

(1909) 11 BOM CK 0013
In the Bombay High Court

Ramrao Govindrao

APPELLANT

Vs

The Secretary of State for India

RESPONDENT

Date of Decision : 09-11-1909

Acts Referred:

Maharashtra Revenue Jurisdiction Act, 1876 — Section 4(a)

Citation : 4 Ind. Cas. 832

Hon'ble Judges : Basil Scott, C.J;Batchelor, J

Bench : Division Bench

Judgement

1. One Pandurangrao, the grandfather of the plaintiff and the second defendant, was the owner of one-fourth share of the Hebli estate in the Dharwar district. On his death in 1899, Government on the ground that the property was Saranjam resumed. Pandurangrao's one-fourth share and granted it to Narsingrao. That order was cancelled by the Secretary of State and by his orders the property was granted to Vithalrao, the second defendant.

2. The Collector of Dharwar, as the guardian of Vithalrao, has taken the property into his possession and the plaintiff, who claims to hold as one of the heirs of Pandurangrao on the footing of the estate being a Sarva Inam of Pandurangrao, sued the Secretary of State and Vithalrao for a declaration of title and for possession. He seeks to have it declared that the immovable property in suit is the Sarva Inam property of the plaintiff and cannot be taken from his possession by Government or its officers or re-granted to any one else.

3. The question whether the Hebli estate was Sarva Inam or Saranjam, was decided by the Inam Commissioner, Major Gordon, in July 1858, under the provisions of Act XI of 1852. The Inam Commissioner then recorded his decision that the claimant's title (the claimant being an ancestor of the plaintiff) to hold Kasba Hebli in Sarva Inam was invalid, and he held that it was in fact a Saranjam property.

4. The decision of the Inam Commissioner is, by virtue of the provisions of rule.

2 of Schedule A of Act XI of 1852, final as regards the land and interests concerned in the decision. But once it has been decided finally by the Inam Commissioner that the Hebli estate is Saranjam the title to and continuance of the estate must be determined, under Schedule B, Rule 10 of the Act, under such rules as Government may find it necessary to issue from time to time.

5. On the 17th of May 1898, Government passed rules for the regulation of the continuance and resumption of Saranjam estates, and those rules apply to the Hebli estate as well as to other Saranjams. In accordance with those rules, the estate was upon the death of Pandurangrao resumed by Government and re-granted, and as a result of the revision effected by the Secretary of State the share of Pandurangrao in the Hebli Saranjam has been re-granted to Vithalrao, the second defendant.

6. This then if a suit against Government relating to land held as Saranjam, and is, therefore, excluded from the jurisdiction of the Civil Courts by the provisions of Sub-section (a) of Section 4 of the Revenue Jurisdiction Act X of 1876. The District Judge was, therefore, right in holding that he had not jurisdiction to entertain the suit. It has been suggested that the plaintiff has acquired certain occupancy rights in the estate of which he cannot be deprived by any decision of Government under the Saranjam Rules. This is obviously an after-thought suggested by the decision of this Court in Ganpatrao Trimbak Patwardhan v. Ganesh Baji Bhat 10 B. 112. It was a point which was not raised in the plaint but is mentioned in the memo. of appeal for the first time. It is a question which, we think, ought not to be decided in this suit, and we, therefore, abstain from expressing any opinion upon it.

7. We confirm the decree of the District Judge dismissing the suit and we dismiss this appeal with costs.