the State Government in G. O. Ms. No. 1612 Revenue dated 24-5-1965

designating a number of inam villages specified therein as New Inam Estate u/s 2(9) of the Madras Inam Estates (Abolition and Conversion into

Ryotwari) Act, 1963 (Madras Act XXVI of 1963). The notification was issued in exercise of the powers conferred by Section 1(4) of the Act. It

appointed the 1st July 1965 as the date on which the provisions of the Act, other than the sections which had already come into force, should come

into force in the Pudukottai Inam Estates specified in column (3) of the Schedule to the notification. Nanjur alias Namanarayasadram, an Inam

village is one of the items in the schedule. the petitioners in W. P. 604 of 1967, which is taken as typical of the others, claims to own absolutely and

to be in exclusive possession of about 12 acres of freehold tenure lands, as he calls them,, (wet and dry) in the village of Nanjur, in erstwhile

Pudukottai State.

He, as he says, purchased the lands for consideration from his predecessor-in title by a same deed in July 1942. It appears that this village was

granted as "" Sarvamanya"" by Vijayaranga Sokkanatha Ramasamy Thondaiman, the then Ruler of Pudukottai, to several Brahmins for

subsistence, and it is a whole village grant with the boundaries demarcated with ""Vamana Muthirai"" stones to separate it from the surrounding

Jaghir and ayan villages. Following the pattern in Madras, there was in 1898 the Inam settlement by the Ex-Durbar of Pudukottai. At that time the

inam lands were found to be enjoyed by 50 shares. One of the shares had been endowed for the maintenance of Viswanathaswami

Visalakshmiamm temple at Nanjur and was recognised as a Devadayam minor inam under a title deed issued to that effect. The remaining shares

were enfranchised. The petitioners on the one hand, and the State on the other, differ on the effect of the enfranchisement on the tenure of the lands

after settlement, the former asserting that the previous restricted inam tenure was converted by the enfranchisement into freehold tenure, and the

inam character was abolished so that the lands were treated as freehold. They say, therefore, that the provision of Madras Act 26 of 1963 could

not be applied to the enfranchised villages.

The State would, however contend that although the lands were converted from their previous restricted inam tenure into a freehold inam tenure,

the tenure of the village as an inam was never converted into ryotwari by the Ex-Durbar of Pudukottai, and that as a matter of fact, the act of

enfranchisement did not, and was not, intended to change the tenure of the lands at all. It is also pointed out that although one of the Standing

Orders of the Ex-Durbar provided option for the inamdars of enfranchised inams for relinquishing the inam tenure and accepting instead a ryotwari

tenure with taram, assessment, none of the petitioners opted for the change, and they continued to pay only quit-rent. On a careful consideration of

the history of the inams, their incidence, the purpose and scope of the enfranchisement, and the settlement of inams both in Madras as well as in the

erstwhile Pudukottai State on the last century, and the character incidence and of the holdings confirmed and continued after the inam settlement

we are of the view that enfranchisement of the inams in question has not

changed the tenure as such.

2. Inam is a familiar concept in the land tenure of our country. The name was given by the Mohamedan rulers, and before them, it was in this part

of the country known as ""Manyam"". Its essential meaning is, a gift by the kudivaram and melwaram in it, or where the land is already owned by the

done, of the melwaram either in whole or in part. The motive of the gift usually was the belief of religious merit among Hindus of the grant of lands

to ""Sacerdotal class"". But in later days inam came to be granted for numerous purposes to individuals, specified families, and even communities. In

their origin, they were the subject of Royal grants, and when the native dynasties were overthrown, irregular alienation's byway of inams came to

be made by inferior authorities as well more particularly in lieu of, or in consideration of part of future services to be rendered. Generally the

Mohamedan rulers accepted the status quo ante, and it had not disturbed the state of existing things. During the struggle for power between the

English and the French, and in the wake of political confusion occasioned by it, further opportunity presented itself for more irregularities granted in

the latter half of the Seventeenth Century. During the early British days, there was also a kind of a system of rewarding meritorious service by

alienating Government revenue,, either in perpetuity or for a stated number of lives which continued to be in force until 1802 when the permanent

settlement was introduced.

