

(1979) 08 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 1269, 2788 of 1976, 2612 of 1977, 125, 1358, 1426, 3410, 5277, 5541, 5546, 5778 of 1978 and W.A. No. 37 of 1978

Nellore Bujjamma and Another

APPELLANT

Vs

The Tashildar, Rapur and Another

RESPONDENT

Date of Decision : 14-08-1979

Acts Referred:

Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 — Section 11, 12, 4, 4(2), 7

Citation : (1979) 08 AP CK 0003

Hon'ble Judges : C. Kondaiah, C.J; Ramachandra Rao, J; Punneya, J; P.A. Choudary, J; P. Ramachandra Raju, J

Bench : Full Bench

Advocate : Government Pleader, O. Adinarayana Reddy, M. Krishnamohan Rao, K.V. Subrahmanya Narsu, M. Bhujanga Rao, P. Babul Reddy, M.R.K. Choudary, M.V. Ramana Reddy, P. Kodandararamayya and M.B. Rama Sarma, for the Appellant; S. Ramachandra Rao and N. Subbreddy, for the Respondent

Judgement

Ramachandra Rao, J.—A Full Bench of three Judges consisting of Alladi Kuppaswami, Lakshmaiah and P. A. Choudary, JJ. has by order dated 27- 4- 1979 referred to a larger Full Bench consisting of five Judges for deciding the following question:-

"whether the decision of the Full Bench in Yedireswarapu Veeramma and Another Vs. Reddipalli Surudamma and Others, is correct or not in so far as it decides that the Andhra Pradesh (Andhra Area Inams Abolition and Conversion into Ryotwari) Act No. XXXVII of 1956 does not effect the effacement of the inam tenure from the date of passing of the Act and the conversion into ryotwari tenure takes place from the date of grant of ryotwari patta.

2. The relevant facts which have given rise to this reference are as follows: with a view to abolish all zamindaries and estates as defined in the Madras Estates Land Act No. 1 of 1908, the Madras Estates (New Andhra Pradesh (Andhra Area)

(Abolition and Conversion into Ryotwari) Act No. XXVI of 1948 was enacted. The definition of "estate" in the said Act as amended from time to time applies to whole inam villages and to marginal inams of hamlets and khandrigas in inam villages. Other inams in inam villages, and in ryotwari and zamindari villages are not covered by the said legislation, and the Government decided to undertake separate legislation with a view to converting them into ryotwari tenure. In order to implement the said policy, the Andhra Pradesh Inams (Abolition and Conversion into Ryotwari) Act No. XXXVII of 1956 (hereinafter called "the Act") was enacted providing for conversion of all inam lands under the Estates Abolition Act) into ryotwari tenure.

3. The main scheme or object of the Act is to convert inam lands, known as minor inams, situated in zamindari or ryotwari or inam villages into ryotwari tenure and confer ryotwari pattas on the inamdars and /or the tenants as provided in the Act. In respect of inam land in Zamindari or ryotwari villages, the inamdar is entitled to get a ryotwari patta for the said inam land. In the case of the Inam lands in inam villages, if the inam lands were held by inamdars other than religious, charitable and educational institutions, the tenant in occupation on 7- 1- 1948 or in the absence of such a tenant, the tenant in occupation of the Act will be entitled to ryotwari patta in respect of 2/3 rds of the land in his occupation and the inamdar is entitled to ryotwari patta in respect of the remaining 1/3rd. In the case of the inams. lands held by religious, charitable and educational institutions which are in inam villages, the institutions concerned are entitled to get a ryotwari patta but the tenants in occupation are conferred rights of occupancy in the said land and are made transferable and heritable. Various other provisions have been made of the Act with regard to holding of an enquiry for determining the nature of the land and the person or institution holding the said land and for determination of the person who are entitled to grant of ryotwari pattas. Detailed reference will be made to the entitled to grant of the ryotwari pattas. Detailed reference will be made to the relevant provisions of the Act hereafter while dealing with the rival contentions of the learned counsel for the parties.

4. In Appanna v. Mulayya, (1968) 1 AWR 72, the question arose as to on what date the inams were abolished and converted into ryotwari tenure under the provisions of the Act. Gopal Rao Ekbote, J. (as he then was) took the view that the Act abolishes the inams and converts them into ryotwari tenures on the date when the Act came into force i.e., on 14- 12- 1956. This decision was carried in appeal under clause 15 of the letters patent and a Division Bench of this Court consisting of Krishna Rao and Parthasarathi, JJ. held in Mulayya v. Appanna* that the conversion of the inam tenure into ryotwari takes place only on the grant of a ryotwari patta and not from the date of commencement of the Act. The same question again arose for consideration before a Full Bench comprising of Narasimham, J. (as he then was), and Vaidya and Parthasarathi, JJ. held in Y. Veeramma v. R. Surudhamma (supra), that the Act does not effect the effacement of the inam tenure from the date of the passing of the "Act". but

merely enable the conversion of a tenure under the procedure prescribed under the Act, and that the conversion of the inam, tenure into ryotwari tenure will take effect from the date of the grant of the ryotwari patta.

