

(1955) 07 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Petition No. 505 of 1951

Komara Sriramulu Pantulu

APPELLANT

Vs

The Madras State (now the Andhra State)

RESPONDENT

Date of Decision : 29-07-1955

Acts Referred:

Citation : (1955) 07 AP CK 0020

Hon'ble Judges : Umamaheswaram, J

Bench : Single Bench

Advocate : V. Vedantachari, for the Appellant; Govt. Pleader, for the Respondent

Judgement

Umamaheswaram, J.—This is an application for the issue of a Writ of Mandamus directing the Madras State (now Andhra State) to forbear from taking over possession and management of the inam of Karakam-badi in Chandragiri Taluk, Chittoor District in pursuance of the notification No. 384 at p. 1332 of Part I of the Fort St. George Gazette dated 11-9-195 treating the village as a zamindary Estate.

2. The case of the Petitioner is that the village of Karakambadi was part of Karakambadipalayam and it was granted subject to certain Police services. In para 4 he alleged that it was subsequently enfranchised & dealt with by the Inam Commissioner who granted an Inam Title Deed. According to him, Karakambadipalayam consisted of several villages of which Karakambadi was one village. He therefore contended that the village should be treated as an Inam estate.

In the counter-affidavit filed on behalf of the Government, it was not denied that the village was enfranchised and an Inam Title Deed was granted.

It was asserted that it was an estate as defined in Section 3(2)(c) of the Madras Estates Land Act and a Zamindary Estate within the meaning of Section 2(16)(ii) of Madras Act 26 of 1948 and that the notification was perfectly justified.

3. The simple question for decision in this case is whether the village of Karakambadi is a Zamindary Estate within the meaning of Section 2(16)(ii).

4. Zamindary Estate means

(i) an estate within the meaning of Section 3, Clause (2)(a), of the Estates Land Act, after excluding there from every portion which is itself (ii) an estate within the meaning of Section 3, Clause (2)(b) or (2)(c), of the Estates Land Act, after excluding there from every portion which is itself an estate u/s 3, Clause (2)(c), of that Act.

5. It is admitted in the present case that Karakambadi was not permanently settled and it therefore does not fall u/s 3(2)(a). It is also admitted that originally Karakambadi was an unsettled Palayam which would fall u/s 3, Clause (2)(c). The main question that has to be considered is as to the effect for the enfranchisement of Karakambadi Palayam consisting of 18 villages. The Inam Fair Register is produced before me and col. (2) shows that the Inam was treated as a personal Inam. Col. (8) describes it as Kaval Nominal service. In col. 14 it is stated that it was granted by Veerananarayana Levarayalu 600 years ago. The relevant portion of col. (21) is as follows:

This Polliem of Karakambadi consists of 18 villages viz., 1. Karakambadi, 2. Kothapalliam, 3. Pullapalliam, 4. Timmaragunta, 5. Earagunta, 6. Anagunta, 7. Venhullachervu, 8. Puthirenigunta, 9. Beyrevarnigunta, 10. Vonkamanama Pallai, 11. Guru-varaju Pallai, 12. Rerugunta, 13. Anuaswami Pallai, 14. Marigumta Agraharam, 15. Mathigavarigiinta (alias) Veera Raghavapusam Agraharam 16. Olti Gunta, 17. Pethakavitipalli, alias Srinivasa Agraharam.

This polliem is bounded on the north by Mamandur, on the south by Gandulamajiam and Tukkivarkkam villages of Chandragiri Taluk, on the East by Pallakaiu river and on the west by Shetty Pallai and Cheenagunta, the Inam Villages. The lands of this Polliem were measured and the rates fixed for them in Fasli 1215 A. D. 1805 and the assessment of the same was reduced in the Government Taluk of Chandragiri in Fasli 1267-A.D. 1857 which also applied to this Polliem the old and reduced rates are given on the top of the Register. This is a Kavali Pallem hitherto enjoyed-free of tax but liable to some nominal service of Karval tenure which was since discontinued after the introduction of the new Police in 1860.

Col. (22) shows that the villages were confirmed as recommended on a quit rent of Rs. 2,100/- and a Title Deed No. 2847 was issued. So the Inam Fair Register clearly shows that all the 18 villages were enfranchised and a single Title Deed was issued in respect of these villages.

6. The Learned Advocate for the Petitioner contends that by reason of the enfranchisement, the unsettled Palayam can no longer be regarded as falling under Clause (2) (c) and that it should be treated as an Inam falling within Clause (2)(d) of the Madras Estates Land Act. In support of his contention, he

relied on-the decision reported in Ramalinga Mudali and Another Vs. T.S. Ramasami Ayyar, (A). The relevant passages are at pages 541 and 542. Reference is made therein to an unreported judgment in Appeals Nos. 327 to 332 of 1926 (Mad) (B) which is directly in point. The-observations are as follows;

The words "permanently settled estate" in Clause (2) (a) are wide enough to cover jagirs. It is open to the Government to settle a jagir falling under Clause (c) of Reg. 25 of 1802. in which case, it becomes a permanently settled estate under Clause (a): it is similarly open to them (though perhaps this is more usual) to enfranchise the jagir as an Inam under the Inam Rules, in which case, it falls under Clause (d) provided the other condition mentioned in that clause is satisfied, regarding the grant of the Melvaram being to a person not owning the Kudivaram.

7. There is no distinction in principle between an unsettled Palayam and Jagir. The observations make, it clear that when once a Palayam is permanently settled, it falls under Clause (a). If it is enfranchised as an Inam under the Inam Rules, it falls under Clause (d). The learned Advocate for the Petitioner also-relied on the decision reported in Alamelu Ammal Vs. Raja and Another, (2) (C). At page 19, Wallace, J. refers to the fact that a few Palayams which were held for Police services were treated as Inams and enfranchised. There can be no-doubt that tire procedure adopted by the Inam Commissioner in treating Karakambadipalay an Inam is rwrfoctly valid and justified by the rules.

In G. Sam v. Ramalinga Mudaliar, ILR 40 Mad 664: (AIR 1917 Mad 281) (D) it is stated that "in fact, villages termed Jagirs and Paliams were settled by the Inam Commissioner under the Inam Rules" and reference is made to the classification of Inams in the Inam Rules, page 181, Volume 2, Board"s standing Orders 1907. I do not, therefore, accept the contention on behalf of the Government that the enfranchisement proceedings were not validly made.

8. The next contention of the learned Advocate for the Respondent was that I ought not to interfere in a Writ under Article 226, but should direct the Petitioner to file a suit. I do not think that it is necessary to do so. The Inam Fair Register which is produced before me clearly shows that Karakambadipalayam was treated as an Inam and enfranchised and it at (sic) a single Title Deed was granted in respect of the 18 villages. In the counter-affidavit, the allegation made by the Petitioner that it was so enfranchised was not denied. No contention was raised therein that the enfranchisement proceedings were beyond the competence of the Government or were in violation of the Inam Rules.

Moreover, in the notification issued by the Government under Rent Reduction Act (Madras Act 30 of 1947), the village of Karakambadi was treated as an Inam estate. It is unnecessary in matters of this description to drive the parties to a separate suit The Writ is the most appropriate remedy and an illegal order of this description ought to be quashed and set right at the earliest moment.

9. I, therefore, quash the notification No. 384 published in Fort St. George

Gazette in so far as it relates to Karakambadi in Karkambadipalayam and tissue an order of Mandamus restricting the Government from taking over possession of the Karakambadi treating it as a Zamindary Estate under Madras Act 26 of 1948. The Writ is allowed with costs. Advocate's fee is at Rs. 100/-.