Baden Powel's Land System of British India describes "Inam" as another class of tenures in the State Revenue Administration and that is when the

Ruler either excuses an existing landholder from paying his revenue either wholly or in part or " alienates" or assigns the revenue of a certain estate

o tract of a country in favour of some chief, or other person of importance, or to serve as a recompense for services to be rendered. Baden Powel

further pointed out that the grants were carefully regulated and that they were for life only, strictly kept to their purpose and to the amount fixed.

But as time went on, the ruler, finding his treasury empty, made such grants to avoid the difficulty of finding a cash salary so that some of the grants

became permanent and hereditary. He also observe that such inam were issued by officials to where had no right to make them, and that as a

result, the inams involving number if landlord tenures and other curious rights

gradually became a burden to after times and presented a most trouble some legacy to the Government when it found the revenues eaten up by grantees whose titles were invalid and whose pretensions, though grown old in times of disorder, were inadmissible. Maclean on Administration of Madras Presidency (Vol. III Glossary at page 352) referring to the inams as a general gift from a superior to an inferior said:--

So a grant of land for religious or charitable purpose made by Government sometimes give force, sometimes with light quit-rent or jody. Same as

Manyam. Technically a major inam is a whole village or more than one village and a minor inam is something less than a village".

In the Law Lexicon by Ramanatha Iyer, the term "inam" has been defined as:

A gift, a benefaction in general, a gift by a superior to an inferior. In India, and especially in the south, and amongst the Marathas, the term was

especially applied to grants of land held rent-free, and in hereditary and perpetual occupation the tenure came in time to be qualified by the

reservation of the portion of the accessible revenue, or by the exaction of a proceeds exceeding the intended value of the original assignment; the

terms was also vaguely applied to grants of rent-free land, without preference perpetuity or on specified conditions. The grants are also

distinguishable by their origin from the ruling authorities, or from the village communities and are again distinguishable by peculiar reservations, or

by their being applicable to different object.

In *Lakshman v. Venkateswarlu*, the Judicial committee observed:

Inams in the Presidency of Madras are of two kinds, first those where the proprietary right in the soil and the right to the Government share of the

revenue derivable from land coalesce in the same individual, and secondly, those where the proprietary or occupancy right is vested in one or more

individuals, whilst the Government share of the revenue has been granted to another..... An inam holding may be of a field only, or village, or a tract

of several villages..... Grants consisting of whole village or more than one village are technically called major inams to distinguish them from minor

inams which are grants of something less than a village.

Sir Charles Trevelyan, in one of his communications to the Government in 1859 stated that the Madras tax-free tenures were known by the general

name of inam, The enormous sacrifice of State revenue on account of the inams attracted the early attention of the court of Directors during the

company rule of British India, and from time to time steps were taken to settle the titles under which the inams were held. the earlier policy of the

court of Directors was stringent, but it was liberalised later. By Regulation XXXI of 1802 provision was made for the purpose of trying the validity

of the titles of person holding or claiming to hold lands exempted from the payment of revenue, under grants not being Badshahi, or Royal Grants.

The Collectors were to require a general registration of inams, and were to institute suits in the courts of Justice for the payment of the land tax in

those cases in which it had been improperly withheld. Also it was provided that it should not be competent for persons holding excepted lands

under invalid titles to plead possession for any length of time whatever as a bar to the right of Government to resume such lands, By Regulations IV

and VI of 1831, XXXI of 1836, and XXIII of 1838, all claims to personal and hereditary grants, and all claims to service inams were removed

from the jurisdiction of the court to that of the Collectors and Board of Revenue.

