

(1995) 08 SC CK 0027

In the Supreme Court Of India

Case No : C.A. No's. 1382 to 1390, 1391 and 1392 of 1982 and C.A. No's. 1379-1381/82 and 1720-27 of 1980

K.S. Thirugnasambandam Chettiar (dead) by L.Rs.

APPELLANT

Vs

The Settlement Thesildar, Coimbatore-18 and Others etc, etc.

RESPONDENT

Date of Decision : 08-08-1995

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 13, 15, 3, 30

Citation : (1995) 08 SC CK 0027

Hon'ble Judges : Sujata V. Manohar, J;S. Saghir Ahmad, J;M.M. Punchhi, J

Bench : Full Bench

Advocate : R. Sundaravaradan, V. Balachandran, S. Subramanian, R.K. Sharma, for K.R. Choudhary, S. Sivasubramaniam, V. Ramasubramanim and N. Ramalingam, for the Appellant; Vijay Kumar, Sangeeta Kr., V. Krishnamurthy, K. Ram Kumar, Asha Nair, C. Balasubramanian and ATM Sampath, for the Respondent

Final Decision : Allowed

Judgement

1. The appeals are allowed, upsetting the impugned orders of the Special Appellate Tribunal, in terms of the signed order. C.A. Nos. 1382 - 90 with CA Nos. 1391/82 etc.: In exercise of the powers conferred on Special Appellate Tribunal u/s 30 of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 its nominated members, two Hon'ble Judges of the Madras High Court, non-suited the Appellants herein in two batch of cases on the ground that their conflicting claims to the site(s) and to building (s) standing thereon were unsustainable as both had to belong to one and the same person and in the absence thereof, on abolition of inams must vest in the State interms of Section 3(b) of the Act. Primarily, it is this view which is under challenge in these appeals, which are of a bunch, preferred by persons, some of whom claiming to be site-owners and Ors. claiming to be owners of the buildings erected thereon. The claim of the site-owners is that not only do they own the sites, but in some

cases they own the buildings too. The claim of the building-owners is that since the building includes the site in terms of Section 13, they become owners of both the estates i.e., the site and the building. Before the High Court disputes arose about title as also of law and fact as to which estate was owned by whom. The Special Appellate Tribunal on the basis of the findings recorded by the Inams Tribunal, that none of the contesting parties owned both the site as also the building took the view that Section 13 was inapplicable and the land had to vest in the Government u/s 3(b).

3. To demolish that finding of the Special Appellate Tribunal, as urged by the Appellant, it would be appropriate to reproduce here section.

13(1) Every building situated within the limits of an inam land shall, with effect and from the appointed day, vest in the person who owned it immediately before that day but the Government shall be entitled for each fasli year commencing with the fasli year in which the appointed day falls to levy the appropriate assessment thereon.

(2) In this section, 'building' includes the site on which it stands and any adjacent premises occupied as an appurtenance thereto.

4. It is plain from a bare reading of the Section and its setting that it is a provision occurring in Chapter III as one of the tools to confer ryotwari pattas to persons entitled. The Preamble of the Act makes it clear, as also its name, that the Act enables the State to accomplish acquisition of the rights of inamdars in minor inams in the State of Tamil Nadu and the introduction of ryotwari settlements in such inam lands. It nowhere envisaged that the rights of a person who held a ryotwari patta in his favour or was otherwise entitled to a ryotwari patts, were meant to be abolished under the Act. Rather on abolition of inams claims of persons entitled, to the grant of ryotwari pattas had to be examined and settled. Under the provision under scrutiny too, it is patent that some ryotwari pattas had to be settled. Where buildings stood erected on inam lands immediately before the appointed day and the government in that event was entitled to an appropriate assessment as envisaged therein. Designedly, the building so erected was to include the site on which it stood and any adjacent premises occupied as an appurtenance thereto. Since the scheme of the Act patently was in establishment and preservation of ryotwari rights, it cannot be said that by virtue of Section 13, the ryotwari rights of the site-owners stood abolished or those rights got merged in the building and hence vesting in the building owner. Rather, a dual estate is conceived of in the scheme of Section 13, that is to say, the building may belong to one and the site to another. It is, therefore, not necessary that both the site and the building should belong to one and the same person so as to derive the benefit of Section 13 with effect from the appointed day. A dual estate is not repugnant to the provision, which evidently is of a very special nature, when ryotwari patta may not be admissible for a building per se, but may be admissible for the site standing thereon. Yet, this is a special provision which confers rights on the building-owners also,

though in the strict sense that right may not be a ryotwari right conferable in the form of a patta. The provision, self-contained as it is, allow, the Government levying an appropriate assessment thereon for each fasli year commencing with the fasli year in which the appointed day fell, which assessment obviously would be based on the assessment due on the site as if unbuilt, and not on the price of the building. It would, thus, seem to us that the Special Appellate Tribunal went astray in giving an interpretation to the provision which neither furthers the objectives sought to be achieved by the Legislature nor in the fitness of the legislative design which was drawn up to achieve a purpose. We thus have no hesitation in allowing these appeals and upsetting the impugned orders of the Special Appellate Tribunal. After doing so, it would necessitate us to remit the matter back, for, we would not advisedly go into any question of fact or law which had been left by the Special Appellate Tribunal undecided. The appeal before the Special Appellate Tribunal gets revived in order to be disposed of in accordance with law and facts as arising and raised in the respective appeals. No costs. Civil Appeal Nos. 1720-27 of 1980: The ratio of the judgment rendered by us in the bunch of cases headed in K.S. Thirugansanvabdan Chettiar etc. v. K. Vellappa Counder and Sons, Ors. etc. being Civil Appeal Nos. 1382-90/82 etc, etc. would govern the fate of the of the instant cases also even though the Statute involved is different, being the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act 1963 (Act, 26 of 1963). Reference here would have to be made to Section 15 thereof, the Scheme of which is identical to that contained in Section 13 of Madras Minor Inams Estates (Abolition and Conversion into Ryotwari) Act of 1963. In terms thereof, we set aside the impugned judgments and orders of the High Court and remit the matters back to it to examine whether anything further survives in these matters, and if so, to pronounce thereon. Ordered accordingly. No costs.