
(2015) 05 MAD CK 0017

In the Madras High Court

Case No : S.T.A. Nos. 33, 39, 69, 70 and 268 of 1976

Ramae Gounder and Others

APPELLANT

Vs

The Settlement Tahsildar and Others

RESPONDENT

Date of Decision : 28-05-2015

Acts Referred:

Administrative Tribunals Act, 1985 — Section 10, 11, 11(4), 12, 13
Civil Procedure Code, 1908 (CPC) — Order 22 Rule 22, Order 23 Rule 23
Constitution of India, 1950 — Article 136, 141, 226, 227, 32
Court Fees Act, 1870 — Section 11
Limitation Act, 1963 — Section 14(2), 5

Citation : (2015) 5 MLJ 265

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Advocate : Hema Sampath, Senior Counsel for R. Meenal, for the Appellant; P.H. Aravind Pandian, A.A.G and M. Venugopal, Spl. G.P., Advocates for the Respondent

Final Decision : Dismissed

Judgement

V. Dhanapalan, J.—These Special Tribunal Appeals (for short, "STAs") arise out of the judgment and decree of the first appellate Court (Tribunal), in setting aside the order of the Settlement Tahsildar, who in exercise of the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 30 of 1963) and the Rules framed thereunder, granted vesting of sites in favour of the persons as shown in the schedule to the petitions therein.

2. For the purpose of convenience, it is useful to refer the pleadings in a nut-shell in S.T.A. No.33 of 1976, which are almost common in all the other appeals. The case of the individuals, some of whom are the appellants herein, before the Settlement Tahsildar is that the Survey Numbers in question situated in Tiruppur Village (Town Limits) were granted for the support of the Pagoda of Sri Visweswaraswami and Sri Veeraragha Perumal at Tiruppur for rendering Ugrana service in the Temple and the grant was permanently confirmed so long as the

performance of the service was continued. The Settlement Tahsildar of Gobichettipalayam allowed Ryotwari patta in favour of the enjoyers of the land(s) under the provisions of the said Tamil Nadu Act 30 of 1963, which was set aside by the Inams Tribunal, which remanded the matter for fresh enquiry. Subsequently, upon re-enquiry and further evidence, and based on the judgment of this Court in S.A. No.369 of 1966 and upon hearing the arguments of both sides, the Settlement Tahsildar held that there is a coalescence of ownership of the building(s) in question as well as the site(s) on which the building(s) stand and it was further held that the land owners and the building owners jointly became entitled to the building(s), that the building(s) as they exist were constructed by the lessees doing the business in the respective sites who have claimed the superstructures, that the grant is in favour of the named individuals for rendering service in the Temple, that as regards the vacant sites, the person or institution claiming Kudivaram enjoyment, would be entitled to patta under the said Act and the site used as public road or pathway or Well as the case may be, would also be ordered under the said Act and in exercise of the provisions of the said Act/Rules thereunder, he directed that the building(s) in question that exists in the site(s) as shown in the respective schedules to the petition, are declared to vest with the persons shown thereunder in the petitions and that the Government is entitled to levy the appropriate assessment from the Fasli year commencing from the Fasli on which the appointed day falls, that in respect of the vacant sites which lie vacant as on 15.02.1965, the person or institution enjoying the Kudivaram in respect of the site(s) shown in the schedule, would be entitled to patta under the said Act and that the site(s) shown in the schedule, which are either used as road or pathway or dilapidated Well, were disallowed Ryotwari patta under the said Act.

3. Challenging the above order of the Settlement Tahsildar, some of the individuals went on appeal before the first appellate Court (Tribunal), which upon hearing the parties and considering the evidence available on record, set aside the above order of the original authority (Settlement Tahsildar), against which, the present STAs are filed by the appellants.

4. Mr.AL.Somayaji, learned Amicus Curiae/Senior Counsel enlightened upon this Court on various provisions of the said Act and made his submissions on the powers of this Court and that of the Courts below (Tribunal/original authority) in passing orders and he relied on the following decisions in support of his submissions:

(a) Jamshed N. Guzdar Vs. State of Maharashtra and Others, AIR 2005 SC 862 : (2005) 1 JT 370 : (2005) 2 SCC 591 : (2005) 1 SCR 223 : (2005) 2 UJ 812 :

"18. Mr.U.U. Lalit, learned Senior Counsel for the State of Maharashtra, while supporting the impugned judgment submitted that there is an anomaly created by, or deficiency found in Section 3 of the 1986 Act inasmuch as Section 3 of the said Act read with Section 9 of the 1987 Act fails to make any provision for appeal against a decree or order passed after the commencement of the Act in

any suit or other proceedings pending in the High Court since before the commencement of the Act. He sought ten days" time to have instructions from the State of Maharashtra in this regard. Thereafter, on the basis of Letter No. 37-PF 2131097 dated 17.12.2004 of the Principal Secretary and RLA, State of Maharashtra, IA.No.10 is filed seeking permission to place on record the said letter indicating the willingness of the State of Maharashtra to take necessary steps to make legislative amendment to Section 3 of Maharashtra Act 17 of 1986, relevant portions of which read:

"With reference to the above subject, I have to state that you are hereby given instructions to make a statement before the Hon"ble Supreme Court that the State of Maharashtra will take necessary steps to make legislative amendment to Section 3(1) of Maharashtra Act 17 of 1986 (the Maharashtra High Court (Hearing of Writ Petitions by Division Bench and Abolition of Letters Patent Appeals) Act, 1986) to make a provision for appeal against the judgment, order and decree passed on the appointed date by the High Court and thereafter as may be indicated in the judgment of the Supreme Court." "

"86. Merely because an appeal is not provided in any statute, that by itself does not render a statute constitutionally invalid. It is well settled that the right of appeal is to be provided by a statute. In other words, right of appeal is statutory and not a constitutional right. This apart, if a statute does not provide an appeal in respect of certain matter, the party still will have remedy in approaching the High Court or this Court, as the case may be, in exercise of power of judicial review including under Article 136 of the Constitution. Moreover the difficulty in the case only relates to a class of cases as indicated in para 18 of this judgment to such decrees, which may be passed after the commencement of the 1987 Act and the 1986 Act in any suit or other proceedings pending in the High Court since before the commencement of the said Acts. This apart, as stated in para 18, the State of Maharashtra is willing to take steps to provide an appeal by amending Section 3 of the 1986 Act."

