
(1976) 07 AP CK 0017

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 387 of 1975

Neelapu Papireddi and others

APPELLANT

Vs

Chintapalli Appalaramulu

RESPONDENT

Date of Decision : 30-07-1976

Acts Referred:

Citation : AIR 1977 AP 86

Hon'ble Judges : Sambasiva Rao, J;S.H. Sheth, J

Bench : Division Bench

Advocate : P. Kodandaramayya, for the Appellant; N. Subba Reddy, for Respondent Nos. 1, 2, 3 and 9 and Govt. Pleader, for Excise, for the Respondent

Final Decision : Dismissed

Judgement

Sambasiva Rao, J.—In the year 1661 of Salivahana era corresponding to 1739 A.D. the then Maharaja of Vizianagaram carved out a block of lands out of a village and gave a specific name to it and then granted that named area to one Burra Butchanna. The question is whether that grant is an inam estate within the meaning of Section 3(2)(d) of the Madras Estates Land Act, 1908.

2. The litigation in this matter has undergone many vicissitudes and has had a long and chequered career. The Settlement Officer took up the question under S. 9 of the Estates Abolition Act and by his order dated 31st July, 1967 decided that this area is an inam estate u/s 3(2)(d). In the inamdar's appeal before the Tribunal, it was held in its decision dated 7-9-1968 that it was not an estate. The ryots filed W.P. No. 4894/68. A learned single Judge of this court quashed the order of the Tribunal by his order dated 4-10-1969 and held that it was an inam estate. In Writ Appeal, however, the Division Bench by its decision dated 30th November, 1970 directed the matter back to the Tribunal for fresh consideration. By its decision dated 9-12-1971, the Tribunal once again held that the area was not an estate. Again the ryots brought up the matter in writ petition to this Court in W.P. No. 3574 of 1972. Kondaiah, J. allowed the Writ Petition holding that the grant was an inam estate. The present appeal is directed against the decision of

our learned brother Kondaiah, J.

3. The block of lands was granted by the Zamindar himself to the grantee as "Seetharamachandrapuram" Agraharam. Evidently because the grantee was Burra Butchaiah it came to be known as "Burravaripalem" Agraharam. The grant consisted of wet, dry and mango garden lands. The inam settlement and the inam fair register gives the following details in regard to the grant. The total Gudikattu land was stated to be G. 121-20 in local measures out of which 90 measures of land was wet and 31-20 measures dry. This was arrived at before deducting the poramboke. The poramboke was an extent of 10 local measures. Then the boundaries of the inam village were given. The inam fair register shows that the inam Commissioner fixed Rs. 750/- as the assessment of the village and that the Agraharamdars had agreed to the enforcement. The grant made by the Maharaja was recommended by the Deputy Collector for confirmation and acting on that recommendation the grant was confirmed and a title deed was given to the Agraharamdars, In this case, however, the original grant which was given by the Maharaja of Vizianagaram to Burra Butchanna, is available. Therefore the nature of the grant has to be decided with the aid of the actual contents of the grant. We have referred to the inam statement and the inam fair register only for the purpose of learning the actual details of the extent of land, the boundaries etc. of what had been granted. The first portion refers to the grant as Agraharam Bhoodana Darma Sesana Patta. The body of the document reads thus:

We have, in the name of God, gifted to you as Agraharam at this auspicious time of lunar eclipse on the banks of the river Godavari, the patruvani chenu Isthava dry and wet lands inclusive of the three mango gardens which all relates to Kumila cusba relating to Bhogapuram (pargana) in our Mokhasa, after settling the Prathista Namam (foundation name) therefor as Seetharamachandrapuram so that you may realise the full yield and happily enjoy the same (the said Agraharam) from your son to grand so a and so on in succession.

The above is the extract from the English translation placed before us by the learned counsel. The Sanskrit portion is omitted since that has no bearing on the question which has to be decided. Now the material recitals of this grant show that the grant consists of dry, wet and garden lands. All of them relate to kumila cusba in the Bhogapuram pargana. The grant of these lands was made after settling the foundation name for that area as Seetharamachandrapuram. That was for the purpose of enabling the grantee to realise the full yield and happily enjoy the Agraharam from son to grandson and so on in succession. It is thus manifest that the Maharaja who was the grantor, constituted different blocks consisting of dry, wet and garden lands into a separate village of Seetharamachandrapuram and then only it was granted. Now the question is whether the blocks of lands canted under this grant after being constituted into a separate and distinct village of Seethararnachandrapuram would constitute an inam estate within the meaning of Section 3(2)(d) of the Estates Land Act.