5. Subsequent to the aforesaid Full Bench decision the Inams Abolition Act was amended by the Andhra Pradesh (Andhra Area) Inams (Abolition and conversion into Ryotwari) Act, 1975 Act No. 20 of 1975. One of the Amendments introduced is Section 2- A reads as follows:-

"Notwithstanding anything contained in this Act, all communal lands and Porambores, grazing lands, waste lands, mined and quarries, tanks, tank-beds, and irrigation works, streams and rivers, fisheries and ferries in the inam lands shall stand transferred to the Government and vest in them free of all encumbrances."

Pursuant to the said section, notices were issued to several inamdars by the concerned officers of the Government stating that the several categories of lands enumerated in section 2- A of the Act had vested in the Government and calling upon them to surrender possession of them same. The petitioners, who are inamdars, have filed those writ petitions challenging the said notices on various grounds. It is contended inter alia that Section 2- A of the Act is unconstitutional as no compensation is payable for the rights of inamdars in inam lands acquired by the Government u/s 2- A. Another contention raised is that even if section 2- A, is constitutionally valid, it applies only to several categories of lands, and that on the date of coming into force of the Inams Abolition Act, 1956, on 14- 12- 1956, the inam lands became converted into ryotwari tenure, and therefore, S. 2- A will not apply to the lands in such inam lands which became ryotwari. This batch of writ petitions came up for hearing before Kondaiah, J. (as he then was) and Raghuvar, J. It was contended for the Government that in view of the Full Bench decision in Veeramma v. Surudamma the inam tenure did not stand abolished on the date of coming into force of the Inams Abolition Act and that inam tenure continues till a ryotwari patta is granted to the inamdar or the tenant in accordance with the provisions of the Act, and, Section 2- A applies to the several categories of lands mentioned in the said section. The learned Judges expressed the view that the decision of the Full Bench in Veeramma v. Surudamma required reconsideration and accordingly, the writ petitions were referred to a Full Bench of three Judges who have referred the question to a large Bench of five Judges, and accordingly, these writ petitions have come before us.

6. The main question that arises for consideration is whether the inam tenure of inam lands stood abolished and got converted into ryotwari tenure on the date of coming into force of the Inams Abolition Act or on the date of ryotwari patta?

7. In order to determine this question, it is necessary to refer to the relevant provisions of the Act. u/s 1 (3), the Act comes into force at once. The Act having been published in the Andhra Pradesh Gazette dated 14- 12- 1956, it came into force on that date. Section 1 (2) makes the Act applicable to inam lands as any

land in respect of which the grant in inam has been made, Confirmed or recognised by the Government but does not include an inam constituting an estate under the Madras Estates Lands Act,

1908. Section 3 provides for an enquiry by the Tashildar for determining:

- (I) whether a particular land in his jurisdiction is an inam land.
- (ii) whether such inam land is in ryotwari, zamindari or inam village; and
- (iii) whether such inam land is held by any institution.

An institution is defined in Section 2 (e) " a religious, a charitable or an educational institution". The said section further provides for an appeal to the Revenue court is made final and it becomes binding on all persons and institutions claiming an interest in such inam lands. The marginal note of section 4 is "conversion of inam lands into ryotwari lands". Sub- sec. (1) of Sec. 4 provides that in the case of inam lands in a ryotwari or a Zamindari village, the person or institution holding such lands as inamdar on the date of the commencement of the Act, shall be entitled to ryotwari patta in respect thereof. In the case of inam lands in inam villages sub- section(2) of section 4 provides for three classes of case, clause (a) provides that if such land is held by an institution on the date of commencement of the Act, such institution shall be entitled to a ryotwari patta in respect of that land. Clause (b) provides that if such land is held by an inamdar other than an institution on the date of commencement of the Act and is in his actual occupation on the said date, the tenant who is declared to be in occupation of that land on 7- 1- 1948 by the Revenue court under Sec. 5 (3) or by the collector u/s 5 (5) as the case may be shall be entitled to a ryotwari patta for the remaining one- third share thereof; and if no tenant has filed an application before the Revenue Court under Sub-section (2) of section 5 within the period specified therein, the inamdar shall be entitled to ryotwari patta in respect of the land. The third class of case is dealt with by clause (c) which provided that if the inam land is held by an inamdar other than an institution on the date of commencement of the Act, but is in the occupation of a tenant on the said date, the tenant who is declared to be in occupation u/s 5 (3) of section 5 (5), shall be entitled to ryotwari patta for two-thirds share; and the inamdars for the remaining one- third share ; but if no tenant has filed an application under sec. 5(2), the tenant in occupation of the land on the date of commencement of the Act shall be entitled to ryotwari patta for two- thirds share and the inamdars shall be entitled to a ryotwari patta for the remaining one- third share thereof. Sub- sec. (3) of section 4 further provides that the one- third share of the inam land in the occupation of the tenant in respect of which the inamdar is entitled to a ryotwari patta under clause (b) or clause (c) of sub- section (2) of section 4, shall be deemed to be the compensation payable to the inamdar in lieu of the extinguishment of his rights in the two-thirds share of such land. Section 5 provides for reinstatement of tenants who were in occupation of inams lands in inam villages on 7-1- 1948

