
(1955) 12 AP CK 0009

In the Andhra Pradesh High Court

Case No : Letters Patent Appeal No. 56 of 1954

Sanyasi Naidu

APPELLANT

Vs

China Gavuru Naldu and Others

RESPONDENT

Date of Decision : 07-12-1955

Acts Referred:

Citation : (1955) 12 AP CK 0009

Hon'ble Judges : Subba Rao, C.J; Bhimasankaram, J

Bench : Division Bench

Advocate : S. Ramamurthi, for the Appellant; P. Somasunda and G. Balaparameswari Rao, for the Respondent

Judgement

Bhimasankaram, J.—This is an appeal against the judgment of our learned brother, Umamaheswaram, J. allowing the appeal of the Defendants 3 to 6 against the decree and judgment of the Subordinate Judge of Visakhapatnam in O. S. No. 27 of .1947. That was a suit instituted by the Appellant for possession of a number of properties from the Defendants. The present dispute however is confined to item 21 of the plaint A schedule. This item is described that schedule as "a quitrent inam called Msmthavari Manyam" of Mamidipalli". The plaint that the Defendants 3 to 5 are in un-lawful possession of this item and that the Plaintiff is entitled to recover it from them as an item belonging to one Chinnam Naidu, who Seqnathed the property to him under a will. In "their written statement, the Defendants pleaded that they have been in possession of this item as tenants under a lease deed dated 3rd October. 1942 and claimed rights of permanent occupancy therein on the ground that it formed part of Mamidipalli Agarharam a whole inam village constituting an estate under the Madras Estates Land Act.

2. The controversy between the parties in respect of this item is embodied in two issues - issues 9 and 10. framed by the trial Court which runs thus:

9. Whether items 21 (and several Ors. with which we are not now concerned) are

estates within the meaning of Madras Estates Land Act and whether Defendants 3 to 5 (and some Ors. in relation to some other items) acquired statutory occupancy rights therein?

10. Whether this Court has no jurisdiction to entertain this suit in respect of possession and profits of the land.

3. The learned Subordinate Judge held that as two separate title deeds were granted at the time of the inam settlement-- one confirming the main aghaharam and the other confirming the inam of "Manthavari Manyam", the latter cannot be treated as being part of an estate because it could not be said that the original grant was confirmed as such within the meaning of Section 3(2) of the Madras Estates Land Act. In taking that view, he followed" some decisions of the Madras High Court, all of; them, of single Judges. The first of them is reported in Burugu Viswanadham Brothers Vs. Yarru Subbaiya, . Kuppaswami Ayyar, J. held in that case that where a minor inam was confirmed by the Inam Commissioner separately from: the rest of an aghaharam in a different title deed, it could not be said that when it was so recognised or confirmed by the British Government it was part of the aghaharam grant and that the minor inam could not be deemed to be part of an estate within the meaning of the Madras Estates Land Act. Happell, J. in Achyuta; Ramayya v. Akkayya. 1946 2 Mad LJ (SN) 19 (B), followed the above decision and held that where there was a subsequent grant out of a larger grant and both were separately confirmed at the time of the inam settlement, the subsequent grant could not be said to be a portion of an estate. These two decisions, were followed by three other single Judges in Yamujala Mangamma and Another Vs. Kalyanapu Appadu and Another, ; ahanayya"v. Lakshmapathi 61 Mad LW (SN) 91 (D) ,and Sankala Ramaswami and Others Vs. Godavarthi Jagannathaswami, . These decisions must however be deemed to have, been overruled by the decision of the Full Bench of the Madras-High Court in- Mantravadi Bhavanarayana and Another Vs. Merugu Venkatadu and Others, . The Full Bench agreed with the views expressed by one of us in the following passage, in the judgment reported in Somasundaram We State of Madras, K. Somasundaram and Others Vs. The State of Madras and Others, .

I would like to lay down the following simple formula Which would steer clear of all the difficulties: First find out whether the original grant was of the whole village, if it is established, the next question is whether the confirmation or recognition; -was of the entire grant or of a part of the "grant.. If the entire grant was confirmed or recognized. the process of. the confirmation or recognition or the fact that different title deeds were Issued, or the grant was recognised by separate acts should not matter, for in either case the original .grant which was of the entire village should be confirmed or recognised by the British Government.

In the words of one of the Judges of the Full Bench. Govinda Menon, J.

What the; section posits is that the grant should be confirmed or recognised and

not the area or the extent in existence at the time of the inam Settlement.

4. There is the further observation of Govinda Menon, J. to the following effect:

The crucial factor is that the Inam Commissioner should recognize or confirm the entire area of the original grant as an inam though the result of such confirmation might be the grant of different title deeds separately to different individuals., It is not the multiplicity of title deeds that matters; but it is the fact that the entire area originally granted retains its character as an inam.

