
(1958) 09 MAD CK 0038
In the Madras High Court
Case No : Appeal No. 523 of 1955

Karumuthu Thiagarajan Chettiar

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 09-09-1958

Acts Referred:

Citation : (1958) 09 MAD CK 0038

Hon'ble Judges : Panchapakesa Iyer, J; Basheer Ahmed Sayeed, J

Bench : Division Bench

Advocate : V. Vedantachari, K. Subramanian and Alladi Kuppuswami, for the Appellant; N. Ramachandran and R.G. Rajan, for the Respondent

Judgement

Panchapakesa Ayyar, J.—This is an appeal by Karumuthu Thiagarajan Chettiar, the plaintiff in O. S. No. 98 of 1953 on the file of the Subordinate Judge of Sivaganga, against the judgment and decree dismissing the suit with costs. The facts are briefly these: The appellant had filed that suit against the State of Madras for a declaration that the suit village of Siruvengai-Peruvengai half of which, consisting of about 150 acres, was confirmed as Inam under Ex. A. 1, was only a hamlet of Tirukalapatti village, and would not be an "estate" under S. 3 (2) (d) of the Madras Estates Land Act, being not a whole village or a named village, and that the provisions of the Rent Reduction Act would not apply to it, and that the notification of the Government applying the said Act to it was void and of no effect, and for an injunction restraining the State and its officers from collecting the rent or taking any proceedings under the above Act. The learned Subordinate Judge had three arguments addressed before him as to why the village would not be an "estate". The first was that Siruvengai-Paruvengai was only a hamlet of Tirukalapatti village, and was not a whole village or a named village. He rejected this argument on the ground that nowhere in the documents filed by the plaintiff was this village described as a hamlet of Tirukalapatti, and that the word "Tirukalapatti" was nowhere seen in any of the documents marked in the case. The second argument adduced before him was that the grant was to

32 Vedic Brahmins of different gotras and sastras in 32 equal Vrithis, and that there were therefore 32 different grants, and so was not the grant of an "estate". He rejected this argument as he held that there was a joint grant. The third was that the confirmation of the inam, under Ex. A. 1, was only regarding one-half of the original grant of nearly 300 acres, and that, therefore, it would not form an "estate". He rejected that argument also on the ground that the original grant covered the entire extent of the village and that the confirmation of only one half made no difference. In the end, he dismissed the suit with the costs of the defendant amounting to Rs. 680-12-0. The plaintiff has felt highly aggrieved and has filed this appeal.

2. We have perused the records, and heard the learned Counsel on both sides. Mr. Vedantachari, the learned Counsel for the appellant, and the learned Government Pleader, for the defendant-respondent, have argued the case fairly and fully. Mr. Vedantachari raised the same three points before us as were urged in the lower Court, but with greater clarity. The first was that the village Siruvengai Peruvengai was not a whole village or named village but only part of a village, being a mere hamlet of Tirukalapatti and that the learned Subordinate Judge went wrong in holding that there was absolutely nothing in the evidence adduced by the plaintiff to show that Siruvengai-Peruvengai was only a hamlet of Tirukalapatti, and that the word "Tirukalapatti" was nowhere seen in any of the documents marked in the case. He is right here. It is found from several documents, like Exs. A. 4, A. 5, B. 4, B. 3, A. 10, A. 17, A. 50 and A. 51, ranging from 1874 to 1951, that Siruvengai-Peruvengai had been referred to almost uniformly as hamlets of Tirukalapatti village, though in some of the documents the word "hamlet" is omitted. The lower Court, for some curious reason, failed to notice these things. The learned Government Pleader urged that, after all, these were private documents, not entitled to much weight compared with public documents and registers kept by Government Officers, like the Karnam, and that Ex. A-1 itself did not mention Siruvengai-Peruvengai as a hamlet of Tirukalapatti, and, indeed, referred to these two together as "this village" uniformly. But Mr. Vedantachari pointed out that even in Ex. B-1, the land register of Tirukalapatti, kept by the Karnam, a Government Officer, lands of Siruvengai-Peruvengai are included, thus showing that they are only hamlets of Tirukalapatti, and not a whole village or a named village. So, it is obvious that the grant of Siruvengai-Peruvengai was not of a whole village or a named village, but only of a portion of the village of Tirukalapatti and a portion of Maruthiapatti by the Pandya King to certain Vedic Brahmins of various Gotras and Sastras for their maintenance and upkeep. The grant itself was a very ancient one, and comprised some 300 acres. The original grant is not forthcoming. Only, the Inam Register Extract, Ex. A-1, clearly shows that half the grant, viz., (Ac-149-54), was confirmed in the names of the successors of the original grantees. The other half, we may add, was resumed, some 50 years before Ex. A-1, by the Zamindar of Sivaganga, for some reason or other, and added to his estate. It was never taken out of his estate or granted in Inam to the zamindar or to any other.

3. The second contention of Mr. Vedantachari was that the original grant was to 32 Vedic Brahmins of different gotras and sastras in equal Vrithis, and would constitute 32 different grants, and that, therefore, under the ruling of a Bench of this Court, consisting of Rajamannar, C.J., and Ganapatia Pillai, J., in A.S. Nos. 18 of 1954, and 408 and 409 of 1955 would not be an "estate". Here, the learned Government Pleader joined issue with Mr. Vedantachari with alacrity and urged that the facts of this case showed a joint grant to the 32 Vedic Brahmins, in equal Vrithis, and not separate grants in separate shares to those 32 persons, as in the appeals relied on by Mr. Vedantachari. There is substance in this contention of his, and we reject Mr. Vedantachari's contention on this point on the facts.

4. The third contention of Mr. Vedantachari was as unanswerable as the first viz., that the confirmation of the original grant of the Pandya Kings was only regarding one half of the grant under Ex. A-1, and not regarding the whole of the grant, and that under the Bench ruling of this Court in V. Srinivasa Ayyangar Vs. The State of Madras and Another, , if the entire grant of the village is not confirmed or recognised by the British Government, there cannot legally be an entire inam village the existence of which is a necessary condition for bringing the grant within the definition of an "estate." A Full Bench of this Court, in Bhavanarayana v. Venkatadu (1953) 2 M.L.J. 748=66 L.W. 1087 (F.B.), has approved of the view taken regarding this matter in the above Bench decision. A Bench of the Andhra High Court has also approved of the above Bench decision of this Court, in Sivarama Sastri v. State (1958) 1 An. W.R, 185. The learned Government Pleader had to concede that there was no confirmation of the other half of the original grant in the name of the zamindar. So it is obvious that the confirmation under Ex. A-1 of half the grant in the name of the successors of the original Vedic Brahmins, the original grantees, would not make the suit village an "estate" under S. 3 (2) (d) of the Madras Estates Land Act. It follows, therefore, that the judgment and decree of the lower Court, dismissing the suit, were wrong, and that the suit ought to have been decreed in full except for the injunction (which is unnecessary in the case of a responsible Government), and we set aside the dismissal, and give the plaintiff a declaration that the suit village is not an "estate" under the Madras Estates Land Act, and that the provisions of the Rent Reduction Act will not apply to it, and that the notification of the Government applying the Act to the suit village is void and of no legal effect. In the circumstances, we direct all the parties to the suit and appeal to bear their own costs.