In April 1845, the continuance of inams to the successors of deceased incumbents was prohibited, without the express authority of the

Government, Equality of taxation and of its burden would appear to have prompted the court of Directors to pursue this hard line, It was said that

to exempted one class of persons from taxation necessarily increased the burden on other classes, and diminished the power of the Government to

execute public works, and make administrative improvements in which the country was interested. But then a different view point came to prevail

in later stages, according to which, however desirable equality of taxation might be, there were other things which were more essential to society,

one of which was justice, and another was the institution of property

3. In this context Sir Charles Trevelyan in one of his dispatches in 1859 stated:--

Our ancestors had to deal with a similar state of things. At the time of the Norman Conquest the Feudal system was adopted in England and it

became a fundamental maxim of our English tenures, that the King is the universal Lord and original proprietor of all the lands in his Kingdom, and

that no man doth or can possess any part of it, but what has mediately or immediately been derived as a gift from him, to be held upon Feudal

service". This system became the cause of cruel oppression; and after any partial remedies had been tried, military tenures were finally abolished

by the lands of England became from that time held of the King in free and common socage, which is equivalent to free hold..... In like manner, it

was an ancient maxim of English law, that no negligence or delay barred the King's right....."nullum tempus occurrit Regi." In other words, the

Crown had at common law the power, on an information of intrusion to compel the defendant to show his title specially, notwithstanding the

defendant and his predecessors in the estate might have held the lands without dispute of question for centuries. This was a source of grievous

oppression to the subject; and, by the Statute 21st of James I, Chap. 14, some relief was afforded; which was completed in the beginning of the

Reign of King George III, when, by the Act 9 Geo. III, Chap. 16. the King was estopped from seeking to recover lands from a subject after the

lapse of 60 years, unless the King had been in the receipt of the rents with in that time, or the lands had been in charge, or stood insuper of

record.

4. The recognition of Trevelyan's time was increasingly evident that the institution of private property lay at the foundation of human society, and

the progress of improvements was generally commensurate with the respect in which the rights of property were held by the Government and the

community, and the necessity for settlement was realised in view of the precariousness of holding under various and uncertain conditions of

resumption.

5. It was in that background Sir Charles Trevelyan who had specialised on the question of tax free tenures in India, made certain proposals which

results in the appointment of the Inam Commission, enfranchisement and settlement of inams in the 50's and 60's of the last century. The essence

of his proposals included that 50 years uninterrupted possession should be a good title to inam whatever might have been the origin of the

possession, though the burden of proof must rest with the inamdar, that titles might be established by production of valid grants, and that once

recognition was accorded thus to inams, they were to be regarded as limited estates held according to customary tenures, that is to say some of

them were lands held under temples or mosques on condition of service or of

payments in money or kind; other held subject to military, police or revenue service to the State or to village communities. It was pointed out that the greater part, both of the service tenures and of those held without conditions of services, were limited to the direct heirs of the original grantee. Temple and mosque land, according to Trevelyan, should be placed under the protection of courts of Justice.

Lands connected with temples and mosques were considered to be permanently alienated from the public revenue, and to be resumable only when the mosque or temple for the support of which they were originally granted entirely ceased to exist. Such inams were of two kinds, the first were held in trust on account of the temples or mosques, and were transferred from one manager to another, and the second were held by individuals on condition of services rendered or payments made to the temples or mosques. The last kind were transferable by sale or otherwise, subject only to the continued performance of the conditions of the grant, Trevelyan proposed that the Revenue and police services for which "service inams" were held, should be exacted as far as required. But in his view, assignments of land might not be the best way of paying Revenue Accountants or village Police, but as it had become a practice, it should be turned to the best possible public account. Then recommended Trevelyan:--

But after the "service of inams" have been utilised as far as possible, there will still remain a great extent of land held on condition of performing services which cannot be made available for any useful public purposes. If a title to such tenures be established by an unihinterrupted possession of fifty years, or in any other valid manner, they cannot be resumed; but there is no reason for confirming the holders in more than they have a title to.

The State has a claim upon the services of the holders of such tenures, as well as to the reversion of the tenures themselves whenever there is a failure of heirs. The holders cannot alienate them without the permission of the Government. The practice of the copy hold Commissioners in England in Extinguishing the rights of the Lords of Manors, including that of forfeiture, according to fixed rates of commutation, furnishes a model for imitation in this case. The only difference would be that according to the custom of this country the value of the public claims upon the land would, at any rate in the first instance, be calculated in the form of an annual

quit-rent or jodi, which might afterwards be commuted, at the discretion of the holder, for a sum equal to the present value of the annuity.