but were evicted from such lands before the commencement of the Act, by filing application in that behalf before the Revenue Court. Sec. 6 provides for determination of the particular portion of the land to be given to the inamdar rewards his one-third share. The grant of a ryotwari patta is provided for in S. 7. Under this section, the Tahsildar may suomotu, and shall on an application by a person or an institution, determine the person institutions entitled to ryotwari pattas in accordance with the provisions of section 4 and grant them ryotwari pattas in the prescribed form. It also provides for an appeal to the Revenue court against the order of the Tahsildar. Sub-section (5) of Section 7 of the Act further provides that in the case of inam lands held by an inamdar other than an institution in an inam village, no tenant or shall be granted a ryotwari patta until sub- section (3) or of the collector under sub-section (5) of section 5 is given, Section 8 (1) confers a right of permanent occupancy on the tenants in occupation of inam lands in inam villages held by an institution in the inam villages. Sub-section (2) of that section renders any tenant having a right of permanent occupancy, liable for eviction on the grounds mentioned in claused (1) and (2) thereof. Section 9 clause does the procedure for evicting the tenants having rights of permanent occupancy on the grounds mentioned in sub- section (2) of section 8. section 10 empowered the institution to lease out the inam land when a tenant is evicted u/s 9, section 11 (1) makes the provisions of the Andhra Tenancy Act, 1956 applicable to the tenancies in respect of the inam lands governed by the Act, but subject to the provisions of sub- section (2), section 8 and S. 9. Sub-s. (2) of S. 11 provides thereof , if the Tahsildar of Revenue Divisional officer as the case may be, considers that the person in occupation of such land or part thereof, is prima facie entitled to a ryotwari patta in respect thereof u/s 4, no order for his eviction from such inam part, shall be passed under the Andhra Tenancy Act, 1956 until it is finally decided that he is not entitled to a ryotwari patta thereto u/s 4. Section 12 makes every person or institution receiving a ryotwari patta under the Act in respect of an inam land liable to pay to the Government the ryotwari assessment as provided therein with effect on and from the date of grant of a ryotwari patta. Section 14 bars the jurisdiction of civil courts from challenging the decision of the Tahsildar, the Revenue Court of the Collector under the Act, expect where such decision is obtained by misrepresentation, fraud or collusion. Section 12 gives an overriding effect to the provisions of the Act.

8. From the aforesaid provisions of the Act, it will be seen that the object of the Act, is to abolish and convert inam tenures into ryotwari tenures. There is no specific provision in the Act expressly stating that the abolition and conversion of the inam land into ryotwari tenure will take place on the date of commencement of the Act or on any other date. No doubt, section 1 (3) of the Act states that the Act shall come into force at once , but the question still arise for consideration as to whether arise for consideration as to whether the inam land stood abolished and got converted into ryotwari tenure on the date of commencement of the Act or on a later date.

9. Before dealing with the rival contentions of the learned counsel, it is necessary to notified the distinction between an inam tenure and a ryotwari tenure. In Maclean's Manual of Madras Administration , the meaning of inam is given as follows:-

"An inam means ordinarily a gift by a superior to an inferior. In the south of India it is applied to the grant by the state (either originally or taking up a grant made by a village community) of the permanent right in one case to occupy land without paying rent to the estate and in another case to collect Government assessment on land. The tenure though originally rent- free came in time in a many cases to be qualified by the reservation of a portion of the assessable revenue, or by the exaction of all proceeds exceeding the intended value of the original assignment. such charge was called "jody" that is to say favourable rent or quit-rent. Failure to pay any instalment of the "Jody" made the estate liable to attachment and sale by the Government under the case law".

10. In Sundararaja Iyengar's Land Tenure in the Madras Presidency, inam is explained as follows:-

" The existence of beneficial grants, known originally by the Sanskrit name manyams, and latterly by the Arabic term, inams, after the Mohammedan conquest, can be traced to a very remote antiquity in India. It was the custom of the Hindu Government to grand assignment of lands, revenue free or at low quit-rents, for the support of temples and their servants, and charitable institutions, for the maintenance of holy and learned men, or for rewards for public service".

This protection was continued by the Mohaammaden Rulers and was also adopted by the British Government for some time, but it was later discontinued, Subsequently in 1859, rules were framed for enfranchising the inam grants by surrendering the reversionary interests of the Government for an equivalent quit-rent, and placing enfranchised inams on the footing of private property , and an Inam commissioner was appointed who was authorised to sell the reversionary rights of the Government and to issue a title deed to the inamdar in proof of such enfranchisement. Thus, the inams may be classified as;

- (1) Unenfranchised inam
- (2) enfranchised inams but liable to Jody or quite- rent, as the case may be,
- (3) enfranchised inams, the rent being commuted to redeemed.