Venkatarama Ayyar, J., Anr. member of the Pull Bench observed at page 152 of ILR Mad: (at P. 426 of AIR) as follows:

A reading of the section as a whole, therefore, leads to the conclusion that what is material under the section is the confirmation of the act or transaction of grant, that the issue of a title deed is a matter of mere procedure, and that its value is evidentiary..... The issue of a separate , title deed in favour of the minor grantee can only be. oh the basis of a confirmation of the grant of The village in favour of the inamdar and as part of that process. Nor is there any ground for holding that the issue of a separate title deed implies that to that extent there is no confirmation of the original grant; it amounts at the least to a recognition of the grant in favour of the inamdar "and that is sufficient to satisfy the requirements of Section 3(2) (d).

5. The other learned Judge, Basheer Ahmed Snyeed. J., expressed concurrence with these views. That being so, the foundation of the judgment of the learned Subordinate Judge has been destroyed by this Full Bench decision. Our learned brother therefore held that confirmation under two separate title deeds did not make any difference to the nature of the inam, that the suit land formed part of Mamidipalli agharam which was a whole village granted in inam and that therefore the Defendants obtained rights of occupancy when they were let into possession.

6. Before us, two main contentions are raised by Mr. Ramamurthy for the Appellant-Plaintiff. In the first place, he contends that Mamidipalli Agharam was not itself a whole village granted in inam and secondly that in any case there is no proof that the lands in question constitute a darmilainani" made by the agharamdars. Before we proceed, to deal with these contentions, we may to serve that so far as the first point is concerned. it has not been specifically raised either before the trial Court or before our learned brother. The issues which we have already extracted above do not show that a question was raised as to whether Mamidipalli Agharam as a whole was or was not an estate. Indeed, the parties seem to have proceeded upon the; footing that though Mamidipalli Agharam was an estate;, the suit land was not¹ part of it because it was confirmed under a separate title deed We therefore think that it is not open to the Appellant to raise this contention for the first time before us Anpr, do we think there is any substance in the contention on the merits.

7. Mr. Ramamurthy's argument is that the grant was not of a named village and that not being so, it, is; necessary for the Defendants to establish that the whole of the village was granted in inam. He points out that the entry in column 3 of Exhibit A-7 which is a certified copy of the inam fair register! relating to Mamidipalli agraharam: shows to at there were inam grants made before the Agraharam itself was created. It is true that it is now well settled that where the grant is not of a named,, village, it must be shown that the who village as the subject-matter of the grant, while if it of a named village the exclusion, off pre-existing "minor, inams .from the grant would not "make the " grant of the village any the less that of a whole village. Discussing the scope of Explanation (J) to Section 3 (2) (d) of the Madras Estates Land Act by the Amendment Act II of 1945, one of us observed in Kakarlapudi Janikirammaraju and Others Vs. Gedala Appalaswami and Others, at p. 990: AIR 1954 Mad 772 at p. 775) (H), as follows:

Therefore, after the" explanation, the legal position was this; the whole village could be granted either by name or by including the entire extent within the boundaries of a village. In case a named village was granted, the existence of minor inams in the village before such grant would not make it any the less the grant of the whole village.

8. The question therefore, in this case, is whether, in the first place, there is a grant of a named village. If there is a named village, the prior grant of 20 putties of land by way of inam as shown in column 3 of Exhibit A-7 would not detract from the character of the grant as one of a whole village. We are satisfied however that the grant was of a named village. The agraharam itself is known as Mamidipalli agraharam and the extract from the inam fair register which, be it noted was filed by the Plaintiff himself, describes Mamidipalli agraharam as" a village. Column 22 shows that the Agraharam was "confirmed as recommended" though there was a separate title deed given to the grantees of "Mantha Van Man-yam".

9. The second point argued by Mr. Ramamurthy is that there is no proof that the agraharamdars granted the suit land by way of a darmila inam. Column 21 of Exhibit A-7 contains the following recital in respect of this inam:

The incumbent No. 12 purchased his share for Rs. 300-0-0 in May, 1851, from Mantha Ram-anna who is stated in the Kidman deed of sale produced as having purchased it from No. 6 mentioned in column 15, who is stated to have received the same as inam",from the Agraharamdars more than 40 years ago.

10. This is followed by Anr. recital lower down in the same column to the following effect;

The shares enjoyed by the incumbents Nos. 12 to 16 remain constant and are not subject to fluctuation every 12 years as in the case with the vrittis of this village. They are alienations that were made more than 40 years ago by the Agraharamdars from the land common to them all and are regarded as inams and I therefore recommend the issue of separate title deeds.

11. These recitals, in our opinion, clearly indicate that this minor inam was carved out of the major one by the aghaharamdars. It is impossible to accept Mr. Ramamurthy's contention that these recitals ought not to be taken at their face value on the ground that the earlier grant from the inamdars is not produced. We cannot conceive any stronger piece of evidence than these recitals at this distance of time to establish that the suit land was granted as an inam by the aghaharamdars.

12. We therefore find ourselves in agreement with our learned brother in his finding that the suit land is an estate and that the Defendants 3 to 5 are entitled to occupancy rights therein.

13. In the result, this Letters Patent Appeal is dismissed with costs payable by the Plaintiff, 1st Respondent to Respondents 1-3.