(b) State of Andhra Pradesh Vs. P.V. Hanumantha Rao (D) thr. Lrs. and Another, (2003) 9 JT 438 : (2003) 8 SCALE 688 : (2003) 10 SCC 121 : (2003) 4 SCR 736 Supp :

"28. On examination of the relevant provisions of the Act of 1982 and in the light of its objects and reasons, it is apparent that in cases of alleged land-grabbing, exclusive jurisdiction is conferred on the Special Court. Jurisdiction of a civil court on such subject-matter stands ousted. The Special Court has been conferred powers of a civil court to examine all questions of title and possession with respect to the land alleged to have been grabbed. The findings of the Special Court are binding and conclusive on the parties and all others having interest in the land which is alleged to have been grabbed. Against the decision of the Special Court, no appeal is provided. The only remedy of the aggrieved party is to approach the High Court under Article 226 or 227 of the Constitution of India.....

30. True it is that remedy of the writ petition available in the High Court is not against the "decision" of the subordinate court, tribunal or authority but it is against the "decision-making process". In the "decision-making process", if the court, tribunal or authority deciding the case, has ignored vital evidence and thereby arrived at erroneous conclusion or has misconstrued the provisions of the relevant Act or misunderstood the scope of its jurisdiction, the constitutional power of the High Court under Articles 226 and 227 can be invoked to set right such errors and prevent gross injustice to the party complaining.

32. This Court has recognised the right of the High Court to interfere with orders of subordinate courts and tribunals where (1) there is an error manifest and apparent on the face of the proceedings such as when it is based on clear misreading or utter disregard of the provisions of law, and (2) a grave injustice or gross failure of justice has occasioned thereby."

(c) Konda Lakshmana Bapuji Vs. Government of Andhra Pradesh and Others, AIR 2002 SC 1012 : (2002) 2 JT 253 : (2002) 1 SCALE 584 : (2002) 3 SCC 258 : (2002) 1 SCR 651 : (2002) AIRSCW 730 : (2002) 1 Supreme 551 :

"53. The question of a person perfecting title by adverse possession is a mixed question of law and fact. The principle of law in regard to adverse possession is firmly established. It is a well-settled proposition that mere possession of the land, however long it may be, would not ripen into possessory title unless the possessor has animus possidendi to hold the land adverse to the title of the true owner. It is true that assertion of title to the land in dispute by the possessor would, in an appropriate case, be sufficient indication of the animus possidendi to hold adverse to the title of the true owner. But such an assertion of title must be clear and unequivocal though it need not be addressed to the real owner. For reckoning the statutory period to perfect title by prescription both the possession as well as the animus possidendi must be shown to exist. Where, however, at the commencement of the possession there is no animus possidendi, the period for the purpose of reckoning adverse possession will commence from the date when both the actual possession and assertion of title by the possessor are shown to exist. The length of possession to perfect title by adverse possession as against the Government is 30 years."

"61. In Balkrishnan Vs. Satyaprakash and Others, AIR 2001 SC 700 : (2001) 2 JT 357 : (2001) 1 SCALE 336 : (2001) 1 SCR 480 : (2001) 1 UJ 416 : (2001) AIRSCW 344 : (2001) 1 Supreme 336 this Court held:(SCC p.501,para 7):

"The law with regard to perfecting title by adverse possession is well settled. A person claiming title by adverse possession has to prove three nec - nec vi, nec clam and nec precario. In other words, he must show that his possession is adequate in continuity, in publicity and in extent. In S.M. Karim Vs. Mst. Bibi Sakina, AIR 1964 SC 1254 : (1964) 6 SCR 780 speaking for this Court, Hidayatullah,J (as he then was) observed thus :

"Adverse possession must be adequate in continuity, in publicity and extent and

a plea is required at the least to show when possession becomes adverse so that the starting point of limitation against the party affected can be found."

In that case the requirement of animus possidendi was not adverted to as on facts it was shown to be present; the controversy, however, was about the other ingredient of adverse possession. It is clear that it must be shown by the person claiming title by prescription that he has been in possession of the land for the statutory period which is adequate in continuity in publicity and in extent with the animus of holding the land adverse to the true owner."

(d) L. Chandra Kumar Vs. Union of India and others, AIR 1997 SC 1125 : (1997) 83 CLT 815 : (1997) 92 ELT 318 : (1997) 228 ITR 725 : (1997) 3 JT 589 : (1997) 3 SCALE 40 : (1997) 3 SCC 261 : (1997) SCC(L&S) 577 : (1997) 2 SCR 1186 : (1997) 105 STC 618 : (1997) AIRSCW 1345 : (1997) 3 Supreme 147 :

"99. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article 323-A and Clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act (Administrative Tribunals Act) and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated. "

(e) Union of India (UOI) and Others Vs. Shri Kant Sharma and Others(2015) 3 AD 431 : (2015) LabIC 2184 : (2015) 3 SCALE 546 : (2015) 3 SCJ 689 : (2015) 2 SCT 519 :

"34. The aforesaid decisions rendered by this Court can be summarised as follows:

(i) The power of judicial review vested in the High Court Under Article 226 is one of the basic essential features of the Constitution and any legislation including

Armed Forces Act, 2007 cannot override or curtail jurisdiction of the High Court under Article 226 of the Constitution of India. (Refer: L.Chandra and S.N. Mukherjee). (L. Chandra Kumar Vs. Union of India and others, AIR 1997 SC 1125 : (1997) 83 CLT 815 : (1997) 92 ELT 318 : (1997) 228 ITR 725 : (1997) 3 JT 589 : (1997) 3 SCALE 40 : (1997) 3 SCC 261 : (1997) SCC(L&S) 577 : (1997) 2 SCR 1186 : (1997) 105 STC 618 : (1997) AIRSCW 1345 : (1997) 3 Supreme 147 , S.N. Mukherjee Vs. Union of India, AIR 1990 SC 1984 : (1990) CriLJ 2148(1) : (1990) 3 JT 630 : (1990) 4 SCC 594 : (1990) 1 SCR 44 Supp : (1991) 1 SLJ 1).

(ii) The jurisdiction of the High Court Under Article 226 and this Court Under Article 32 though cannot be circumscribed by the provisions of any enactment, they will certainly have due regard to the legislative intent evidenced by the provisions of the Acts and would exercise their jurisdiction consistent with the provisions of the Act. (Refer: Mafatlal Industries Ltd.). (Mafatlal Industries Ltd. and Others Vs. Union of India (UOI) and Others, (2002) 83 ECC 85 : (1997) 68 ECR 273 : (1997) 89 ELT 247 : (1996) 11 JT 283 : (1996) 9 SCALE 457 : (1997) 5 SCC 536 : (1996) 10 SCR 585 Supp : (1998) 111 STC 467).

(iii) When a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. (Refer: Nivedita Sharma). (Nivedita Sharma Vs. Cellular Operators Assn. of India and Others, (2012) 4 RCR(Civil) 850 : (2011) 13 SCALE 584).