11. Subsequently, under the Andhra Inams Assessment Act, 1955, the Government was empowered to levy in lieu of quit- rent, jody or other similar amount payable to the Government in respect of inams, an assessment at the settlement rate for similar ryotwari lands in the village where the village has been settled and in other cases at the rates of assessment to be fished by the Collector with reference to settlement rates of similar lands in neighboring ryotwari villages. Some of the service inams have been, however, exempted from the levy of full assessment in order to secure the continuance of essential village

services. Thus , the essence of an inam grant is that it is a grant of land, free of assessment or at low quit-rent or Jodi or other like amount.

12. Ryotwari tenure is described in Meclean's Manual of Madras Administration as follow:-

" A ryotwari settlement means the division of all arable land whether cultivated or waste into block or lots, the assessment of each block at a fixed rate for a term of years, and the exaction of revenue from each occupant according to the area of land thus assessed which he occupies,. That area may either remain constant, or may be varied from year to year, at the occupant's pleasure, by the relinquishment of old blocks or the occupation of new. Under this system each occupant deals directly with the Government, and is responsible for his own revenue assessment only. A ryotwari settlement is thus peculiarly a settlement with the peasantry, as tenants of the State enjoying a tenant right which can be inherited, sold or burdened for debt in precisely the same manner as a proprietary right, subject always to payments of the revenue, that is to say, the rent due to the State."

13. In Sundararaja Iyengar's land Tenures in the Madras presidency, the nature of ryotwari tenure is explained as follows:-

" The distinguishing feature of the ryotwari system is that the state is brought into direct contact with the cultivators and collects the revenue through its own village officers without the intervention of intermediate agents such as farmers or zamindars, and its object is the creation of peasant proprietors. All the increased income derived from the extension of cultivation goes to the State. Under this system, the Government's share of the produce is commuted, into a money payment and the principle on which such commutation is made is known as the half net principle".

14. It will be seen that in the case of inam lands they are held either free of assessment or are liable to pay quit-rent, jody or other amount of like nature, which is much less than the assessment payable in respect of similar ryotwari lands. Thus, the essential incident of an inam tenure is the grant of a land either rent free or at low quit- rent of Jody or other amount of like nature. It is this benefit of holding the land either rent-free or at low quit -rent or jody or other amount of like nature that is taken away by conversion of the inam tenure into ryotwari tenure and full assessment under the ryotwari system is levied.

15. To establish direct relationship between the Government and the cultivator, several legislation's have been enacted for abolition of Zamindaries and ryotwari. The Inams abolition Act is another piece of legislation enacted for the purpose of abolition and conversion of inam lands, known as minor inams, into ryotwari.

16. The question that arises for consideration is, as to when exactly, I. e., from what date, the abolition of the inam lands and conversion of the same into ryotwari takes place under the Act. Is it on the date of coming into force of the

Act or is it on the date of the actual grant of a ryotwari patta for a particular and either in favour of the inamdar or the tenant?

17. Sri P. Kodanadaramayya and Sri M. Jagannadha Rao, who addressed arguments on behalf of the petitioners, invited us to the several provisions of the Act in support of their contention that the abolition and conversion of the inam land into ryotwari takes place on the date of the commencement of the Act. Firstly, it is contended that the person or the institution holding the inam land in ryotwari or zamindari village, is declared eligible to a ryotwari patta. In the case of the inam land in an in a village, held by an institution on the date of commencement of the Act, such institution shall be entitled to a ryotwari patta. In the case of inam land in an inam village held by an inamdar other than an institution on the date of commencement of the Act, the inamdar and the tenant in possession on 7-1-1948 or on the date of commencement of the Act, shall be entitled to a ryotwari patta to the extent of one-third and two-thirds share therein respectively. The contention of the learned counsel is that Section 4 of the Act came into force on 14-12-1965 and from that date, the persons mentioned in section 4 of the Act have acquired a right to the grant of a ryotwari patta as mentioned therein and therefore, from that date, the inam tenure stood abolished and got converted into ryotwari tenure. But, we are unable to accept this contention. The expression "on the Date of commencement of the Act" only determined the person or institution in possession of the inam land on that date who is entitled to get a ryotwari patta. The right to get a patta cannot be equated to the grant of a patta. The person or institution declared entitled to the ryotwari patta u/s 4 of the Act has to work out his rights in accordance with the procedure laid down by the Act and obtain a ryotwari patta. Firstly, u/s 3 of the Act, an enquiry has to be held by any institution. (If) it is held that it is not an inam and, the provisions of the Act are not applicable. It is only on determination that land is an inam land u/s 3 of the Act that the provisions of the Act will get attracted to the said inam land. Further, the inamdars and the tenant's right to grant of ryotwari pattas in respect of the inam land will depend upon further determination of the question whether the inam land is in ryotwari, zamindari of inam village, and whether the inam land is held by an institution or a person: Further, under clause (b) of sub-section (2) of section 4 of the Act, the tenant in occupation of the inam land on 7-1-1948 will be entitled to a patta in respect of the two-thirds share, provided he is declared to be in occupation of that land by the Revenue Court under sub-section (3) of Section 5 of the Act or by the Collector under sub-section (5) of section 5 of the Act. u/s 5 (2) of the Act, a tenant in possession of the inam land in an inam village on 7-1-1948, is entitled to be restored to occupation of the land by making an application in that behalf to the Revenue Government. Until he is so restored to possession, the question of any right to a ryotwari patta vesting in such a tenant on the date of commencement of the Act will not arise. Clause (c) of subsection (2) of section 4 of the Act provides for grant of a ryotwari patta to the tenant in respect of his

two-thirds share if the tenant in occupation on 7-1-1948, does not apply for grant of a ryotwari patta. Therefore, the right to get a ryotwari patta under Clauses (b) and (c) of sub-section (2) of section 4 of the Act depends upon several questions to be determined with regard to the tenant who will be entitled to ryotwari patta.

