
(1949) 10 MAD CK 0034

In the Madras High Court

Case No : Civil Revision Petition No"s. 1350 and 1351 of 1948

Sankala Ramaswami and Others

APPELLANT

Vs

Godavarthi Jagannathaswami

RESPONDENT

Date of Decision : 11-10-1949

Acts Referred:

Madras Estates Land Act, 1908 — Section 189, 3(2)

Citation : AIR 1950 Mad 369

Hon'ble Judges : Krishnaswami Nayudu, J

Bench : Single Bench

Advocate : M. appa Rao and B. Srinivasamurthy, for the Appellant; P.M. Srinivasa Iyengar, for the Respondent

Final Decision : Dismissed

Judgement

Krishnaswami Nayudu, J.—The defendants are the petitioners in these two revision petitions which arise in two suits instituted for

possession and mesne profits, the main defence being that the suit properties, i.e., certain lands, form part of an ""estate"" as defined in the Madras

Estates Land Act, and therefore civil Courts have no jurisdiction to try the suits. The suits relate to three items of lands measuring on the whole 7

acres 33 cents in Sankarashanapuram Agraharam. The plaintiff claims to be a minor inamdar of these lands and has instituted the suits for recovery

of possession and profits. The village of Sankarashanapuram is an Agraharam and it would be an ""estate,"" within the meaning of the Madras

Estates Land Act by virtue of the latest amendment whereby Explanation 1 has been incorporated under Act, II [2] of 1945.

2. The learned District Munsif held that the lands which are covered by the suits form part of an ""estate"" under the Madras Estates Land Act and

the civil Courts had no jurisdiction. An appeal was filed and the learned Subordinate Judge held that these lands do not form part of

Sankarashanapuram Agraharam and it is not an inam which comes within the definition of an "estate" or part of an inam village subject to the

provisions of the Madras Estates Land Act. As against the said decision, the defendants have filed these revision petitions.

3. In respect of the Sankarashanapuram Agraharam, Ex. P-1 which is an extract from the inam fair register discloses that the entire guditat of the

village was 339 acres 27 cents and out of it 32 acres 58 cents have been excluded as poromboke and 59 acres 53 cents were deducted as being

minor inams and the Agraharam proper is stated to comprise of 247 acres 35 cents. In respect of these 247 acres 35 cents of the Agraharam the

inam was confirmed in favour of the then agraharamdars on a total quit rent of Rs. 132 and title deed No. 981 was granted to them in 1859. The 7

acres 33 cents of land comprised in these suits admittedly form part of the 59 acres 53 cents of the lands that were deducted from the entire ayacat

of the village and referred to as inam in Ex. P-1. In respect of the 7 acres 96 cents, Ex. D 1 is an extract from the inam fair register and it shows

that it is comprised in a minor inam. Demarcation No. 57 is given to it. It is found by the lower appellate Court that the inam must have been

granted before 1793 A. D. and at the time of the inam commission a separate title deed No. 977 was granted in 1859 in respect of these lands to

the minor agraharamdar, the ancestor of the present plaintiff. It will, therefore, be seen that these 7 acres 33 cents were treated as a separate entity

in respect of which a separate title deed was issued under Ex. D-1 and have been in the possession of the minor agraharamdar.

4. The question for decision is whether this item of 7 acres 33 cents would come under the definition of "estate" as defined in Section 8(2)(d),

Madras Estates Land Act. Section 3 (2) (d) includes in the word "estate," any inam village of which the grant has been made, confirmed or

recognised by the British Government, notwithstanding that subsequent to the grant, the village has been partitioned among the grantees or the

successors in title of the grantee or grantees. The village of Sankarashanapuram has not been granted by the British Government as it is found that

it was granted by Kamadana Rayanam Garu in about 1731 A. D. But it has been recognised by the British Government, by the inam commission,

and the recognition is in respect of the village of Sankarashanapuram to the extent of 247 acres 35 cents in any event excluding 59 acres 53 cents

of which the 7 acres 33 cents is a portion. It cannot therefore be said that this is part of the inam village of Sankarshanapuram. Farther these lands

cannot be said to be a named village as defined in Section 3 (2) (d) and Explanation I read together. The village of Sankarashanapuram would be

an inam village coming under the definition of the word ""estate"" since it is a village the grant of which was recognised by the British Government and

a separate title deed was issued and would still be estate because it is a grant of an inam village notwithstanding that it did not include certain lands

such as poromboke and other lands mentioned in the title deed. But that would not make the 7 acres 33 cents also part of that

Sankarashanapuram inam village. It is not a named village and since a separate title deed has been issued in respect of the minor agraphamdar it

cannot be said to be part of the major inam of Sankarashanapuram. If it is not an estate, certainly the civil Court has jurisdiction and it is not open

to the defendants to claim whatever rights they may have under the Madras Estates Land Act.

5. This view finds support in the decision of Kuppuswami Aiyar J. in *Burugu Viswanadham Brothers Vs. Yarru Subbaiya*, and in *Achuta Ramayya*

v. Akkayya 1946 2 M. L. J. 19 and *Yamujala Mangamma and Another Vs. Kalyanapu Appadu and Another*, . As pointed out by Kuppuswami

Aiyar J. the question as to whether the confirmation or recognition by the British Government was in respect of the entire inam village or only of a

portion would be the basis for a decision as to whether the land is an estate or not. The confirmation was in respect not of the entire village

comprising the gudiact of 839 acres 27 cents, but only of 247 acres 35 cents excluding the minor inams. Simply because it is situated in the village

of Sankarshanapuram it could not be said to be part of the inam village of Sankarshanapuram. I am therefore of opinion that the suit properties are

not properties which come under the definition of an inam in Section 3 (2) (d), Madras Estates Land Act. It is pointed out, and it is also referred to

in the judgment of the lower appellate Court, that an unreported decision of this Court in *Srungaram Venkatacharyulu v. Pillamsetti*

Ramchandrarao, A. A. O. No. 79 of 1942, holds a contrary view. From a reading of the unreported decision, it does not appear that the matter

was considered, but the learned Judges simply stated that the District Judge was quite right in holding that the Court which had jurisdiction in that matter was the revenue Court and the land with which the appeal was concerned was held to form part of an agharam village which was made an inam in 1749. But the facts of this case are not identical. Moreover, in view of the subsequent legislation by the adding of Explanation I, by Act II [2] of 1943 questions relating to the distinction of major inam and a minor inam, as to whether a portion of a major inam could still be said to be a part of the major inam or a separate were not before the Court which decision was with reference to the particular facts of the case that the learned District was asked to decide upon. I am inclined to accept the view of the learned Judges whose decisions I have cited before. It seems to be in consonance with the language and the meaning of an inam village included an "estate" as defined in Section 3 (2) (d), Madras Estates Land Act. In the result the revision petitions are dismissed with costs--one advocate's fee.