(iv) The High Court will not entertain a petition Under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance. (Refer: Nivedita Sharma). (Nivedita Sharma Vs. Cellular Operators Assn. of India and Others, (2012) 4 RCR(Civil) 850 : (2011) 13 SCALE 584).

35. Article 141 of the Constitution of India reads as follows:

Article 141. Law declared by Supreme Court to be binding on all courts.-The law declared by the Supreme Court shall be binding on all courts within the territory of India."

5. Learned Senior Counsels/counsels appearing for the appellants contended that the first appellate Court having held that the superstructure has been put up by the individuals/Society, ought to have applied the provisions of Section 13 of the said Act in proper perspective and granted patta in favour of the appellants/ individuals/Society in respect of the site(s) and the building(s) and the grant of patta in respect of the site(s) in favour of some of the schedule mentioned persons under Section 8 of the Act, is unsustainable in law, that on and from the notified date, the entire Inam vested with the State and some of the individuals are not entitled to any patta under the said Act in respect of the nature of the site(s) in question, that the appellants have permanent occupancy rights in respect of the site(s) in question and the vested rights of the appellants cannot

be denied by merely granting patta in favour of some of the individuals (respondents herein) under Section 8 of the said Act, that the Court below having held that the appellants were lessees of the vacant site(s) as house-site(s) for the purpose of building a permanent structure, ought to have granted patta in favour of the appellants, that the Court below erred in holding that though the some individuals established their right in the vacant site(s) in question, ought to have held that the Melwaram rights of the individuals, if any, extinguished by the Notification issued under the said Act, that the Court below failed to note that as per the said Act, the entire title of the property became divested and vested in the Government, which has to deal with the property in accordance with the said Act and on the date the Act came into force, the property(ies) in question were in possession of the appellants and not with some of the individuals/respondents, that the Court below failed to note that in view of the fact that constructions have been put up by the appellants, the rights of the original owner got extinguished and it is only the appellants who are entitled to patta by virtue of the statutory provisions of the Act, that the Court below has not properly interpreted Section 13 of the said Act and that in any event, the Tribunal failed to note that even assuming without admitting that the individuals/respondents are exclusively entitled to patta, they are liable to pay the costs of the building and the patta can be granted only subject to that condition and they prayed for allowing the STAs. In support of the above contentions, learned Senior Counsels/counsels for the appellants relied on the following decisions:

(a) 1997 (2) LW 320 (Division Bench of Madras High Court) (Jalini Ammal (died) A. and another Vs. Sri Vedaranyaswami Devasthanam and another):

"10. Turning to S.T.A. No. 51 of 1981, inasmuch as admittedly the property consists of a building, it is impossible for the respondents before us to have recourse to the Tribunal by way of an appeal under Sec.11(4) of the Act. The proper remedy would be to seek a revision. Therefore, holding that the appeal filed by the present respondent before the Tribunal is misconceived, this S.T.A. will have to be allowed."

(b) Sri Vedaranyaswami Devasthanam Vs. A.C. Dharma Devi and Others, (1996) 7 SCC 467 :

"C.A. Nos.29-32 of 1990:

4. These appeals relate to the claim for ryotwari patta in respect of the building. It is now well settled law that the appeal under Sec.30 does not lie against the rejection of the claim for grant of patta in respect of buildings. Accordingly, the High Court is right in its conclusion. The orders in appeals do not call for interference. The appeals are accordingly dismissed. No costs."

(c) R. Manicka Naicker Ors. Vs. E. Elumalai Naicker, AIR 1995 SC 1613 : (1995) 5 JT 561 : (1995) 2 SCALE 730 : (1995) 4 SCC 156 : (1995) 3 SCR 217 :

"9. The Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963

is an Act to provide for the acquisition of rights of inamdars in Minor Inams in the State of Madras and for the introduction of ryotwari settlement in such Inams. Under Section 3 of the said Act, on and from the appointed day (and save as otherwise expressly provided in the Act) Minor Inams shall vest in the Government. The inamdar and any other person whose rights stand transferred under the said section or stand ceased and determined, shall be entitled only to such rights and privileges as are recognised or conferred on him under the said Act. Section 8 of the said Act provides for the grant of ryotwari pattas to every person who is lawfully entitled to the "kudivaram" in Inam land immediately before the appointed day whether such person is an inamdar or not. Section 9 provides for the grant of ryotwari pattas in cases specified therein. Section 13 provides as follows:

"13(1) : Every building situated within the limits of an inam land shall, with effect on and from the appointed day, vest in the person who owned it immediately before that day but the Government shall be entitled for each fasli year commencing with the fasli year in which the appointed day falls to levy the appropriate assessment thereon.

(2) In this section, "building includes the site on which it stands and any adjacent premises occupied as an appurtenance thereto.

Section 43 and 46 of the said Act are as follows :

43(1): The decision of a Tribunal or the Special Appellate Tribunal in any proceeding under this Act on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any suit or proceeding in a Civil Court, in so far as such matter is in issue between the parties or persons aforesaid in such suit or proceeding.

(2) The decision of a Civil Court (not being the Court of a District Munsif of a Court of Small Causes) on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any proceeding under this Act before a Tribunal or the Special Appellate Tribunal in so far as such matter is in issue between the parties or persons aforesaid in such proceeding.

46(1): Any order passed by any officer, the Government or other authority or any decision of the Tribunal or the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall, subject only to any appeal or revision provided under this Act be final.

(2) No such order or decision shall be liable to be questioned in any Court of law.

(emphasis supplied)

10. The purpose of the said Act is introduction of ryotwari settlement in the place of the rights of inamdars in Minor Inams with the exception of certain types of public lands set out in Section 10 such as forests, irrigation channels, lands

which are set apart for the common use of the villagers, rivers, streams etc. which vest in the Government and in respect of which no ryotwari patta can be granted.

11. The Assistant Settlement Officer is required under Section 11 to enquire into the claims of any person to a ryotwari patta in respect of any Inam land and to decide it. This enquiry has to be conducted by the Assistant Settlement Officer in the manner set out in Section 11. Under Section 12, every person who becomes entitled to a ryotwari patta is required to pay land revenue to the Government as set out therein. The grant of ryotwari patta is for the purpose of collection of land revenue. By eliminating Minor Inams any intermediaries for the collection of land revenue are eliminated. In the case of buildings situated within an Inam land, Section 13 provides that the building shall vest in the person who owned it immediately before the appointed day but the Government shall be entitled to levy appropriate assessment on it. As the object of the enquiry by the Settlement Officer is the grant of a ryotwari patta as a revenue settlement, the grant of a patta cannot be equated with an adjudication of title to the lands in question.