18. It is to be held that a tenant in possession on 7- 1- 1948, acquired a vested right to a patta for two-thirds share on the date of commencement of the Act. The provision in clause (c) of sub-section (2) of Sec. 4 of the Act tenant in occupation on the date of commencement of the Act to get a patta in default of the tenant in possession on 7-1-1948, applying for a grant of ryotwari patta, results in divesting the latter of the right which had vested in him. Under sub- sec. (3) of section 4 of the Act, the one-third share of the inam land in the occupation of a tenant in respect of which the inamdar is entitled to a ryotwari patta under clauses (b) or clause (c) of sub- sec. (2) of Section 4, shall be deemed to be the compensation Payable to the inamdar in lieu of the extinguishment of his right in the two-thirds share of such land. The apportionment of the one-third share to the inamdar and two-thirds share to the inamdar and two - third to the tenant is to be made u/s 6 of the Act. u/s 6, where there is an agreement between the tenant and the inamdar as to the particular portion of the land to be given to the inamdar towards his one-third share under cls. (b) and (c) of sub-section (2) of Section 4 of the Act, they shall file a joint statement before the Tahsildar has to determine the portion of the inam land in the occupation of the inam land in the occupation of the tenant to be given to the inamdar towards his one- third portion of the inam land in the occupation of the tenant is actually given to the inamdar, there is no extinguishment of the rights of inamdar to the two- third share of such land. This also shows that the inam land will not stand abolished and get converted into ryotwari tenure on the date of the commencement of the Act.

19. Section 7 of the Act provides for an enquiry by the Tahsildar suo motu or on an application by the person or institution, the determination of the person or institution entitled to a patta, and for granting of a ryotwari patta, and , for granting of a ryotwari patta in the prescribed form. It is only on the grant of a ryotwari patta that a direct relationship is established between the Government and the petitioner. The form prescribed u/s 12 of the Act, provides that every person or institution receiving ryotwari patta in respect of the receiving ryotwari patta in respect of the inam land, shall with effect in and from the date of the grant of a ryotwari patta, be liable to pay the Government the ryotwari assessment as mentioned therein This again shows that until a the ryotwari patta is granted and the ryotwari assessment is imposed as required by section 12 of the Act, the inamdar continues of the assessment under the Andhra Inams Assessment Act, which admittedly applies to inam Lands.

20. Two other important provisions in Section 12 are, the proviso to Cl. (b) of that section and the Explanation thereto which are as follows:-

PROVISO.

"provided that if any Jodi of Kattubadi is payable in respect of an inam land to the landlord of an estate, the amount of such Jodi or Kattubadi shall be deducted from the assessment payable to the Government under this section".

EXPLANATION:

"If no quit-rent, Jodi or Kattubadi or other amount of like nature was payable to the Government in respect of any inam land immediately before the granting of a ryotwari patta, the assessment leviable on such inam land in this section shall be in lieu of such quit-rent, Jodi or Kattubadi or other amount aforesaid".

These provisions clearly indicate that the inam tenure continues till the grant of a ryotwari patta. Particularly the expression in the Explanation "quit-rent, Jodi of Kattubadi or other amount of like nature payable to the Government in respect of any inam land immediately before the granting of a ryotwari patta" gives a clear indication that the inam tenure continues till the grant of a ryotwari patta, and that the inamdar will be liable to pay quit-rent, Jodi, etc., till the grant of a ryotwari patta. This liability to pay quit-rent, Jodi or other amount of like nature stands modified or varied by the provisions of the Andhra Inams Assessment Act, 1955, which was enacted with a view to levy full assessment on several inam lands with effect from 1-7-1955. But that Act does not alter the character of the Inam tenure of the inam lands, but only alters, the quantum of assessment.

21. Section 7 enjoins that the ryotwari pattas have to be granted in the prescribed form. Form No. VIII prescribed by the Rules provides that the inamdar, who was granted a ryotwari patta "shall hold the lands specified therein under ryotwari tenure and shall be liable to pay the ryotwari assessment in respect of the said lands in accordance with the provisions of Section 12 of the Act and such additional and other dues and amounts, if any, as may be leviable in respect of the said land." Thus, it is only from the date of the grant of a ryotwari patta that the grantee of the patta becomes liable to pay the ryotwari assessment. This also indicates that the inam tenure of inam land continues till the ryotwari patta is granted u/s 7 of the Act, in the prescribed form.