The practical position of the holders of "service tenures" for services which are not likely to be required, therefore, would be that a three-fold

alternative would be presented to them.

First: They might retain their lands subject to the established conditions of service, if it should be required, and of lapse on failure of heirs without any power of alienation.

Second: They might, by consenting to the payment of a quit-rent, calculated at a certain fixed annual rate, relieve themselves from the liability to

service, and obtain the power of alienating the land by sale or otherwise, subject to the payment of the quit-rent; or

Third: They might, by consenting to the payment, once for all, of a certain fixed sum calculated at so many years purchase, convert their service

tenures into absolute free-holds, with the power of alienating them divested of every burden except such as might be with all other lands similarly

held.

The same course should be followed in reference to inams of a personal nature. It should first be ascertained whether the title to the inams

according to the existing tenure is good; and if this should be established by the production of a valid grant by evidence of uninterrupted possession

for fifty years, it should then be open to the holder either to retain the inam according to his actual tenure, subject to the liability of lapse and

without the power of alienation or to enfranchise it by payment of an annual quit-rent, or a single fixed sum equal to so many years purchase of the

quit-rent." We find from the report of Blair, who succeeded Taylor as the Inam Commissioner, that it was not until 1845 that active measures were

adopted to assert the reversionary rights of the Government, in property, Blair also refers to the earlier stringent policy to prevent diversion of

inams from the purposes of the grants for which they were granted, and prevention of devolution of inam property by adoption, unless due notice

to Government had been given, and the proposal to limit the continuance of charitable grants to the lives of the then holders as it was considered

objectionable, in principle, that a portion of the land-revenue should be set apart for the maintenance of a class of persons who had no legitimate

claim on the State, and the later liberal policy prompted by the impolity of disturbing long existing rights in landed property. The principles upon

which the inam settlement proceeded have been summarised from Blair's report (vide G. O. No. 337 Revenue, dated 24-2-1871):--

The principles on which the Government proposed to deal with these tenures were somewhat less favourable than those finally adopted by the

Home Government, which were formed into a definite scheme by Sir Charles Trevelyan on his assuming the Government of Madras. The basis of

this scheme was that possession for fifty years was to give a good title, no matter what its origin of the possession might have been. This being

established religious service inams were all to be resumed on existing tenures and to be resumed only when the object for which they were held

and ceased to exist; other service inams were to be continued on the same terms when such services were still required, but when they could not

be made available for any useful public purpose, the value of the public claim upon the land was to be added to any existing quit-rent payable

thereon, the owner being thus enfranchised from service, and all other inams, held for personal benefit, were either to be retained on existing

tenure, subject to liability to lapse and without power of alienation, or, at the option of the holder, to be converted into an absolute property by the

imposition of a quit-rent representing the annual value of the reversionary right of Government in the property. This reversionary right was

estimated in terms most favourable to the inamdars in order to induce them to take advantage of the privilege offered.

In the said Government Order recording Blair's Report, the following further observations may usefully be noted:

Mr. Blair divides the inam tenures into nine general classes, but he attaches to his report a very useful glossary containing the name and description

of every kind of inam holding in the Presidency. The first three classes are inams for religious and public service or convenience. These inams

consisted of grants for the support of Pagodas, Muttums, village Headmen, Mosques and Durgas, Kazis, Christian Churches, Chuttrums, water

pandals, topes, tanks, wells, anicuts, schools and miscellaneous works of utility. Upto 1866 the Commission had recorded 91,734 cases of this

description, with an area of 1,639,854 acres, assessed at Rs. 28,71,094, but taxed with a jodi of only Rs. 1,58,404. This jodi was raised to a