12. The contention of the appellant that by virtue of Section 13, the land underneath the building also vests in him must be rejected. Section 13 does not vest any property in a person in whom that property did not vest prior to the appointed day. It merely sets out that a building shall vest in the person who owned it immediately before the appointed day. Section 13(2) merely provides that the site on which the building stands will also be covered by Section 13(1). Hence the site on which the building stands will vest in the person who owned it immediately before the appointed date.

13. In the case of *Sri Kumarakattalai Subrahmanyaswami Devasthanam Vs. K.S. Sundararajulu Chettiar*, (1975) ILR (Mad) 501, a learned Single Judge of the Madras High Court considered the provisions of Section 13 of the said Act and held that unless the owner of the building is also the owner of the site, the site will not vest in the owner. The effect of Sub-section (2) is not to make a statutory transfer of the land to the owner of the building where it had not formerly belonged to him. An inamdar who continues to be in constructive possession of the site even after the notified date would be entitled to recover possession from his tenant. We respectfully agree with these findings of the learned Single Judge.

14. Moreover, in the present case, the patta granted expressly provides that the appellant has been granted a ground rent patta only in respect of the building, while the patta for the site has been granted to the respondent. A joint patta seems to have been granted in the names of both the appellant and the respondent because of the claim of the appellant to the building and the claim of the respondent to the site on which the building stands. Therefore, looking to the nature of the grant of the patta also it cannot be said that by virtue of the patta, the site on which the building stands has been, in any manner, transferred to the appellant or vests in him. The appellant cannot, therefore, claim that the decree

for possession cannot be executed against him because he has become the owner of the site.

15. It is also not possible to accept the contention of the appellant that jurisdiction of the Civil Court to determine title to the said land has been ousted by the said Act. Section 43 provides that the decision of a Tribunal or the Special appellate Tribunal in any proceeding under the said Act shall be binding on the parties insofar as such matter is in issue between the parties in a suit or proceeding. The decision of a Tribunal, or the Special Appellate Tribunal is in respect of the grant of ryotwari pattas. It is only in respect of matters which are covered by the said Act that the decision of the Tribunal or the Special Appellate Tribunal is binding on the parties. Obviously, matters which are not the subject-matter of decision before such a Tribunal, cannot be considered as final or binding between the parties. Sub-section (2) of Section 43 expressly provides that the decision of the Civil Court (not being the Court of a District Munsif or a Court of Small Causes) on any matter falling within its jurisdiction shall be binding on the parties thereto in any proceedings before a Tribunal under the said Act. Therefore, there is no question of ouster of the jurisdiction of the Civil Court in respect of matters falling within its jurisdiction and which are outside the purview of the said Act. Section 46 also provides for finality only in respect of decisions of the Tribunal in respect of matters which are required to be determined by it for the purposes of the said Act. The jurisdiction of the Civil Court, therefore, to determine title to the lands in question or to determine whether the lessor has a right to evict the lessee from the lands in question is not ousted in any manner by the said Act.

16. In the case of State of Tamil Nadu Vs. Ramalinga Samigal Madam, AIR 1986 SC 794 : (1985) 1 SCALE 1138 : (1985) 4 SCC 10 : (1985) 1 SCR 63 Supp : (1986) 1 UJ 489 this Court has construed the provisions of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 which are similar to the provisions of the said Act. This Court said that the Civil Court's jurisdiction to adjudicate on the real nature of the land is not ousted by reason of the Settlement Officer's decision to grant or refuse to grant a patta. Construing the provisions of Section 64-C of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 which are similar to Section 46 of the present Act, this Court held that the finality to the orders passed by the authorities in respect of the matters to be determined by them under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 is "for the purposes of this Act" and not generally, nor for any other purpose. The main object and purpose of the Act is to abolish all the estates of the intermediaries like Zamindars, Inamdars, Jagirdars etc. and to convert all land-holdings in such estates into ryotwari settlements - which operation in revenue parlance, means conversion of alienated lands into non-alienated lands to deprive the intermediaries of their right to collect all the revenues in respect of such lands and vesting the same back in the Government. The enactment and its several provisions are thus intended to serve the revenue purposes of the Government by way of securing to

the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government, and in that process, if necessary, to deal with the claims of occupants of lands, nature of the lands etc. only incidentally in a summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The Court further observed that even where the statute has given finality to the orders of the Special Tribunal, the Civil Court's jurisdiction can be regarded as having been excluded if there is adequate remedy to do what the Civil Court would normally do in the suit. We need not, however, examine this aspect at any length because of the nature of the grant which has been made in the present case which expression reserves the rights of the respondent in respect of the land.

17. In the case of Vatticherukuru Village Panchayat Vs. Nori Venkatarama Deekshithulu and Others, (1991) 5 JT 140 : (1991) 1 SCALE 818 : (1991) 2 SCC 228 Supp : (1991) 2 SCR 531 : (1991) 2 UJ 309 this Court considered, inter alia, the provisions of the A.P. Inams (Abolition and Conversion into Ryotwari) Act, 1956. After referring to the judgment of this Court in State of Tamil Nadu Vs. Ramalinga Samigal Madam (supra) the Court said that the introduction of ryotwari settlement in the place of Inams should not be regarded only as for the purpose of recovery of revenue. The Act was designed to render economic justice to the ryots. The purpose of such Acts was to repeal permanent settlements, to acquire the rights of the landholders in the estates and introduce ryotwari therein. Referring to the Andhra Pradesh Act, the Court said that Section 11 envisaged an enquiry into the nature of the land and whether it was "ryotwari land immediately before the notified dates", to be properly included in the holdings of the ryot. This enquiry was entrusted to revenue authorities and their decision would be final and binding between the parties. The jurisdiction of the Civil Court in this regard was ousted. This judgment, which is relied upon by the respondent in our view, does not help the respondent. Undoubtedly, in respect of the enquiry which the revenue authorities are required to hold under the provisions of the said Act, the decision of the revenue authorities is final and binding. We are, however, concerned in the present case with the rights of the landlord to evict his tenant for non-payment of rent. The tenant in the present case has not been granted any patta by the revenue authorities in respect of the land. The decision of the revenue authorities, therefore, does not, in any manner, hinder the Civil Court from exercising its jurisdiction.

18. The jurisdiction of the City Civil Court, therefore, to entertain and decide suit No. 4421/1970 for recovery of land was not, in any manner, ousted by the coming into force of the said Act. Nor did the decree passed in the said suit become a nullity because of the grant of a joint patta by the Assistant Settlement Officer in the names of the appellant and the respondent in respect of the building and land respectively on 29.2.1972 prior to the passing of the decree in the above suit. The learned Single Judge of the Madras High Court, therefore, rightly allowed Civil Revision Petition No. 1149 of 1981.