4. Sri P. Kodandaramayya, the learned counsel for the Agraharamdars-

appellants, urged two important contentions before us. In order to bring the grant between the scope and ambit of Section 3(2)(d) the grant must give an indication of the existence of a village. Secondly mere grant of lands cannot be called a village. In his submission the very concept of an inam estate as postulated by S. 3(2)(d) is the existence of a village. Since what was given to the grantee under the grant was only blocks or portions of an existing village and since the village as a whole was not given, by no stretch of imagination can it be called a village, so that it can be said that it comes within the meaning of an inam village u/s 3(2)(d). It is useful to refer to the material portions of Section 3(2)(d). They are as follows:

(i) any inam village, or

(ii) any Hamlet or Khandriga in an inam village, of which the grant as an inam has been named, confirmed or recognised by the Government, notwithstanding that subsequent to the grant, such village, hamlet or khandriga has been partitioned among the grantees, of the successors-in-title of the grantee or grantees.

Explanation: (1) Where a grant as an inam is expressed to be of a named village (hamlet or khandriga in an inam village) the area which forms the subject-matter of the grant shall be deemed to be an estate notwithstanding that it did not include certain lands in the village, hamlet or (khandriga) of that name which have already been granted. On service or other tenure or been reserved for communal purposes.

The other portions of Section 3(2)(d) are not necessary for the present consideration. On a reading of the above portions of Section 3(2)(d) one thing emerges very clearly and very prominently and that is that in order to become an estate it is not necessary that the grant should be of an entire village. If it is of an entire inam village it is an estate within the meaning of sub-clause (1) of Section 3(2)(d). But sub-clause (ii) explains and expands the scope of an inam estate. It takes in a hamlet or khandriga in an inam village of which the grant as an inam has been made confirmed or recognised by the Government. Therefore it is quite manifest that even portions of a village can be inam estates if they satisfy the other requirements. In order to find out whether this particular area is an inam estate or not as given by the grant, it is not even necessary to travel to the explanation (i) and invoke it to the aid of the parties. Sub-Clause (ii) of Section 3(2)(d) itself is indicative of the intention of the Legislature that if portions or some blocks of village are constituted into one grant, after giving all these blocks or portions a definite and specific name by the grantee, and that was given as the grant of a named village, then certainly it becomes an inam estate; within the meaning of Section 3(2)(d). In such an event what has been granted would become an inam village since the grantor constituted what was granted into a separate and distinct village and gave it a specific name. It cannot be doubted that the Maharaja of Vizianagaram, the grantor, had the power and right to create any villages out of the area he owned as Zamindar or Mokhasadar.

He could in exercise of his power split a village in existence into two or more separate villages and grant them accordingly. Likewise after separating a particular village and its area into more than one village, he could give by way of grant the newly plotted out villages out of the whole village by way of grant and certainly that would be a grant of an inam village. It is also not necessary that in the newly carved out village there should be residential houses or people actually living there. The intention of the grantor is important. The grant indicates that it was given to the grantee for the purpose of realising the full yield and to happily enjoy the Agraharam from generation to generation. So it was not necessary that there should be some residential area in the newly carved out village which was granted to the grantee. It is also noteworthy that on a reading of the grant it becomes very plain that the grantor intended to grant a specific named village, though it had been earlier carved out of an existing village, and to confer on the grantee the newly constituted village. Therefore the terms of the grant clearly show that what has been granted in the name of Seethramachandrapuram is an inam village.

5. This view of ours is supported by a decision of the Supreme Court in T.R. Bhavani Shankar Joshi Vs. Somasundara Moopnar, That case also arose u/s 3(2) of the Estates Land Act. A land of about 64 acres without any-houses and situated in three different blocks was granted. A name was given to the three blocks as a separate village and the name changed from time to time. Hidayatullah, J. (as he then was) speaking for the Court states thus at page 320.

This document of the year 1935 shows that the three blocks together constituted a Mokhasa village of Tennam Padugai Thettimal. A glossary as "a village or land assigned to an individual either rent free or at a low quit rent on condition of service..... The fact that there are no houses and that the suit land is situated in three different blocks does not militate against the evidence, which has been produced on behalf of the respondent. Nor do we think that the change of name can count, if the identity of the land is properly established."

