
(1996) 10 MAD CK 0021
In the Madras High Court

Palaniswamy Gounder and Others

APPELLANT

Vs

Varadaraja Perumal Temple and Another

RESPONDENT

Date of Decision : 01-10-1996

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 8(2)(i)(b), 8(2)(ii)

Citation : (1997) 2 LW 343 : (1997) 1 MLJ 381

Hon'ble Judges : Raju, J

Bench : Division Bench

Judgement

Raju, J.—The above two appeals have been filed against the appeals in C.M.A. Nos. 104 of 1977 and 39 of 1978 on the file of the Minor

Inams Tribunal (Sub Court, Erode) dated 9.11.1982, confirming the orders of the Settlement Tahsildar IV, Erode dated 9.9.1970 granting

ryotwari patta in favour of the respondent-temple u/s 11 read with Section 8(2)(i)(b) and 8(2)(ii) of the Tamil Nadu Minor Inams (Abolition and

Conversion into Ryotwari) Act, 1963.

2. The lands mentioned in the Schedule to the order of the Settlement Tahsildar were said to be unenfranchised minor Inam granted for the support

of the pagoda of Varadarajaperumal at Nathakadayur, Dharapuram Taluk and the said grant was also stated to have been confirmed by the British

Government in T.D. No. 2478 permanently to the pagoda, so long as it is well kept up. The inam in question was notified u/s 1(5) of the said Act

and taken over on and from 15.2.1965. Some of the persons in occupation of the lands, have preferred claims for ryotwari patta u/s 8 and

proceedings were initiated to consider the said claims as well as the claims of the temple concerned. The case of the private claimants as they may

be called in contract to the claimant-temple was that they and their predecessor-in-interest have been in possession and enjoyment of the same by

virtue of successive sale deeds at any rate on and from 1.4.1948 and that they were always treating the property as their ancestral property. The

temple also stated their claim for patta. From the extract of the Fair Inam Register, marked as Exhibit C2, it was found that the inam was granted

for the support of pagoda of Varadarajaperumal at Nathakadayur and it was also confirmed to the pagoda so long as it is well kept up.

3. In the light of the above, the Settlement Tahsildar held in the absence of any proof that the Institution as such, has parted with their rights in

favour of any of the applicants or their predecessors-in-interest, the temple was entitled to patta in respect of various items specified by the

Settlement Tahsildar.

4. Aggrieved against the order of the Settlement Tahsildar, more than one appeal has been preferred before the Tribunal below and the Tribunal

also confirmed the orders of the Settlement Tahsildar on the ground that the lands were found to have been granted in favour of the temple and that

the grant was not only of both warams but a permanent one.

5. The Tribunal adverted to the two decisions of this Court reported in Thirulakshmi Animal v. Special Tahsildar for L.A., Neighbourhood Project,

Madurai (1973) 86 LW. 613 and GopalNaidu v. Special Tahsildar, for Land Acquisition, N.P. Madurai (1974) 87 L.W. 67 and applying the

ratio laid down therein sustained the orders of the Settlement Tahsildar granting patta in favour of the temple. Aggrieved, the above appeals have

been filed.

6. Mr. S. Balasubramanian, learned Counsel appearing for the appellants while pleading reliance upon the decision reported in 1997 - 2 - LW 323

(SC) contended that the presumption u/s 44 can be rebutted by contra evidence by the person claiming Kudiwaram interest in the land and that

though at the first appellate stage the appellants sought to produce certain additional evidence by filing appropriate applications as noticed in

paragraph 6 of the order of the Tribunal, the same were rejected and that if the documents have been allowed, there would have been scope for

substantiating the claim about rebutting the presumption u/s 44 of the Act and this rejection prejudiced the case of the appellants.

7. We have carefully considered the submissions of the learned Counsel for the appellants. In our view, the claim of the appellants came to be

rejected on merits after adverting to the relevant materials on record as also the principles laid down by this Court in the earlier decisions as

noticed in the order of the Tribunal. The Tribunal was not convinced of the relevancy of the documents and it is only in view of the same the

interlocutory applications filed for adducing additional evidence came to be rejected. Even assuming that there is any justification for the claim

without accepting the stand taken for the appellants, we would consider it appropriate instead of remitting the matter to the original authority to

start the process afresh the beginning, to leave liberty with the appellants to approach the competent Civil Court to vindicate their rights by

producing all relevant documents including the one that is sought to be produced, but rejected by the Tribunal.

It is by now well-settled by the decisions of the Apex Court as also this Court reported in T.K.Ramanujam Kavirayar v. Sri La Sri Sivaprakasa

Pandara Sannathi Avargal (1988) 2 L.W. 513, after an elaborate review of the case law on the subject that notwithstanding the adjudication by the

authorities under the Act, it was always open to the aggrieved persons to approach the competent Civil Court to establish their claim of title and

their entitlement to patta by getting appropriate declaration of their title. We grant leave to the appellants to approach the Civil Court, if they so

desire to vindicate their rights and as and when the Civil Court is moved, the claims of the appellants shall be considered in accordance with law.

8. With the above leave and liberty granted, the appeals stand dismissed. No costs.