19. The appeals are, therefore, dismissed. In the circumstances, however, there will be no order as to costs."

(d) Vedaranyeswaraswami Devasthanam Vs. A.C. Dharma Devi and Others :

"9. Now, let us first take the question of the lands which are covered by the buildings. There are two buildings - one pucca building and one to the extent of 04 cents. The Apex Court now holds that in respect of such lands, there can be a "dual estate" and the concept of "dual estate" is not unknown to the Act. Undoubtedly, the Apex Court was considering the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act (30 of 1963). However, it has specifically applied the provisions of Act 30 of 1963 even to the lands covered by (sic) Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act (26 of 1963). The Supreme Court has held that what interpretation has been provided to Sec 13 in Act 30 of 1963 would also apply to Sec.15 of Act 26 of 1963, that is the present Act under question. The following paragraphs would highlight the law laid down by the Supreme Court (in 1996 (1) LW 19 (SC) - K.S. Thirugnanasambandan Chettiar (ded) by LRs. and others Vs. The Settlement Tahsildar, Coimbatore and others), while considering the rival claims between the parties:

"It is plain from bare reading of the Section and its setting that it is a provision occurring in Chapter III as one of the tools to confer ryotwari pattas to persons entitled. The preamble of the Act makes it clear, as also its name, that the Act enables the State to accomplish acquisition of the right of inamdar in minor Inams in the State of Tamil Nadu and the introduction of ryotwari settlements in such inam lands. It nowhere envisaged that the rights of a person who held a ryotwari patta in his favour or was otherwise entitled to a ryotwari pattas. were meant to be abolished under the Act. Rather on abolition of Inams claims of persons entitled, to the grant of ryotwari pattas had to be examined and settled. Under the provisions under scrutiny too, it is patent that some ryotwari pattas had to be settled, where buildings stood erected on inam lands immediately before the appointed day and the Government in that event was entitled to an appropriate assessment as envisaged therein. Designedly, the building so erected was to include the site on which it stood and any adjacent premises occupied as an appurtenance thereto. Since the scheme of the Act patently was in establishment and preservation of ryotwari rights, it cannot be said that by virtue of Section 13, the ryotwari rights of the site-owners stood abolished or those rights got merged in the building and hence vesting in the building owner. Rather, a dual estate is conceived of in the scheme of Section 13, that is to say, the building may belong to one and the site to another. It is, therefore, not necessary that both the site and the building should belong to one and the same person so as to derive the benefit of Section 13 with effect from the appointed day. A dual estate is not repugnant to the provision, which evidently is of a very special nature, when ryotwari patta may not be admissible for a building per se but may be admissible for the site standing thereon. Yet this is a special provision which

confers rights on the building-owners also, though in strict sense that right may not be a ryotwari right conferrable in the form of a patta. The provision, self-contained as it is, allows the Government levying an appropriate assessment thereon for each fasli year commencing with the fasli year in which the appointed day fell which assessment obviously would be based on the assessment due on the site as if un-built and not on the price of the building...."

(emphasis supplied).

10. It is to be understood that these observations were made because the Apex Court was considering the rival claim between two claimants - one claiming the land and the other claiming the ownership in the building. It must be remembered that this is not a dispute between the one claimant claiming the land and the other claimant who had in fact erected a construction on the inam land. claiming ownership in the building. The Supreme Court found out the concept of "dual estate" because of the peculiar nature of the dispute in that case, which would be clear from the following observations:

"Primarily, it is this view which is under challenge in these appeals, which are of a bunch, preferred by persons, some of whom claiming to be site-owners and others claiming to be owners of the buildings erected thereon. The claim of the site owners is that since the building includes the site in terms of Section 18, they become owners of both the estates i.e., the site and the building."

Such factual background is clearly not available in the present case. Here, very strangely, the fact that the building is owned by the writ-petitioner is an admitted fact, at least there is no claim made either before the authorities below or before us that the Devasthanam was the owner of the building. The clash of interests is very strangely here between the Devasthanam and a person who has constructed a building on the Devasthanam's land. The genesis of the claim of the writ petitioner is that the writ-petitioner is the owner of the building and is also the owner of the site whereas, the Devasthanam says that the site must go back to the Government under Sec.3(b). It has to be understood that the Devasthanam does not claim any patta in respect of the land though in two or three grounds, the Devasthanam has insisted upon a patta being granted. That would be obviously absurd because the owner of the inam would not be justified in claiming patta in respect of that land much less under Sec.15(4) of the Act. The claim of the Devasthanam is only this much that a patta should not be granted under the provisions of Sec.15(4) in favour of the writ-petitioner as the site on which the building stood belonged to the inam and as such belonged ultimately to the Devasthanam.

11. We do not propose to go into these questions because it is not for us to go into these questions. The net result of the order would be that the building, which is admittedly belonging to the writ-petitioner, would undoubtedly vest in the writ-petitioner and there could be no dispute about it. The question is of the site. Assuming that the site is held to vest in the Government under "Sec.3(b) of

the Act, even then, the Government not having claimed any rival rights against the writ-petitioner, the writ petitioner remains safe. Her building is not in jeopardy. It must be remembered that in the whole affair the Government has remained a silent spectator. The interest of the appellant is only in getting compensation for that land which, according to the Devasthanam, should not have been settled in favour of the 1st respondent herein. We observe that even if the land is settled in favour of the 1st respondent herein, it would be of no consequence whether the land goes in favour of the 1st respondent or whether it goes in favour of the Government and the appellant may still be able to claim compensation if that is the only interest of the Devasthanam and indeed, the learned counsel for the Devasthanam was fair enough/in admitting that the only interest of the appellant was claiming compensation for me land. We observe that the Devasthanam would be free to make an application for compensation to the Government and the Government may consider that application in the light of the applicable provisions and decide the right of the Devasthanam to claim the compensation in respect of that land. Whether the land goes to the Government under Sec.3(b) of the Act or it goes by way of a patta to the 1st respondent, it would hardly matter.

12. In so far as the rights of the writ-petitioner, which have been saved by the learned single Judge, are concerned, they would remain safe as the Government is not claiming adversely to the rights of the writ-petitioner. In this view, we dispose of this writ appeal maintaining the order of the learned single Judge but, observing that if the Devasthanam so feels it is at liberty to apply for compensation before the Government and the Government may consider that application if it falls within the framework of the Act and Rules.

