
(1952) 12 MAD CK 0010
In the Madras High Court
Case No : Appeal No. 116 of 1948

Nallathambi alias Venkatachalam Chetty and Others	APPELLANT
Vs	
Perumal Chetty and Others	RESPONDENT

Date of Decision : 18-12-1952

Acts Referred:

Madras Estates Land Act, 1908 — Section 3, 3(2)

Citation : AIR 1953 Mad 813 : (1953) 66 LW 388 : (1953) 1 MLJ 786

Hon'ble Judges : Rajamannar, C.J.;Venkatarama Aiyar, J

Bench : Division Bench

Advocate : A. Srirangachari and E.A. Viswanathan, for the Appellant; R. Desikan, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—This appeal arises out of a suit, O. S. No. 55 of 1945, filed in the Court of the Subordinate Judge of Salem by 22

persons who were occupying separate lands in the village of Kannurpatti Agraharam for a declaration that the lands in their possession are ryoti

lands in an estate within the meaning of the definitions of those terms in the Madras Estates Land Act and therefore the plaintiffs have occupancy

rights therein. The learned Subordinate Judge dismissed the suit. Plaintiffs 1, 3, 6, 3 to 15 and 17 to 19 are the appellants. During the pendency of

the suit itself, some of the plaintiffs compromised with the defendant-landholders, and they withdrew from the suit"". During the pendency of the

appeal some of the appellants have also entered into compromise with the respondent-landholders, and it is common ground before us that the

only appellants who press this appeal are appellants 1, 3, 4 and 5.

2. The only question" which arises in this appeal is whether the lands in suit are

situated within an estate within the definition of that term in Section

3(2)(d), Madras Estates Land Act. That definition, in so far as it is material to this appeal, runs thus:

Any inam village of which the grant has been made, confirmed or recognised by the British Government, notwithstanding that subsequent to the

grant, the village has been partitioned among the grantees or the successors in title of the grantee or grantees.....

Explanation 3: Where a portion of an inam village is resumed by the Government, such portion shall cease to be part of the estate, but the rest of

the village shall be deemed to be an inam village for the purposes of this sub-clause. If the portion so resumed or any part thereof is subsequently

re-granted by the Government as an inam, such portion or part, shall, from the date of such regrant, be regarded as forming part of the inam village

for the purposes of this sub-clause.

The only evidence we have which has a bearing on the question in issue is furnished by the extract from the Register of Inams prepared at the time

of the Inam Settlement during 1863 to 1866. From this extract, we obtain the following information about the origin and history of the inam grant of

the lands now in occupation of the appellants. Originally, about 300 years before the time of the Inam Settlement, there was a grant made by the

then Palayagar, one Ramachandra Naick. It does not appear very clearly, but it may be assumed, that the original grant was of an entire village in

inam. In the days of Tippu, one half of this village was resumed. After the British conquest, one Capt. Macleod appears to have granted to the

descendants of the original grantees (agraharamdars) lands scattered here and there in the ryotwari village of Kannurpatti which yielded a moiety of

the income of three inam villages. This was evidently in lieu of the moiety of the original village which had remained in the possession of the

agraharamdars after the resumption in the days of Tippu. At the time of the inam settlement, the village was being enjoyed in 30 shares or vrittis.

The vrittis varied in extent and his assessment in respect of each vritti also varied. The recommendation of the Inam Commissioner was that the

total extent of the lands in possession of the several aghaharamdars may be confirmed in one joint title deed, though specifying the quit rent which

each vrittidar had to pay to the Government. This course was obviously adopted

as a convenient method of determining the liability of the
agraharamdars to the Government by way of quit rent. It is not disputed that the
lands covered by the title deed did not form one whole block
within defined boundaries, and down to this day, these scattered bits of land are
found clubbed along with admitted ryotwari lands as part and
parcel of the ryotwari village of Kannurpatti.

3. On these facts which are really the only facts which are material for a decision
of the question in issue, there can only be one conclusion, namely,

that the lands in suit are not situated within an estate within the definition of
that term in Section 3(d) of the Act.

4. Mr. Srirangachariar, the learned counsel for the appellants relied upon the fact
that originally the grant was of an entire village.

He also relied on explanation 3 to Clause (d) and contended that here was a case
of a portion only of an inam being resumed and therefore the rest

of the grant shall be deemed to comprise an inam village within the meaning of
that Explanation. That would be so if out of a whole village originally

granted in inam a portion had been resumed and the remainder allowed to
continue to be with the grantees. Then such remaining portion would by

virtue of the terms of Explanation 3 be deemed to be an inam village for the
purpose of Clause (d). But what happened in this case is quite

different. The identify of the village originally granted in inam, assuming it was
so, completely disappeared when firstly there was a resumption of a

moiety and thereafter there was a grant by the British Government of scattered
bits of land in lieu of the unresumed moiety of the original grant.

There is therefore no confirmation or recognition by the British Government of a
grant of a whole village as such. All that the British Government

did was to make a grant of portions of what was a ryotwari village. The total
extent of such portions cannot be held to be an inam village within the

meaning of Clause (d).

5. Reliance was placed by the learned counsel for the appellants on proceedings
of Revenue authorities which indicated that for revenue purposes

the lands in possession of the agraharamdars were treated as a separate entity,
separate from the ayan or ryotwari portions of the villages. This,

however, cannot alter the legal position, for revenue purposes, in the interests of
administrative convenience, the lands held on inam tenure and

covered by a joint inam patta may be dealt with separately as distinct from lands held on ryotwari tenure. This separate dealing would not make the total, extent of the lands held in inam tenure a whole inam village.

6. Learned counsel for the appellants relied on the ruling of the Privy Council in -- "Krishnaswami v. Perumal", AIR 1950 PC 105 (A). The facts

of that case were totally different. In that case, there was originally a grant in pre-British times of a whole in am village. In 1795 a small part of that

village was resumed by the Government and granted in ryotwari tenure but the rest of the village continued to be treated as an inam village. That

continued for nearly 100 years, and in 1895, the Government granted on inam tenure the rest of the village which had been treated as a whole

village for the past 100 years. Their Lordships held that the subject-matter of the grant of 1895 fell within the definition of estate in Section 3(2)(d)

, Madras Estates Land Act. The reasoning of their Lordships can be discovered in the following passage of the judgment: ""In their Lordships" view

it is irrelevant that the village so granted had once formed part of a larger village. The important fact is that the grant of 1895 comprises the whole

of what was then regarded as an inam village."" We have nothing like this in the case before us. The grant made by Macleod did not comprise the

whole of what was then regarded as an inam village. The grant was certainly of scattered portions of a ryotwari village.

7. We agree with the learned trial Judge in his conclusion that the plaintiffs have not established their case that the suit lands are situated in an estate

within the meaning of that term as defined in Section 3(2)(d), Madras Estates Land Act.

8. The appeal is dismissed. The contesting appellants shall pay the costs of the appeal to the respondents.