22. Sri P. Kodanadaramayya placed strong reliance on the marginal note to Section 4 which reads:

"Conversion of inam lands into ryotwari lands".

and contended that as Section 4 had come into force on the date of commencement of the Act, the conversion of inam land into ryotwari tenure also took place on the same date. The learned Advocate-General contended that the marginal note is not part of the statute and cannot be used as an aid to construction of section, and that even otherwise, the marginal note does not specify the point of time at which the inam land is abolished and converted into ryotwari tenure. The submission of the learned Advocate-General has to be accepted. Both the parties have relied upon several rulings of the Supreme

Court, but it will be sufficient to refer to the latest ruling of the Supreme Court in Board of Muslim Wakfs, Rajasthan Vs. Radha Kishan and Others, , where his Lordship Sen, J. speaking for the Court observed at pages 295/296 as follows:-

"The weight of authority is in favour of the view that the marginal note appended to a section cannot be used for construing the section, Lord Macnaghten in Balraj Kunwar v. Jagatpal Singh ILR(1904) All 393: (1904) 1 ALJ 384 considered it well settled that marginal notes cannot be referred to for the purposes of construction. This Court after referring to the above case with approval, said in Commissioner of Income Tax, Bombay Vs. Ahmedbhai Umarbhai and Co., Bombay, :-

"Marginal notes in an Indian Statute, as in an Act of Parliament cannot be referred to for the purpose of construing the statute.

As explained by Lord Macnaghten in the Privy Council, marginal notes are not part of an Act of Parliament".

In view of the aforesaid latest ruling of the Supreme Court, we do not think that the marginal note can be relied upon for construing the statutory provision in Section 4 of the Act. Even otherwise, the language of the marginal note to Sec. 4 does not give any indication as to the point of time at which conversion of the inam land into ryotwari tenure takes place. It is only by reference to the provisions of the Act that question has to be determined.

23. Sri. M. Jagannadha Rao relied upon the provisions of Section 8 of the Act which confer permanent occupancy rights on tenants in inam lands held by institutions in inam villages and contended that the right of permanent occupancy vested in such tenant on the date of commencement of the Act itself, But we do not find any force in this submission. As to who is the tenant, who will be entitled to right of permanent occupancy under S. 8 of the Act cannot be determined until it is first decided whether the tenant is in possession on 7-1-1948 who is entitled to be restored to possession or, whether the tenant in possession on the date of commencement of the Act will be entitled to claim the right of permanent occupancy.

24. The next relevant provision to be noticed in Section 11 of the Act, Under sub-section (1), the provisions of the Andhra Tenancy Act are made applicable to tenancies in respect of inam lands governed by the Act. This provision applies to all tenancies in respect of inam lands governed by the Act and not merely to tenancies of inam lands falling under Sections 8, 9 and 10 of the Act. The intention of the legislature is that until all the statutory steps are taken in accordance with the provisions of the Act and ryotwari pattas are granted, the tenants in possession of such inam lands shall have the protection of the provisions of the Andhra Tenancy Act.

25. S. 11 (2) of the Act provides that where a person in occupation of the inam land or part thereof is prima facie entitled to a ryotwari patta u/s 4 of the Act, no

order for his eviction shall be passed under the Andhra Tenancy Act until it is decided that he is not entitled to ryotwari patta under Sec. 4. This conferment of the benefit of provisions of the Andhra Tenancy Act would be wholly necessary if the inam lands stood converted into ryotwari tenure on the date of commencement of the Act and the relationship of landlord and tenant between the Inamdar and his tenant ceased on that date. In our opinion, the provisions of Section 11 clearly indicate that Inam land continues until it is finally decided as to who is entitled to a ryotwari patta u/s 7 of the Act.

26. Learned counsel for the petitioners contended that as the right to resume the inam lands stood abrogated on the commencement of the Act, the inam tenure stood abolished on that date. But the learned Advocate-General contended that the liability to resumption is not a necessary incident of an inam tenure and that there are inams which are irresumable, and that service inams cannot be resumed so long as services are rendered, and, therefore, the fact that the right of resumption is put an end to in respect of resumable inams, does not lead to the inference that the inam tenure stood abolished on the date of commencement of the Act. He was invited our attention to the Full Bench decision in *Sundaram Ayyar v. Ramachandra Ayyar* ILR (1917) I Mad 389, where it was held that a grant to be an inam need not be resumable. In view of the aforesaid ruling, the right of resumption not being an essential incident of an inam, the abrogation of the right of resumption would not by itself convert the inam land into ryotwari tenure.

27. Sri Kodanadaramayya, the learned counsel appearing for some of the writ petitioners contended that the decision of the Full Bench was based on the following four premises, which are wrong,

- (1) that there was no provision in the Act fixing the date for conversion of the inam tenure into ryotwari tenure;
- (2) that there is no provision for abolition and vesting of the inam land as in the case of estates under the Estates Abolition Act;
- (3) that Sections 11 and 12 indicate that the conversion of the inam land into ryotwari tenure takes place on the date of grant of the ryotwari patta, and;
- (4) that by reason of the provisions of Section 6, the inamdar could not acquire a right to the grant of a ryotwari patta to his one-third share until the tenant in possession of the inam land puts him in possession of the one-third share.