13. With these observations, the writ appeal is disposed of. No costs."

(e) 2003 (1) LW 644 (Division Bench of Madras High Court) (The Executive Officer, Sri Ranganathaswamy etc., Devasthanam, Srirangam Vs. The Commissioner of Land Administration) :

"7. It has been rightly pointed out by the learned counsel for the appellant that though patta was granted in favour of the appellant-temple while applying the rule of presumption that the Inam was a Iruvaram grant, but subsequently after remand patta was granted to the occupant under Section 8(1) of the Act as it was held that the occupant is entitled to Kudivaram while holding the statutory presumption has no application to the facts of the case. A patta has been ordered to be issued ultimately in favour of the occupant under Section 8(1) of the Act. That being so, it is clear that the occupant namely the person who rendered services is entitled to Kudivaram while the Melvaram was always held by the appellant-temple.

8. Even assuming that the orders directing grant of patta in favour of the individual had been allowed to become final, in our considered view it does not make any difference so far as the claim for payment of Tastic allowance is

concerned. Section 20 of the Tamil Nadu Act 30 of 1963 provides where the Inamdar of an Iruvaram minor Inam is a religious, educational or charitable institution, or an individual holding the Inam on condition of rendering service to a religious, educational or charitable institution, the Government shall pay to the institution every fasli year commencing with the fasli year in which the appointed day falls, as a Tasdic allowance an amount equal to the average net annual miscellaneous revenue as calculated under Section 19 of the Act. Section 19 prescribes the scale of compensation. Assuming that the appellant's case will not fall under sub Section (1) of Section 20, we are of the considered view that the appellant's claim will fall under sub Section (2) of Section 20, and such claim has to be sustained.

9. Sub Section (2) of Section 20 reads thus:-

"Where the Inamdar of a melvaram minor is a religious, educational or charitable institution, or an individual holding the inam on condition of rendering service to a religious, educational or charitable institution, the Government shall pay to the institution every fasli year commencing with the fasli year in which the appointed day falls, an amount equal to the net tasdik allowance as calculated under sub Section (3)."

10. In terms of the above sub Section when the Inamdar of a melvaram minor Inam is a religious, educational or charitable institution, or an individual holding the inam on condition of rendering service to a religious, educational or charitable institution, the Government shall pay to the institution every fasli year commencing with the fasli year in which the appointed day falls, an amount equal to the net tasdic allowance as calculated under sub Section (3) of Section 20."

(f) Ismail Bibi and Others Vs. Five Gori Thaikka Wakf at Vridhachalam and Another, (1987) 100 LW 298 : (1987) 1 MLJ 440 :

"6. Karuppan Chettiar Vs. State of Madras (75 LW 536 (DB)), is then relied upon to show that even the Special Appellate Tribunal authorised to hear appeals and decisions of the Estate Abolition Tribunal under Act 30 of 1956, consisting of two Honourable Judges of High Court, is not a "High Court" in view of Section 7 of the Act and that it is not exercising normal appellate jurisdiction of the High Court. To show as to how restricted in Order 23, C.P.C, in its applicability he would rely upon Manickam Vs. Ramanathan (1949 ILR Madras 566 = 61 LW 780 (DB)), in which it was held that Order 22. C.P.C. would not apply to civil revision petitions, and therefore, there could be no abatement of such petitions. No time limit has been prescribed in this Act for bringing on record the legal representatives in the place of the deceased respondents in such petitions. Hence, he contended that the concept of abatement, conceived of under the Code could be applied and invoked only by a Court and not in respect of matters as contemplated by the Act, and an appeal preferred under T.N. Act 30 of 1963 could not have abated; rather the concept of abatement is quite alien to the

proceedings initiated under the Act.

7. In the light of the decision of the Division Bench of this Court, and there being no provision made in the Act to invoke Order 22, C.P.C., and when it could have only a limited applicability to the extent contemplated under the Code and in the absence of specific provision having been made in the Act regarding its inviolability, the Tribunal was in error in holding that the appeal had abated.

8. Once it is held that the appeal could never abate, the other applications filed to set aside the abatement and to excuse the delay under Section 5 of the Limitation Act were redundant applications. Respondents themselves have taken up the plea in the counter-affidavit that the said Section could have no applicability. In view of the decision *Sakuru Vs. Tanaji*, AIR 1985 SC 1279 : (1985) 5 ECR 2597 : (1985) 22 ELT 327 : (1985) 2 SCALE 304 : (1985) 3 SCC 590 : (1985) 2 SCR 109 Supp : (1985) 17 UJ 894, as the Tribunal is not a Court it was not maintainable. Further there was no need to file any application to condone the delay as no delay had occasioned."

6. Learned Additional Advocate General, assisted by the learned Special Government Pleaders, appearing for the State, contended that the first appellate Court (Tribunal) rightly appreciated the facts and disbelieved the findings of the original authority (Settlement Tahsildar) and set aside his order, which is only on the basis of the oral and documentary evidence available on record, which may not be interfered with by this Court in these STAs.

7. Learned counsels appearing for some of the individual respondents also stated that the findings of the first appellate Court (Tribunal) are based on facts and law, and they pleaded that the same may be confirmed. In support of the above contentions, the learned counsels appearing for some of the individual respondents, relied on the following decisions:

(a) *S.A.O.S. Karuppan Chettiar Vs. The State of Madras*, (1961) ILR (Mad) 125 : (1960) 73 LW 620 : (1960) 2 MLJ 511 :

"10. An appeal, as defined in Wharton's Law Lexicon, is the removal of a cause from an inferior to a superior Court for the purpose of testing the soundness of the decision of inferior Court."

"14..... When, therefore, an order of the Tribunal under the Abolition Act is sought to be challenged by way of appeal before the Special Appellate Tribunal, what is filed can be termed an application to set aside an order from which an appeal did not lie when the order was passed; but by virtue of Sections 4 and 11, a jurisdiction is conferred on the Special Appellate Tribunal to hear an appeal from it."

"15. It will be noticed that the power given to the Special Appellate Tribunal is wider than that of the Tribunal under the Abolition Act. The latter authority could only decide whether a disputed village was "an inam estate" coming under the Abolition Act. Though for the purpose of that decision it would have to decide the

question whether at all the village was an estate within Section 3(2)(d) of the Estates Land Act, that decision would not be final. The Special Appellate Tribunal sitting in appeal in cases covered by Sections 4 and 11 will have the jurisdiction to decide even that question finally. Ordinarily an Appellate Tribunal's powers are co-extensive with that of the original tribunal. What Sections 4 and 11 have given is something more than a mere appellate power, i.e., partly an original jurisdiction. An "appeal" under Section 7 read with Section 11 would, therefore, partake the character of an application; the provisions of Section 14(2) of the Limitation Act would therefore apply to it."