quit-rent of Rs. 1,84,423, when the titles were confirmed. The fourth, fifth and sixth classes are inams for the personal benefit of the holders, and consisted chiefly of grants to the religious classes, to the families of chieftains, and to their dependants and followers. Upto 1866 there were settled of these classes no less than 254,473. These inams included to Rs. 12,97,197. For police service discontinued there were in the Northern and Central districts 14,860 inams, forming class VII with an area of 304,931 acres, assessed at Rs. 3,44,101, but charged with a jodi to Government of Rs. 40,780, which it is proposed to raise on enfranchisement to Rs. 1,75,824. In class VIII Mr. Blair places the village revenue and police service inams, and in class IX, the inams of the village artizans. No particulars of the extent and assessment of the inams of these two latter classes are given by Mr. Blair, though it appears that the grants were duly recorded by the Commission. In the Kurnool district, however, the revenue and police service inams have been enfranchised from service and confirmed to their holders as absolute property, the proceeds of enfranchisement being credited to the local village service fund, whence the village servants are not paid. The same course is, under recent orders, now being carried out in the Trichinopoly and Godavari districts, and the enfranchisement of the village service inams of Bellary and Cuddapah only await the submission of schemes for the revision of the village establishments in those districts. The enfranchisement of the kattubadi inams of class VII is also deferred, pending the recognition of the village police..... The provisions in the rules authorising the conversion of the absolute tenures on enfranchisement into a freehold by the redemption of quit-rent at twenty years purchase was taken advantage of to a most trifling extent, only Rs. 666 of quit-rent having been so redeemed. No other result was to be expected as 12 per cent, may be viewed as the ordinary rate of interest procurable among natives of the country for money lent on undoubted security. They would hardly therefore be likely to invest largely in redemption of quit-rent which would return but 5 per cent, on the capital sunk. Mr. Blair observes in paragraph 73 of his report that "a long pending question, which was a source of perplexity to every successive Government, a cause of much irritation among a very influential section of the community, and an ever increasing burden on the energies of the local officers, has been now set at rest. The just claims of Government have

been peacefully vindicated, and the prescriptive right of the people in a vast mass of valuable property has been scrupulously respected and

confirmed in perpetuity. The Right Honourable the Governor in Council has much pleasure in endorsing this succinct statement of the settlement

made by the inam Commission which may now be said to have been brought to a close though a few cases have still to be dealt with by the

Second Member of the Board of Revenue.

The Inam Rules were framed on the basis of those principles.

6. It may be seen from what we have so far noticed that the essential ingredients of an inam are, that it is a grant or gift, of the land or the revenue

or both. The holding is rent or tax-free, in whole or in part, and the reversionary right of the inam is with the Government in exercise of which it

could resume the grant in certain events. The enfranchisement and inam settlement proceedings were prompted by two considerations: (1) sacrifice

of large amount of land revenue should be checked and compensated for by adding the value of the public claim upon the land to the existing quit-

rent, if any, payable thereon; and (2) in view of this, the title of the inamdar based on proof of grant, or of the requisite orders of possession should

be confirmed by the process of enfranchisement of service in the case of service tenures, and by retention of the existing tenure, subject to liability

to lapse and without any power of alienation, or at the option of the holder, to be converted into an absolute property by the imposition of a quit-

rent representing the annual value of the reversionary right of Government in the property. Conversion by the process of enfranchisement into an

absolute property by imposition of quit-rent representing the annual value of the reversionary right of the Government in the property did not mean

conversion from "inam" to some other tenure.

Conversion into absolute property or freehold only meant the disannexation of the property from the service, and the abolition of the reversionary

right of the Government in the property in consideration quit-rent. The quit-rent is but a fraction of the full assessment of the land, the size of which

depended on certain circumstances. The fact is that even after enfranchisement the inam held on payment of quit-rent continues to be an inam, only

with this difference, that where there was no quit-rent before, it is levied as a result of the inam settlement and enfranchisement, and where there

was already imposition of quit-rent, additional quit-rent is levied, depending on the value of the public claim upon the land, and that it is a freehold

after enfranchisement in the sense that it is not subject to lapse or reversionary right of the Government. The inam even after enfranchisement

continues to be a grant confirmed by an inam title deed with a liability to concessional levy in the form of quit-rent, which, as we said, is, in

consideration of the abolition of the reversionary right of the Government.