28. But we do not think there is any force in this submission. There is no express provision in the Act fixing the date on which the abolition and conversion of inam lands into ryotwari tenures takes place. Therefore, all the provisions of the Act were referred to by the Full Bench in order to determine when exactly the abolition and conversion of inam land into ryotwari tenure would take place. The Full Bench no doubt referred to the provision in the Estates Abolition Act with regard to the vesting of the estate in the Government on the notified date and

the absence of a similar provision in the instant Act. But that was not made the sole basis for coming to the conclusion that the inam land stood abolished on the date of the grant of the ryotwari patta. On the other hand, Vaudya, J. delivering the judgment of the Full Bench observed in paragraph 12 that there being no specific provision with reference to the intendment of the Act (sic). The learned Judge thereafter considered the several provisions of the Act in detail and came to the conclusion that the abolition and conversion of inam tenure into ryotwari took place only on the date of grant of ryotwari patta. We have already referred to the provisions of Sections 6, 11 and 12 of the Act and held that the conversion of the inam tenure into ryotwari tenure took place only on the date of grant of the patta. We do not therefore, agree with the contention of Sri. P. Kodandaramayya that the Full Bench decision was based on any wrong premise.

29. Sri. P. Kodandaramayya, the learned counsel for the petitioner contended that the statute has to be construed or interpreted with reference to the statutory provisions of the Act and the intention of the Legislature has to be gathered solely on the basis of such a construction or the interpretation of the language of the provisions of the statute and it cannot be based upon any omission or absence of a provision in the Act, and that the Full Bench committed an error that in the absence of any provision similar to the provisions occurring in the Estates Abolition Act or in the Andhra Pradesh (Telangana Area) Inams Abolition Act, the abolition and conversion of the inam land under the Act would not take place on the date of the coming into force of the Act. In support of this contention, he has relied upon the rulings in *Amalgamated Electricity Co. (Belgaum) Ltd. Vs. Municipal Committee, Ajmer*, and *The Commissioner of Sales Tax, U.P., Lucknow Vs. Parson Tools and Plants, Kanpur*, . The learned Advocate-General, while not controverting the aforesaid principle of statutory construction, however, contended that the Full Bench in *Veeramma V. Surudamma* based its conclusion solely on the provisions of the Act, and therefore, there was no contravention of the aforesaid principles of statutory construction. I think this submission of the Advocate-General has to be accepted. It is observed by the Full Bench in paragraph 12 as follows:-

"It has also to be seen that there is no provision in the Inams Abolition Act whereby it can be specifically stated that on the date of the commencement of that Act, the inam tenures to which the Act applies stood abolished and converted into ryotwari tenures. The learned counsel for the respondent is right when he states that there is no specific provision which says that the inams will stand abolished or converted into a ryotwari patta. This position being conceded, the question whether the inam tenure stood abolished and was converted into a ryotwari tenure on the date of the commencement of the Act will have to be determined from the intendment of the Act. It is an accepted principle of interpretation that such a conclusion can only be drawn if the provisions of the Act lead to the said result and no other result. If two conclusions can be reached from the provisions of the Act, it cannot be held that the inam tenure stood abolished or converted into a ryotwari tenure on the date of the commencement

of the Act."

30. Sri M. Jagannatharao, the learned counsel for the petitioners relied upon Laxminarayan Dipchand Maheshwari and Others Vs. Maharashtra Revenue Tribunal and Others, in support of their contention that by virtue of the provisions of Section 4 of the Act vesting of the ownership of the inam lands in the State and the transfer to the inamdar or the tenant as the case may be, took place simultaneously on the date of the coming into force of the Act. The learned Advocate-General contended that that case has no bearing on the question that arises for consideration here. In that case, it was contended that Section 46 (1) of the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 was violative of Art, 19(1)(f) of the Constitution and that it was not saved by Article 31(A), Section 46 (1) reads as follows:-

"46 (1) Notwithstanding anything in this Chapter or any law for the time being in force or any custom, usage, decree, contract or grant to the contrary, with effect on and from the first day of April, 1961, the ownership of all lands held by tenants which they are entitled to purchase from their landlords under any of the provisions of this chapter shall stand transferred to and vest in, such tenants and from such date such tenants shall be deemed to be the full owner of such lands."

31. The argument advanced on behalf of the appellant there was that u/s 46 (1), the ownership of the lands held by the tenants which they were entitled to purchase from their landlords stood transferred to and vested in the tenants and that there was no acquisition by the State of any estate or any rights therein, nor was there any extinguishment or modification of such rights in favour of the State. Hence Section 46 (1) was not saved by Article 31(A). Paragraph 9 sets out the contentions raised and the reasons given by the learned Judge, Goswami, J. speaking for the Court for repelling the said contention and it is necessary to extract the same in full.