(b) *Ijjatulla Bhuyan Vs. Chandra Mohan Banerjee*, (1907) ILR (Cal) 954 :

"22..... In a suit for possession of land and mesne profits which was originally valued at a sum below Rs.5,000 and was instituted in the Court of a Subordinate Judge, if the whole amount actually found due inclusive of mesne profits payable by the defendant to the plaintiff is over Rs.5,000 and the plaintiff obtains a decree for more than Rs.5,000 upon payment of additional court-fees under Section 11 of the Court Fees Act, an appeal against that decree lies to this Court...."

(c) *P. Nirathilingam Vs. Annaya Nadar and Others*, AIR 2002 SC 42 : (2002) 1 BC 1 : (2001) 9 JT 344 : (2001) 7 SCALE 583 : (2001) 9 SCC 673 : (2001) AIRSCW 4517 : (2001) 8 Supreme 285 :

"18. The Act, as noticed earlier, is intended for giving relief to a certain class of indebted persons in the State. For that purpose procedure has been laid down in the Act for filing of application and for dealing with the same. The Tahsildar is vested with the power to decide whether the applicant-debtor is entitled to relief under the Act and if he is satisfied that the applicant-debtor is entitled to such relief, he is to pass an order releasing the mortgaged property and granting a certificate of redemption in the prescribed form. The said certificate is to be taken as admissible evidence of such redemption in any proceeding before any Court or other authority. If on the other hand, the Tahsildar finds that the applicant-debtor is not entitled to the relief under the Act he is to pass an order dismissing the application. Finality is attached to the order of the Tahsildar subject to the appeal under section 8 of the Act. Further, the order passed by the Tahsildar is not to be questioned in any Court. A similar provision is made that the order of the appellate authority shall be final and shall not be questioned in any Court.

19. From the provisions of the Act the legislative scheme is clear that the scheme is not to allow interference by any Court with determination of the question of eligibility to receive benefit under the Act by the applicant-debtor by the Tahsildar and his order is made final subject to an appeal under section 3. The legislative intent is to vest the jurisdiction to determine the question relating to eligibility for the benefits under the Act in the statutory authorities, to the exclusion of the Court so that a debtor who is entitled to the benefits under the

Act is able to enjoy such benefit without a hassle of a protracted litigation in a civil court or revenue court. The view taken by the High Court that if a civil suit for realisation of the amount or any other relief based on the debt in question has been filed or on the filing of such a suit the Tahsildar would lose his jurisdiction to deal with the matter if accepted will defeat the very purpose for which the legislature enacted the statute, that is, to grant relief to a certain class of debtors. If the view taken by the High Court is accepted then it would be easy for a creditor to prevent the debtor from getting benefits granted under the Act by filing civil suit relating to the debt. On the other hand in section 4(b) a declaration is made that any Civil Court which entertain any suit or other proceeding against the debtor for recovery of any amount of such debt (including interest, if any); all suits and other proceedings (including appeals, revisions, attachments or execution proceedings) pending at the commencement of this Act against any debtor for the recovery of any such debt, (including interest, if any) shall abate.

20. The principle is well settled that an interpretation of the statutory provision which defeats the intent and purpose for which the statute was enacted should be avoided..... "

(d) Institute of Chartered Accountants of India Vs. Price Waterhouse and Another, AIR 1998 SC 74 : (1997) 90 CompCas 113 : (1997) 6 JT 607 : (1997) 5 SCALE 16 : (1997) 6 SCC 312 : (1997) 2 SCR 267 Supp : (1997) 93 TAXMAN 588 :

"15..... It is settled rule of interpretation that all the provisions would be read together harmoniously so as to give effect to all the provisions as a consistent whole rendering no part of the provision as surplusage. Otherwise, by process of interpretation, a part of the provision or a clause would be rendered otiose....."

8. Heard the learned counsel appearing for the parties and perused the material documents available on record.

9. Before deciding the issue, it is to be noted that these STAs were earlier disposed of by this Court and upon challenging the judgment of this Court before the Supreme Court, the matter was remanded by the Supreme Court in Civil Appeal Nos. 1382 to 1390 of 1982 etc. batch, by order dated 08.08.1995, reported in 1996 (1) LW 19 (SC) = CDJ 1995 SC 1335 = K.S. Thirugnasambandam Chettiar (dead) by L.Rs. Vs. The Settlement Thesildar, Coimbatore-18 and Others etc, etc. . We have heard the matter on the above direction based on remand of the matter by the Supreme Court. It is worthwhile to quote the said order dated 08.08.1995 passed by the Supreme Court in Civil Appeal Nos. 1382 to 1390 of 1982 etc. batch, reported in) 1996 (1) LW 19 (SC)) = CDJ 1995 SC 1335 = K.S. Thirugnasambandam Chettiar (dead) by L.Rs. Vs. The Settlement Thesildar, Coimbatore-18 and Others etc, etc. :

"The appeals are allowed, upsetting the impugned orders of the Special Appellate Tribunal, in terms of the signed order. C.A. Nos. 1382 - 90 with CA Nos. 1391/82

etc.: In exercise of the powers conferred on Special Appellate Tribunal under Section 30 of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 its nominated members, two Hon'ble Judges of the Madras High Court, non-suited the Appellants herein in two batch of cases on the ground that their conflicting claims to the site(s) and to building(s) standing thereon were unsustainable as both had to belong to one and the same person and in the absence thereof, on abolition of inams must vest in the State in terms of Section 3(b) of the Act. Primarily, it is this view which is under challenge in these appeals, which are of a bunch, preferred by persons, some of whom claiming to be site owners and others claiming to be owners of the buildings erected thereon. The claim of the site-owners is that not only do they own the sites, but in some cases they own the buildings too. The claim of the building-owners is that since the building includes the site in terms of Section 13, they become owners of both the estates i.e., the site and the building. Before the High Court (Special Appellate Tribunal) disputes arose about title as also of law and fact as to which estate was owned by whom. The Special Appellate Tribunal on the basis of the findings recorded by the Inams Tribunal, that none of the contesting parties owned both the site as also the building took the view that Section 13 was inapplicable and the land had to vest in the Government under Section 3(b).

2. To demolish that finding of the Special Appellate Tribunal, as urged by the Appellant, it would be appropriate to reproduce here Section 13 itself.

"13(1).Every building situated within the limits of an inam land shall, with effect and from the appointed day, vest in the person who owned it immediately before that day but the Government shall be entitled for each fasli year commencing with the fasli year in which the appointed day falls to levy the appropriate assessment thereon.

(2) In this section, "building" includes the site on which it stands and any adjacent premises occupied as an appurtenance thereto."