Pingala Lakshmipathi v. Bommireddipalli Chalamayya ILR (1907) Mad 434 held that enfranchisement of a service inam did not involve a

resumption by Government, and a fresh grant in favour of the persons named in the title deed, and that it merely disannexes the inam from the

office, converting it into ordinary property and released the reversionary rights of the Crown in the inam. The same view was expressed in

Subbaroya Chetti v. Aiyaswami Aiyar, ILR (1909) Mad 86. That was also a case of service inam. These two cases clearly show that the effect of

enfranchisement is but to disannex the service from the land and convert it into ordinary property, releasing the reversionary right of the Crown in

the inam, making the property a freehold by the inam title deed after enfranchisement and did not convert the tenure itself as an inam. Ramanatha

Iyer, in his Law Lexicon, affirms that it has no more the effect. He says that "to enfranchise" means to render a holding free from some obligation,

and that enfranchisement does not mean resumption and fresh grant. It implies that the title of the previous occupier continues unchanged.

In Venkata Jagannatha v. Veerabadrappa, ILR 44 Mad 643 : AIR 1922 PC 96, the Privy Council approved Narayana v. Chengalamma, ILR

(1887) Mad 1 in which it was held that the inam title deed which had been granted to the Palayagar in that case did not confer any new title, and

the enfranchisement had no longer operation than as a release granted by the Crown in respect of the reversionary interest, and of the obligations

for rendering service. But actually the case before the Judicial Committee was that of a karnam inam which deferred from the case of a Palayagar,

in that unlike a person inam, the land follows the office, and therefore, there are no hereditary incidents attached to it. That belong so, the Judicial

Committee was of the view that the grant of title deed after enfranchisement was a source of new title in the inamdar. But the Privy Council did not

have an occasion to consider and hold that new title deed also meant a change in the tenure.

In *Rasa Koundan and Another Vs. Janaki Ammal and Another*, , *Satyanarayana Rao J.* held that enfranchisement of an inam did not always imply

a resumption of the original grant and re-grant of the property, and that in order to determine in a given case the effect of an enfranchisement on the

title to the property, one has to examine the tenure on which the land was previously held and it was sought to be altered or substituted by a new

tenure by the enfranchisement proceedings. In the case of service tenures, the title to the enjoyment of property rests not upon the independent title

to the property, but upon the right to the office for the service. The learned Judge also points out that there may be other classes of cases where a

person held property hereditarily, but with an obligation attached to it to render certain services. In that case, the title to the property would be

regulated by the personal law of the parties and, wherefrom the property followed, the obligation which was attached to the property also followed

so that the title in such a case to the property and the right to enjoyment did not depend upon right to the office or the duty to render service. The

other learned Judge, *Viswanatha Sastri J.* more or less agreed with that view, and pointed out the difference in the effect of enfranchisement on

personal inams and service inams. But in neither case, as we think the character of the tenure as an inam is changed by the enfranchisement. That

was the view expressed by a Division Bench of the Andhra Pradesh High Court in *Jogarao v. Sub. Collector*, 1964 2 AWR 320. It was a case of

a Karnam service inam which had been enfranchised. The Andhra Pradesh High Court repelled the contention that the effect of enfranchisement

was to disannex the inam from the conditions attached to it and convert it into a freehold in the sense that the enfranchisement brought about a

change in the tenure. The learned Judges pointed out that it was well-known that the quit-rent was levied only in respect of inam lands, and if the

inam tenure was converted, it could not be said to what kind of tenure the land belonged, while it certainly was not ryotwari land, Chapter III, Part

I, paragraph 53 of the Board's Standing Orders (Volume II) deals with the effect of enfranchisement. It says that in the case of inams enfranchised

by the Inam Commissioner, whatever be their previous tenure, there should be no interference on the part of the Collector, and that these inams

stood in the same position as ryotwari lands in respect of succession, transfer, sub-division and sale for arrears of quit-rent. An examination of the

inam title deeds both in respect of service and personal inams, shows that as a result of the enfranchisement two things followed:

