

(1996) 11 MAD CK 0076
In the Madras High Court
Case No : S.T.A. No. 4 of 1992

S. Jagannathan and others

APPELLANT

Vs

Arulmighu Ramanathaswamy Devasthanam, Rameswaran
and The State of Tamil Nadu

RESPONDENT

Date of Decision : 27-11-1996

Acts Referred:

Citation : (1996) 11 MAD CK 0076

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

Bench : Division Bench

Advocate : K. Yamunan, for the Appellant; T.R. Mani Senior counsel for Mr. T.M. Hariharan Advocate for 1st Respondent and Mr. A. Arumugham, Govt. Advocate on behalf of 2nd Respondent, for the Respondent

Judgement

Raju, J.—The appellants claiming to be ryots in occupation of the various portions of the lands in question, have claimed patta, but lost before the Authorities below, and have filed the above appeal u/s 46 of the Tamil Nadu Inam Estate (Abolition and Conversion into Ryotwari) Act, 1963, (Tamil Nadu Act 26 of 1963) herein after referred to as the "Act". Both the Authorities below have upheld the claim of the first respondent temple. Heard Mr. K. Yamunan, learned counsel appearing for the appellants and Mr. T.R. Mani, learned senior counsel appearing for the first respondent temple.

2. The village Veeranvayal has been notified under the provisions of the aforesaid Tamil Nadu Act 26 of 1963 by notification, dated 12.3.1965 and the Inam character stood abolished with effect from 15.4.1965. The Assistant Settlement Officer Thanjavur, dealt with the matter pursuant to the order of remand, dated 24.9.1980, by the Inam Abolition Tribunal Nagapattinam, in C.M.A. No. 49 of 1979. The Assistant Settlement Officer as noticed earlier, by his proceedings, dated 15.3.1980 granted patta in favour of the first respondent temple. Before the Tribunal the appellants herein contended that the lands in question were ryoti lands and not private lands as claimed by the temple and that the Assistant

Settlement Officer ought to have allowed ryotwari patta in respect of the lands u/s 10 or 11 the Act, in favour of the appellants. The appellants also claimed that they were in occupation of the lands doing cultivation hereditarily and the temple was at no time cultivating the lands personally or was doing Pannai Cultivation. The Appellate Tribunal also agreed with the finding of the Assistant Settlement Officer and dismissed the appeal.

3. The learned counsel appearing on either side reiterated the stand taken before the Authorities below. Whereas the learned counsel for the appellants contended that the appellants are ryots, in occupation of ryoti lands and entitled to patta u/s 10 or 11 of the Act, the learned senior counsel for the first respondent temple contended that the lands are private lands, that the appellants had no Kudikani rights in the lands and the first respondent temple was exempted from proving personal cultivation as an essential requirement to get patta by virtue of the Tamil Nadu Act 27 of 1966 and that therefore, the orders of the Authorities below do not suffer, from any error of law warranting interference by this Court. We have carefully considered the submissions of the learned counsel appearing on either side. The suit property is known as Shrotriem Veeranvayal. There is no controversy over the fact the inam as is what is familiarly known as post-1936 Amendment to Estates Land Act, 1908 (Post-Settlement Inam). The extract of Fair Inam Register, marked as Ex. R41, disclosed that the shrotriam grant in question has been described as "Sarvamanyam Veeranvayal villages" and that the exhibits marked as R. 1 to R. 7 also disclose that the grant was of both warams. As against the claim of the appellants before both the Authorities below that they were in occupation, doing personal cultivation hereditarily, the Authorities below adverted to the factual details and found that there was orders passed by Revenue Courts and decrees of ordinary Civil Courts were also available to show that different individuals have come into possession at different points of time and that the claim to the contrary by the appellants, has not been substantiated. The Authorities below, after adverted to the provisions contained in Section 65 of the Act and the presumption engrafted therein, specifically found with reference to the facts and circumstances of the case that the initial presumption stood rebutted and that the lands have been sufficiently proved to be private lands of the first respondent temple. That apart, the lands have been found to have been not converted into ryoti lands at any time and the occupants have been shown to be lessees, coming into possession after 1.11.1933, and that too as tenants. In addition to all these aspects, having regard to the application of the provisions of the Madras Inam (Assessment) Act, 40 of 1956 to the village in question, the Authorities below chose to accept the plea that the lands in question are private lands and the claim of the appellants that they were ryoti lands did not find acceptance with both the Authorities below. As pointed out earlier, the appellants miserably failed to produce any document to show that they have acquired lawfully and Kudikani rights in the lands in question and they have been admitted into lawful possession as ryots by granting any Kudiwaram rights in their favour. While dealing with the question that the first respondent

temple had never cultivated the lands and there was no proof of any Pannai Cultivation, the Authorities below adverted, in our view rightly, to the provisions contained in Tamil Nadu Act 27 of 1966 wherein the religious institutions as defined under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, were exempted from proving personal or Pannai cultivation to sustain their claim for patta and that with such dispensation of the proof of personal or Pannai Cultivation, the first respondent temple was held to be entitled to the ryotwari patta and consequently patta was also granted u/s 9(1)(a) of the Act. As a matter of fact, in similar and identical circumstances the very learned counsel Appearing on either side in this case, has made elaborate arguments, in the light of the latest decision of the Apex Court reported in Pollisetti Pullamma and others Vs. Kalluri Kameswaramma and others, in S.T.A. No. 14 of 1982, dated 9.10.1996 and S.T.A. No. 41 of 1979 dated 9.10.1996. We have elaborately considered all these aspects and sustained the grant of the nature in favour of the temple, also applying the provisions of Tamil Nadu Act 27 of 1966. There is no controversy among the counsel that the principles laid down in the said decision will squarely apply to the case on hand. Applying the ratio of the earlier decisions of ours, we find that the reasons assigned by the Authorities below, to sustain the claim of the first respondent temple, cannot be said to be in any manner vitiated. Those decisions squarely apply to this case and govern the present issue against the appellants. In view of the above, this appeal fails and shall stand dismissed. No costs. It is always open to the appellants if they so desire, to pursue their other remedies and vindicate their rights if any, before the competent Civil Court, and both the parties are left with liberty in this regard to vindicate their respective claims in accordance with law.