3. It is plain from a bare reading of the Section and its setting that it is a provision occurring in Chapter III as one of the tools to confer ryotwari pattas to persons entitled. The Preamble of the Act makes it clear, as also its name, that the Act enables the State to accomplish acquisition of the rights of inamdars in minor inams in the State of Tamil Nadu and the introduction of ryotwari settlements in such inam lands. It nowhere envisaged that the rights of a person who held a ryotwari patta in his favour or was otherwise entitled to a ryotwari patta, were meant to be abolished under the Act. Rather on abolition of inams claims of persons entitled to the grant of ryotwari pattas had to be examined and settled. Under the provision under scrutiny too, it is patent that some ryotwari pattas had to be settled where buildings stood erected on inam lands immediately before the appointed day and the government in that event was entitled to an appropriate assessment as envisaged therein. Designedly, the building so erected was to include the site on which it stood and any adjacent premises occupied as an appurtenance thereto. Since the scheme of the Act

patently was in establishment and preservation of ryotwari rights, it cannot be said that by virtue of Section 13, the ryotwari rights of the site-owners stood abolished or those rights got merged in the building and hence vesting in the building owner. Rather, a dual estate is conceived of in the scheme of Section 13, that is to say, the building may belong to one and the site to another. It is, therefore, not necessary that both the site and the building should belong to one and the same person so as to derive the benefit of Section 13 with effect from the appointed day. A dual estate is not repugnant to the provision, which evidently is of a very special nature, when ryotwari patta may not be admissible for a building per se, but may be admissible for the site standing thereon. Yet, this is a special provision which confers rights on the building-owners also, though in the strict sense that right may not be a ryotwari right conferrable in the form of a patta. The provision, self-contained as it is, allow, the Government levying an appropriate assessment thereon for each fasli year commencing with the fasli year in which the appointed day fell, which assessment obviously would be based on the assessment due on the site as if unbuilt, and not on the price of the building. It would, thus, seem to us that the Special Appellate Tribunal went astray in giving an interpretation to the provision which neither furthers the objectives sought to be achieved by the Legislature nor in the fitness of the legislative design, which was drawn up to achieve a purpose. We thus have no hesitation in allowing these appeals and upsetting the impugned orders of the Special Appellate Tribunal. After doing so, it would necessitate us to remit the matter back, for, we would not advisedly go into any question of fact or law which had been left by the Special Appellate Tribunal undecided. The appeal before the Special Appellate Tribunal gets revived in order to be disposed of in accordance with law and facts as arising and raised in the respective appeals. No costs.

4. Civil Appeal Nos. 1720-27 of 1980: The ratio of the judgment rendered by us in the bunch of cases headed in K.S. Thirugnasambandam Chettiar etc. Vs. K. Vellappa Gounder and sons, Others etc. being Civil Appeal Nos. 1382-90/82 etc, etc. would govern the fate of the of the instant cases also even though the Statute involved is different, being the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act 1963 (Act 26 of 1963). Reference here would have to be made to Section 15 thereof, the Scheme of which is identical to that contained in Section 13 of Madras Minor Inams Estates (Abolition and Conversion into Ryotwari) Act of 1963. In terms thereof, we set aside the impugned judgments and orders of the High Court and remit the matters back to it to examine whether anything further survives in these matters, and if so, to pronounce thereon. Ordered accordingly. No costs."

It is on the basis of the above remand order of the Supreme Court, we have heard the above STAs.

10. From the facts, it is clear that 8.43 acres in S.No.209/1 in Tiruppur Village are Devadayam Inam lands comprised in T.D. No.175, which were granted for

the support of Pagodas of Sri Visweswaraswami and Sri Veeraraghava Peruma Temple at Tiruppur for rendering Ugranam service in the Temple and the grant was permanently confirmed so long as the performance of the said service continued, and that the lands were taken over by the Government under the provisions of the Tamil Nadu Act 30 of 1963 and vested with the Government, free from all encumbrances. From the evidence on record, it is seen that the Temple had only Melwaram right, and Kudiwaram right was with the service holder (Mavalingam Naicker). The grantee alienated the land(s) to Shoman Chettiar, who continued to enjoy the Kudivaram of the land(s) by leasing it out. In 1943, by way of a compromise agreed as per the decree in O.S. No.179 of 1941 before the District Munsif Court, Tiruppur, the successors of Shoman Chettiar relinquished their right over the Eastern half of the land(s) by retaining the Western half in their possession. In some cases, the vacant sites and in some cases, the vacant sites with small buildings, have been leased out to several persons. The persons who took the site(s) with small buildings, constructed buildings of substantial value to suit their business habits.

11. As per Section 13 of the Tamil Nadu Act 30 of 1963, every building situated within the limits of Inam land, shall, with effect on and from the appointed day, vest in the person who owned immediately before that day. By relying upon this provision, the tenements under the successors of Shoman Chettiar, claimed right over those buildings, on the ground that they constructed and owned those buildings immediately before the appointed day. Therefore, the individual respondents own the land(s) with buildings, which is as per the provisions of Section 13 of the said Act and the finding of the first appellate Court (Tribunal) in that regard is hereby confirmed, as the same is based on facts and law.

12. From the documentary evidence available on record, it is proved that the appellants have not established their ownership in respect of their properties. A party who is claiming the vesting of the property, under Section 13 of the said Act, has to establish that he is the owner of the building as well as the site in which the building stands. Though the appellants claim title, they have failed to prove their adversary right over the properties in question. A person claiming title by adverse possession and also by prescription must prove and show that he has been in possession of the land for the statutory period which is adequate in continuity, in publicity and in extent with the animus of holding the land adverse to the true owner.

13. Though the learned counsel for the individual respondents argued on the limitation and maintainability of these STAs., it has to be held that the present STAs. are maintainable for the reason that the provisions of the special enactment like the said Tamil Nadu Act 30 of 1963 are applicable to the present STAs. as like the provisions of the Civil Procedure Code (CPC) and the Limitation Act, because the Tribunal is vested with the power of a Civil Court. Moreover, in the present case, the STAs. are filed well within the period of limitation. Therefore, this Court rejects the decisions relied on by the learned counsels

appearing for the individual respondents in that regard.

14. The decisions relied on by the learned counsels appearing for the individual respondents on the merits of the case, are squarely applicable to the facts of the present case, which are extracted in the earlier portion of this judgment.

15. The first appellate Court (Tribunal), on proper appreciation of facts, applied the provisions of the Tamil Nadu Act 30 of 1963 and rightly vested the properties in question, to the persons, as per the scheduled appended along with the impugned judgment of the first appellate Court, which needs no interference by this Court. Accordingly, all these STAs are liable to be dismissed.

16. In the result, the impugned judgment of the first appellate Court (Tribunal) is confirmed. These STAs are dismissed. No costs. The Miscellaneous Petitions are closed.

17. This Court places on record the appreciation for the services rendered by Mr.AL.Somayaji, the learned Amicus Curiae appointed by this Court.