(1) The inam which was tax-free and hereditary, and which was not otherwise transferable and in the event of the failure of lineal heirs, it was liable

to lapse to the State would as a result of the enfranchisement be liable to pay annual quit-rent; and

(2) In consideration of such payment, the inam tenure would be converted into a permanent freehold, in which case, the inam would be "your own

absolute property to hold or dispose of as you think proper, subject only to the payment of the above mentioned quit-rent". The payment of quit-

rent could, of course, be redeemed. But this incidence of the title deed did not bring about a change to the character of the inam as such. The

expressions that the property after the enfranchisement would be the absolute property of the title holder and that it would be a permanent

freehold, meant no more than release of the property from the obligations of service and from the reversionary right of the Government to resume

the inam. A "freehold" did not mean change in the concessional character of the holdings, which is the essence of an inam.

7. The rules for the settlement of inams in the Pudukottai State clearly stipulate for the view we have taken. In the preamble, the precarious nature

of the inam tenures, and the fact that they were valueless as the holders possessed no heritable or transferable interest in them, and the necessity for

enfranchising the said inams and assessing them with a moderate quit-rent to be fixed according to the nature of each inam as a just consideration

for conferring on the holders heritable and transferable interest in the property with the power of alienation by adoption, gift, sale, or otherwise, are

given. The first rule specifies that the term "inam" was understood to apply to whole village or small holdings exempt wholly or partially from land

tax. Rule 2 mentioned that the validity of title should be decided either by production of Sunnads granted to the holders by the ruling power, or in

their absence, by 50 years continued possession which would be accepted as conferring a valid title as inam. Rule 3 mentioned 9 kinds of inams:

1. Devadayam.

2. Chuttrums (Chatrams?)

3. Jaghires.

4. Brahmadayam.

5. Oombalam.

6. Rookkakuthagay.

7. Amarams.

8. Ooliams.

9. Sundry Inams.

Devadyayam were of two classes: (1) Lands attached to pagodas which were under the direct management of the Sirkar; and (2) lands granted to

minor pagodas which were held by the persons who performed the Pujah or who held the management. Those of the first class should under Rule

4 be continued on the existing tenure so long as the services continued to be performed. Those of the second class would be confirmed to the

actual holders of such lands on the condition that they would be liable to be resumed when the service ceased to be properly performed, and the

buildings were not maintained in an efficient state, "Chatrams" were classified into tow heads, both of which should be dealt with as in the case of

Devadayam. "Jhagires" were not within the purview of Inam Rules of Enfranchisement. "Brahmadayam" too was classified into two categories,

lands granted hereditarily to Brahmins for subsistence and similar grants of lands for the performance of some specific service. As to the first

category of lands, they were granted hereditarily for subsistence and they would be continued to the then holders hereditarily if they were

descendants of the original grantee, but if the then holder was not a descendant, but either in his own person or in succession to those through

whom he claimed to have acquired the inam by purchase, gift, or otherwise, such inams would be liable to quit-rent equal to 1/3 of full assessment

and title deed should be issued to them accordingly.

Lands granted to Brahmins for performance of specific service would be continued if the service was regularly performed, to the present holders if

they were the descendants of the original grantee, or if they have acquired the inam in person or by right of succession on the condition that hald of

the full assessment would be fixed on the land when the service is discontinued.

If the present holder was not of such description, although the service was regularly performed, the inam would be subject to a quit-rent of 1/4 of the full assessment and continued to the present holders on the same condition. But if at the time of the settlement it appeared that the service had ceased to be performed, the inam would be confirmed to the holders, subject to the payment of a quit-rent equal to half of the full assessment of the land. "Oombalams, Rokkakuthagai, Amarams and Ooliams" were dealt with together in the rules, which regarded that strictly speaking they were not hereditary, but in their nature, life tenures. In the case of the first class, the inam would be continued to holders subject to payment of quit-rent of 1/4 of the full assessment of the land which would be considered a sufficient compromise for the creation of heritable and transferable rights in the property to the holders.

