

(1996) 12 MAD CK 0007
In the Madras High Court
Case No : S.T.A. No. 5 of 1990

P. Athimoola Naicker (died) and 5 others	APPELLANT
Vs	
Nachiar Devasthanam	RESPONDENT

Date of Decision : 18-12-1996

Acts Referred:

Citation : (1996) 12 MAD CK 0007

Hon'ble Judges : Raju, J; Jagadeesan, J

Bench : Division Bench

Advocate : Navaneethakrishnan for Mr. V. Venkataswami, for the Appellant; R. Kannan, for the Respondent

Judgement

Raju, J.—The above appeal has been filed under S. 30 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act,

1963, Tamil Nadu Act 30 of 1963 (hereinafter referred to as "the Act"), against the concurrent orders of the authorities below rejecting the claim

of the first appellant for patta in respect of the land in question measuring about 4.26 acres in Survey No. 316 of Nachiarkoil Village, Srivilliputtur

Taluk, for which Patta has been granted and confirmed also by the authorities below in favour of the respondent temple under S. 8(2)(ii) of the

Act. The fact that the land in question is minor in am land and it is comprised in T.S. No. 434-Devadayam, is not in serious controversy. The case

of the first appellant-claimant before the authorities below as now reiterated also before us is that the appellants and their predecessors-in-interest

are entitled to the land, which was purchased from the original service holders, in whose favour the grant was said to have been made.

2. So far as the case on had is concerned, after notifying the land in question under the Act, proceedings were initiated suo motu and patta was

granted in favour of the temple. The matter was pursued before the Tribunal in R.A. No. 15 of 1989 and the Tribunal by its order dated

31.3.1969 allowed the appeal and remanded the matter for fresh disposal. Even in the enquiry pursuant to the remand, once again patta was

granted in favour of the temple by the Settlement Tahsildar No. II, Koilpatti. On further appeal in R.A. No. 142 of 1971, the Tribunal remitted the

matter for fresh disposal. It is pursuant to the second order of remand the matter was again taken up for enquiry by the Settlement Officer, Sub

Branch Settlement Office, Kovilpatti. The said Original Authority in the proceedings dated 12.1.1978 dealt with the nature of the grant and came

to the conclusion with reference to the recitals found in the Fair Inam Register extract marked as Ex.B1 and also in the light of the principles laid

down by this Court in Gopal Naidu v. Spl. Tahsildar, L.A. Madurai (1974-I-MLJ. 124= 87 L.W. 67) that the grant was in favour of the temple

and comprised of both the warams and the claim to the contrary that Kothandarama Naicker and Kuppa Naicker were the grantees did not find

favour of acceptance with the Original Authority. Hence, patta was issued in favour of the institution under S. 8(2)(ii) of the Act.

3. Aggrieved, the 1st appellant pursued the matter once again before the Tribunal below in R.A. No. 91 of 1978. The Tribunal also concurred with

the conclusions arrived at by the Original authority after an exhaustive consideration of the entries contained in Ex. B.1 and in the light of the

relevant principles governing the matter in issue. Consequently, while confirming the order of the Original Authority, the Tribunal rejected the

appeal by its order dated 13.5.1983. Hence, the above appeal before this Court.

4. Learned counsel appearing for the appellants while reiterating the stand taken before the authorities below contended that the inam must be

considered to be a personal grant in favour of the persons whose names were found in the Inam Fair Register extract, namely, Kothandarama

Naicker and Kuppa Naicker. That being the position, the first appellant has validly derived title by virtue of the alienations referred to and relied

upon by them. The learned counsel appearing for the respondent-temple adopted the reasons assigned by the authorities below and contended that

the concurrent findings recorded by both the authorities below on the nature of the grant and the entitlement of the temple, do not call for any

interference.

5. We have carefully considered the submissions of the Learned Counsel appearing on either side. We have gone through the document, Ex. B. 1

marked before the authorities below in this case from the file. We find, apart from the fact that the grant was in the name of Krishnaswamy

Pagoda, the purpose of the grant is also found noticed as the particular Mandagapadi in question. It is said to be permanent and as against Column

No. 8 also, it is found as ""for the support of Aavani Aaram Thirunal Mandagapadi of the Pagoda of Krishnaswamy at Nachiarkoil long as the inam

kept up"". As against column No. 16 also, the name of the temple alone is mentioned .In the additional column, it is mentioned as ""in charge of

Kothandarama Naicker and Kuppa Naicker"". As against the entry made in column No. 10 as permanent, there are no other entries to militate

against the entry of the grant being made permanent, either in column No. 18 or 19. In view of all these facts disclosed, the question for

consideration before us would be as to whether the conclusions arrived at by the authorities below could be said to be vitiated and that the claim of

the appellants that the grant was personal to the persons referred to above can be countenanced. Apart from the principles laid down by this Court

in the decision to which strong reliance has been placed by the Original Authority, namely, Gopal Naidu's case (1974 I MLJ. 124) (supra), our

attention has been invited to a recent decision of the Apex Court in Subramania Gurukkal (Dead) through Muthusubramanis Gurukkal and Others

Vs. Shri Patteswaraswami Devasthanam, Perur by its Executive Officer and Others, Their Lordships of the Apex Court held that the word

permanent"" in Column No. 10 of the Inam Fair Register instead of making any reference as ""hereditary"", are more consistent with the inam being a

service inam rather than a personal grant burdened with service and that the word ""permanent"" signifies the grant in favour of the temple.

Consequently, in our view the various entries in the Inam Fair Register taken in conjunction with the other principles of law applicable to the case,

we find no difficulty in coming to the conclusion that the authorities below were right in holding that the inam in question is not a personal grant

burdened with service and on the other hand, it is service inam granted in favour of the temple. The mere fact that a mention is made of the two

names cannot confer any personal right in the land in question in favour of those persons particularly in view of the specific words used that the names of those persons have been named as persons ""in change"" of the performance of Kattalai for the temple. The words ""in charge"", in our view, would militate against the assertion of any claim that the grant was personal in favour of these persons particularly in the absence of any mention of those persons in column Nos. 16 to 18, or the grant being either hereditary or to the successor of the grantee. In the light of the above, we do not find any error of law or of vital facts in the concurrent orders of the authorities below directing the grant of patta in respect of the land in question in favour of the temple. The appeal, therefore, fails and shall stand dismissed. There will be no order as to costs.