6. In W.A. No. 72 of 1957 dated 19-10-1959, a Bench of this Court consisting of Chandra Reddi, C.J. and Mohammed Ahmed Ansari J. was considering a case of an under-tenure u/s 3(2)(e) of the Estates Land Act, having same features as the present case. They were considering the matter in writ appeal against the decision of Bhimasankaram J. who thought that the village could not fulfil the definition as what was given was a block of land, which was for the first time given a new name. In other words, the learned single Judge's opinion was that before a village could be granted, it should be in existence. Repelling this view, the learned Chief Justice, who spoke for the Division Bench, observed:

We think that in order to satisfy the condition contemplated by Section 3(2)(e), it is not necessary that the village should have been in existence long before the grant. All that is pertinent is that the grant should be of a named village. Although no indication is given in clause (e) of Section 3(2) as to what a village should be, some light is thrown on this aspect of the matter by clause (d) and

especially by Explanation I, which says that the lands granted should be of a named village. Though created for the first time, it is not taken away from the purview of Section 3(2)(e). Further, if before the grant is made, a particular block of land is constituted into a separate village and it is named, that satisfies the definition of Section 3(2)(e). Vide Kakarlapudi Janikiramaraju and Others Vs. Gedala Appalaswami and Others,

On the basis of this reasoning the Division Bench held that the village under consideration before them fulfilled the definition of an under tenure in Section 3 (2)(e) of the Estates Land Act.

7. The decision in Kakarlapudi Janikiramaraju and Others Vs. Gedala Appalaswami and Others, relied on by the Division Bench was decided by Subba Rao, J. (as he then was). That was also a case arising u/s 3(2)(e) to which the learned Judge applied the same considerations as are available u/s 3(2)(d). The observations of the Division Bench of this Court and of Subba Rao, J. (as he then was) in Janakiramaraju v. Appalaswami supports the view expressed above.

8. Here we must take note of an argument of Sri Kodandaramayya that the considerations of Section 3(2)(d) may be applicable while examining whether a village is an under-tenure estate or not, but tests u/s 3(2)(e) are not available to find out whether a village is an inam estate within the meaning of Section 3(2) (d). We fail to see the tenability of this argument. While considering whether a particular village constitutes an under-tenure village, Subba Rao, J. (as he then was) and the Division Bench of this Court indicated the tests that are applicable to cases that arise u/s 3(2)(d) as well. The principle that emerges from these two decisions is that after a particular area is carved out from a village or villages, given a specific name and then granted, it becomes an estate within the meaning of Section 3(2)(d), which is precisely what we have decided above. Therefore these decisions support the view we have taken.

9. We will also refer to some decisions cited before us by Sri Kodandaramayya in support of his contention that the existence of a village is necessary in order to bring the grant within the meaning of Section Section. Our attention is invited to Gondumogula Tatayya Vs. Penumatcha Ananda Vijaya Venkatarama Timma Jagapathiraju, , Even in this decision Das, J. who spoke for the Supreme Court held that the grant must either comprise the whole area of a village or must be so expressed as is tantamount to the grant of a named village as a whole, even though it does not comprise the whole of the village area. In the latter case in order to come within the scope of the definition it must fulfil the conditions; (a) the words of the grant should be expressly (and not by implication) make it a grant of a particular village as such by name and not a grant of a defined specific area only; and (b) that the area excluded had already been granted for service or other tenure; or (c) that it had been reserved for communal purposes. What was granted in the grant before us is an inam village as a whole, even though it did not comprise the whole of the village area. The grant itself makes it abundantly clear that what was granted was newly constituted village.

10. The next decision relied on is that of Rajamannar C.J. and Somasundaram, J. in Janakirama v. Gopalam (1951) 2 Mad LJ 272 = (AIR 1952 SC 224). There the original grant was available. It was extracted at page 274 of the report. It is quite clear that what was granted was not an inam village and a specific name was not given to the land which was granted. The grant made it perfectly clear that the grantor did not want to grant a specific village but only a block of land. Certainly then it does not come within the meaning of Section 3(2)(d) and that was what the Division Bench stated.

11. Then the decision of Devulapalli Ramamoorthy Sastri Vs. Jallu Ammanna, is relied on. The learned Judge opined that the definition introduced by the Amending Act itself presupposes that a grant as an inam is expressed to be of a named village. Undoubtedly in this case the grant shows that it is a grant of a named village.

12. In Aluru Kondayya and Others Vs. Singaraju Rama Rao and Others, the Supreme Court referred to with approval the following observations made in Mantravadi Bhavanarayana and Another Vs. Merugu Venkatadu and Others, by the Full Bench of Madras High Court,

It is now settled law that by reason of the amendment made in 1945, which added an explanation to Section 3(2)(d) of the Madras Estates Land Act and numbered it as explanation 1, a grant constitutes an estate if it is expressed to be a named village irrespective of the fact that some of the lands in the village had already been granted on inam or service grants, or were reserved for communal purposes.

13. There is nothing in this judgment which is inconsistent with what we have held.

14. The decisions cited before us by Sri Kodandaramayya do not advance his arguments.

15. The result of our consideration is that the grant shows that portions of a village or villages were carved out into an independent and distinct village and was then granted to the grantee. It is clearly an inam estate within the meaning of Section 3(2)(d). In this view we uphold the decision of Kondaiah, J. and dismiss the writ Appeal. There will be no order as to costs.