

(1945) 10 MAD CK 0004
In the Madras High Court

Maddela Yenadi and Another	Vs	APPELLANT
Maddela Ramalakshuamma		RESPONDENT

Date of Decision : 23-10-1945

Acts Referred:

Citation : AIR 1946 Mad 206 : (1946) 59 LW 17 : (1946) 1 MLJ 85

Hon'ble Judges : Chandrasekhara, J; Chandrasekhara Aiyar, J

Bench : Division Bench

Judgement

Chandrasekhara, J.—There is a line of cases which hold that, where service inams are resumed by the Government and there is a re-grant,

the original title is extinguished and the grant constitutes the root of a fresh title, but this line of cases does not apply to all service inams irrespective

of their nature. Most of them on examination will be found to relate to village officers' inams, with reference to which there is a rule of public policy

to be kept in mind. As regards a Devadasi service inam, which is the nature of the property involved in this case, there is no rule that an

enfranchisement extinguishes the old title and creates a new one. On the other hand, the very Section 44-A of the Madras Hindu Religious

Endowments Act, under which the enfranchisement was made, takes care to state that an enfranchisement order shall not operate as a bar to the

trial of any suit or issue relating to the right as to the enjoyment of the land or the assignment of land revenue, as the case may be.

2. The learned Subordinate Judge has held that the plaintiff's father-in-law Pitchanna had a one-third share in this property and that Ex. F mentions

his name and that of the third defendant Subbi. He has further held that on the father-in-law's death, the one-third share was inherited by

Garatadu, the husband of the plaintiff and that on his death, the plaintiff got title to this share. This is a point of view to which no exception can be

taken except on the ground that the grant of a patta in favour of the third defendant must be taken to mean that the previous title was terminated.

As stated already, that ground is not available.

3. The learned Subordinate Judge has further found that the plaintiff was in possession of this property within twelve years prior to the filing of the

suit as she was living with her husband, who was admittedly in possession and there were at least two instances in which she paid the cist for the

property on her own behalf. It is therefore a case in which the plaintiff has title and possession.

4. It is argued that the trespass alleged in the plaint was not made out and no finding was given on issue No. 10. When title is denied, a trespass set

up need not be specifically made out.

5. As regards issue No. 10, all that need be said is that it is not necessary to take proceedings to set aside the Government order resuming the

service inam and granting a patta to the third defendant so long as the plaintiff is prepared to say that that order is one by which she is prepared to

abide as her title to the property was not taken away by what was done. So long as the plaintiff's rights in the property are not destroyed, it does

not really very much matter in whose name the patta stands.

6. The second appeal is dismissed with costs. No leave.