But if the inamdar had no heirs, a quit-rent equal to half the assessment of the land would be demanded. If the present holder was not willing to have his lands enfranchised, a title deed would be given to him confirming the inam, but with a condition that the inam would lapse to the Government after the death of the present holder. If the inamdar held service lands and rendered occasionally some light service or no such service even, the inamdar would be given no option as just now mentioned, but such inams would be disposed of according to the rules prescribed for inams of the first class, but subject to quit-rents equal to 3/8, and 5/8 of the full assessment of the lands according to the inamdar had or had not, competent heirs. Service means regular service in a palace under Sirkar. Inam held by persons who performed regular service hereditarily would be confirmed to the holders subject to the payment of a quit-rent equal to half and three-fourths of the full assessment of the land according as the inamdar had or had no heirs. If such service had not been rendered hereditarily, such inams would be fully assessed as those inams would be fully assessed as those inams enjoyed by village officers, the duties of which still required to be performed, they would be confined to the holders thereof under the existing tenures. When these inams were excessive in comparison with the duties required, the excess above a certain maximum to be fixed according to the nature of the case, would be fully assessed.

When the inam attached to the office was in the enjoyment of persons who did

not perform service, or whose service was no longer required, such inams would be assessed with the full assessment of the land. Rule 25 related to the fixation of quit-rent and it says that the quit-rent to be imposed by the rules being a consideration for extension of rights, would be exclusive of, and in addition to any quit-rent with which the land might have been already charged; but the additional quit-rent would be calculated not on the full assessment of the land, but on the difference between the full assessment and the quit-rent which represented the net value of the land. The old quit-rent plus the additional quit-rent fixed in the manner prescribed above was the quit-rent or tax which the inamdar had to pay for the future. Rule 28 is this:--

Title deed to be presented to the inamdar in acknowledgment of his inam tenure. On the validity of the inam being established by the enquiry

conducted in accordance with the above rules a title deed will be furnished to the. acknowledgment his title to the inam. The settlement will be

made wither with the registered holder or where none are registered with the head member of the family enjoying the inam who according to the

existing practice, is alone considered responsible to the Sirkar but this rule will not interfere with the enjoyment of subordinate shares in the inam by

the other members of the family whose names also will be recorded in the register as far as possible. The title deed will state the term if the Inam on

its present tenure and if the inams have been enfranchised, the rights and privileges which have been newly created.

Under Rule 29, enfranchised inams would be exempt from future interference by the Sirkar, except as might be necessary for the punctual

realisation of the quit-rent charged. These rules make it abundantly clear that the result and effect of enfranchisement was not that the inam tenure

was converted into some other tenure, but certain rights were added to the holders namely, that the precarious nature of the tenure was set right by

confirming the inam to the holder, disannexing the service from the land and putting an end to the reversionary right of the State, in consideration of

the levy of quit-rent which is a fraction of the full assessment.

8. In Thiruvavaduthurai Adheenam and His Holiness Sri La Sri Ambalavana Pandara Sannadhi Avergal present Adheenakartha Thiruvavaduthurai

Adheenam Vs. State of Madras by the Secretary to Government, Revenue

Department, Fort St. George, , Alagiriswami J. thought that it would be meaningless to say that after the inam proceedings, an inam land in respect of which a title deed was issued to the inamdar would continue to be an inam land. He was of the view that enfranchisement meant commutation of the value of the Government's right of resumption, and after that there was no right of resumption and the land was free from the obligations of inam tenure. We are unable to agree with him. There is nothing in the Madras Enfranchised Inams Act, 1862, or Madras Act IV of 1866 or in the forms of the title deeds issued that the enfranchisement would justify the view that the effect of enfranchisement was to change the nature of the tenure of an inam as such.

9. In our opinion, therefore, the villages in question are inam villages, and they have not ceased as a result of enfranchisement to be inams. The inams are, therefore, within the purview of Madras Act XXVI of 1963. The petitions are dismissed with costs. Counsel's fee Rs. 50 in each of them.

10. Petition dismissed.