"The learned counsel next contended that Section 46 of the Act is violative of Article 19(1)(f) of the Constitution and is not saved by Article 31-A which is not applicable. Counsel submits that u/s 46 acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights in order to come within to saving provision of Article 31-A(1)(a). According to counsel the land is transferred from the landlord and vests in the tenant by virtue of Section 46. There is, therefore, no acquisition by the State of any estate or of any rights therein nor is there any extinguishment or modification of such rights in favour of the State. Section 46 and such other provisions in the Act are in furtherance of agrarian reforms which are one of the principal objects of the Act. The fact that Section 46 in terms transfers the land from landlord to tenant and vests the ownership in the latter does not mean that there is no extinguishment of the estate or its rights in favour of the State for the sole reason that there is no express mention of such acquisition by the State in terms. The scheme underlying the provisions may be briefly stated. The State being the paramount owner of the lands had earlier granted the land to the

tenure holders who are the landholders under the Act. In order to transfer the land to tenants from the landlords the first step the State will have to take is to extinguish the rights of the tenure holders under the paramount owner. It was only then that transfer of the same land to the tenants under the landlords will be possible, Section 46, in our opinion, has achieved the twin purpose of extinguishment of the right of the landlord in the estate and conferment of the same right upon the tenant. Once that happens there is in one breath extinguishment of the right in favour of the State and the conferment of the said right in favour of the tenant. There is, therefore, no substance in the contention that Article 31-A is not applicable in this case to enable the appellants to challenge the provision under Article 19(1)(f) of the Constitution. The objection of the learned counsel is, therefore, without substance. Since Article 31-A is clearly applicable, we need not deal with the objection of counsel on the score of violation of Article 14 of the Constitution."

32. It will be at once seen from the aforesaid paragraph that no question arose or was decided as to on which date the acquisition or extinguishment or modification of the rights in the lands covered by Section 46 (1) took place. In fact such question would not arise as Section 46 (1) itself specifies that the ownership shall stand transferred to the tenants with effect on and from the 1st April, 1961.

33. The only question which fell for consideration there was, whether there was acquisition by the State of any estate or rights therein or whether there was any extinguishment or modification of such rights in favour of the State and whether the provisions of Section 46 (1) related to agrarian reform so as to attract the protection of Article 31(A). That decision, therefore, does not render any assistance in determining the question that arises for consideration here.

34. It is sought to be contended by the learned Advocate-General that the expression "inam land" has been used in all the sections of the Act and this also indicates that the inam tenure continues till the grant of a ryotwari patta. But we do not think this submission can be accepted. No doubt, the expression "inam land" is used in several sections, but it is used with a view to describe or identify the land in respect of which the ryotwari para is to be granted but it does not lend any assistance in determining the date on which the inam tenure stands abolished and gets converted into ryotwari tenure.

35. One other contention raised by Sri Kodandaramayya, the learned counsel for the petitioners is that if the date of the grant of the ryotwari patta is held to be the date on which the inam tenure stands abolished and gets converted into ryotwari tenure, there will be different dates on which the inam land gets converted into ryotwari tenure. But there is nothing illogical or incongruous in providing for the conversion of the inam lands into ryotwari tenures on different dates. The provisions of the Act indicate that ryotwari patta can only be granted after all the steps have been taken in accordance with the provisions of the Act and necessarily, the ryotwari pattas will be granted on different dates after

determining the nature of the inam land, and the person or institutions of (or) the tenants entitled to the grant of pattas. There is no express provision in the Act that all the inam lands governed by the Act should stand abolished and get converted into ryotwari tenure on the same.

36. It has to be noted that the Act contemplates not mere abolition but also conversion of inam lands into ryotwari tenure. There cannot be any hiatus or interregnum between the abolition and conversion of the inam land into ryotwari tenure. The tenure cannot stand abolished and remain in a state of suspense till it is converted into ryotwari by grant of a ryotwari parra. If the inam land stood abolished on the date of commencement of the Act, it ceased to be inam land from that date. At the same time, it cannot be treated as ryotwari land until a ryotwari parra is granted. If so, the inamdar or the tenant as the case may be will not be liable to pay the assessment under the Inam Assessment Act or ryotwari assessment during the intervening period. If the contention of the petitioners is to be accepted, there will be a hiatus between the abolition and the conversion of inam land into ryotwari tenure, and it will lead to anomalies and difficulties in determining the rights and fixing the liabilities of the inamdars and the tenants. The provisions of the Act should, therefore, be construed in such a manner as not to lead to any such result. The legislative intention appears to be clear that there should be no time lag between the abolition and conversion of the inam land into ryotwari and that they should take place simultaneously. In other words, the intention is to abolish inam tenure by conversion into a ryotwari tenure (and till conversion) takes place, the inam tenure continues. The scheme and object of the Act coupled with the various provisions of the Act, indicate that the abolition of the inam tenure of the inam land would take place simultaneously or contemporaneously with the conversion of the inam lands into ryotwari tenure.

37. For all the aforesaid reasons, we hold that the decision of the Full Bench in *Veeramma v. Surudamma* *supra*, is correct and does not require any reconsideration. The question referred is answered accordingly.

38. Reference answered accordingly.