

(1992) 04 KAR CK 0029

In the Karnataka High Court

Case No : W. Ps. No's. 2590 and 7230 of 1979

Shri Kudli Sringeri Maha Samsthanam

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 24-04-1992

Acts Referred:

Constitution of India, 1950 — Article 31 (2)
Karnataka Inams Abolition Laws (Amendment) Act, 1979 — Section 3 (6), 3 (9), 4 (2)
Karnataka Land Reforms Act, 1961 — Section 112, 48 A, 48 C
Mysore (Religious and Charitable) Inams Abolition Act, 1955 — Section 21, 21 A

Citation : (1992) ILR (Kar) 1827 : (1992) 3 KarLJ 258

Hon'ble Judges : Venkatchala, J;Vasanth Kumar, J

Bench : Division Bench

Advocate : H. Subramanya Jois, for the Appellant; P.P. Muthanna, General, for the Respondent

Judgement

Venkatachala, J.—Writ Petition No. 7230-1979 of Kudli Sringeri Maha Samsthanam (for short "Kudli Sringeri Mutt") and Writ Petition No. 2590/1979 of the State of Karnataka (for short "the State"), which were heard by us as a Division Bench, on a reference made by a learned single Judge u/s 9 of the Karnataka High Court Act, 1961, are being disposed of by this common order.

2. As questions of constitutionality of certain statutory provisions and the validity of the orders made under certain statutory provisions, arising for our consideration and Decision in these Writ Petitions, could be better appreciated and decide upon, on the basis of the undisputed factual antecedents and the statutory law bearing upon them, it would be convenient to advert to the same at the very outset,

3. Kudli Sringeri Mutt in the Mysore Area of Karnataka, founded by the great Seer Adi Shankaiacharya is an ancient institution of religious teachings and instructions. In about the year 1870, the then Maharaja of the princely State of Mysore, who was interested in propagation of Hindu philosophy and imparting of

Hindu religious instructions, granted to Kudli Sringeri Mutt by way of Inam, Machenahalli, Shettihalli, Javalli, Vallikeshapura, Malalakoppa, Gavataru, Sanyasikoppa, Gopagondanahalli and Kanasinakatte, in Shimoga District comprised of a vast extent of 5,567 acres 30 guntas of cultivable land and uncultivable land, for its upkeep and to support its activities relating to religious teachings and instructions. In the revenue settlement of the said villages, which took place in the year 1872, they were held to belong to Kudli Sringeri Mutt and were settled as its Inam villages, Thereafter, Kudli Sringeri Mutt, which was regarded as the Inamdar of the said nine Inam villages, came to collect the income got from them annually and intermittently and use such income for its upkeep and its activities of religious teaching and instructions. Such income included the annual rental income got from the tenants of agricultural lands in those Inam villages.

4. When the said Inam villages, which were located within the Area of erstwhile State of Mysore, had to be covered by a Legislative measure of agrarian reform, intended to confer absolute rights of ownership on tenants in occupation of agricultural lands falling in Inams and Inam villages, brought about as Mysore (Religious and Charitable) Inams Abolition Act, 1955 (for short "the Principal Act"), by the then Mysore State Legislature, the provisions therefore provided for abolition of religious and charitable Inams and Inam villages which existed in the then State of Mysore.

5. By Sub-section (2) of Section 1 of the Principal Act, that Act's operation was extended to the whole of the Mysore Area except Bellary District of the then State of Mysore. By Clause (a) of Sub-section (3) of Section 1 of the Principal Act, that Act was made to apply to all religious Inams including the aforementioned nine Inam villages of Kudli Sringeri Mutt in Mysore Area. Sub-section (4) of Section 1 thereof, which stated that Sections 1, 2, 34 and 36 shall come into force at once, declared that the rest of the Principal Act shall come into force respecting Inam villages on such dates as the Government may, by notification, specify in respect of each such Inam village. The def definition clause in Sub-section (2) of Section 2 of the Principal Act defined the date of vesting, thus:

"(2) "Date of vesting" in relation to an inam means the date appointed by a notification issued under Sub-section (4) of Section 1 to be the date on which the provisions of this Act other than Sections 2, 34 and 36 shall come into force in such Inam."

6. Though Sections 1, 2, 34 and 36 of the Principal Act happened to come into force on 1-9-1955, the date of vesting appointed in relation to the aforesaid nine Inam villages of Kudli Sringeri Mutt by a notification issued u/s 1(4) of the same Principal Act, was 1-4-1959, Sub-section (1) of Section 3 of the Principal Act, which refers to the consequences of the vesting of Inam in the State, in so far as it is material, read:

"(1) When the notification under Sub-section (4) of Section 1 in respect of any inam has been published in the Mysore Gazette, then notwithstanding anything contained in any contract, grant or other instrument or in any other law for the time being in force, with effect on and from the date of vesting, and save as otherwise expressly provided in this Act, the following consequences shall ensue, namely:-

(a).....

(b) all rights, title and interest vesting in the inamdar including "those in all communal lands, cultivated lands, uncultivated lands, whether assessed or not, waste lands, pasture lands, forest, mines and minerals, quarries, rivers and streams, tanks and irrigation works, fisheries and ferries, shall cease and be vested absolutely in the State of Mysore, free from all encumbrances;

(c) to (g).....

(h) the inamdar whose rights have vested in the State of Mysore under Clause (b) shall be entitled only to compensation from the Government as provided in this Act."

Chapter III of the Principal Act, under the head "Determination and Payment of Compensation" contained Sections 14 to 21, which reads thus:

"14. Compensation: The compensation payable in respect of an inam shall be determined in accordance with the provisions of this Chapter.

15. Compensation to be determined for the inam as a whole: The compensation shall be determined for the inam as a whole, and not separately for each of the interests therein,

16. Basic annual sum: A sum called "the basic annual sum" shall first be determined in respect of the inam.

17. Component parts of basic annual sum of an inam: (1) The basic annual sum of an inam shall be the aggregate of the sums specified below, less the deductions specified in Section 18:-

(i) the whole of the average net annual income derived by the inamdar during a period of five years immediately preceding the date of vesting from lands in respect of which any person is entitled to be registered under Sections 4, 5 and 7 ;

(ii) the whole of the average net annual income derived by the inamdar during a period of five years immediately preceding the date of vesting from lands other than lands in respect of which any person is entitled to be registered under Sections 4, 5, 7 and 8:

Provided that:-

(a) the income from sandalwood or any other reserved forest produce shall not

be included in the annual income from forests unless the right thereto was expressly conferred on the inamdar by a competent authority;

(b) the income from royalty on minerals or from mining leases shall not be included in the annual income unless the right to such minerals or mines was expressly conferred on the inamdar by a competent authority and such right was recognised u/s 38 of the Land Revenue Code;

(c) the income from ferries shall not be included in the annual income unless the right to such ferries was expressly granted to the inamdar by a competent authority.

(2) Where the particulars necessary to compute the average net annual income under Clause (ii) of Sub-section (1) are not available or appear in material respects to be incorrect, the computation may be made in such manner as may be prescribed.

(3) The provisions of Sub-section (1) shall, in their application to a minor inam, be subject to the modification that in Clause (i) and Clause (ii), the reference to Section 7 and Section 8, respectively, shall be omitted.

18. Jodi, etc., to be deducted. - From the aggregate of the sums referred to in Clauses (i) and (ii) of Sub-section (1) of Section 17, ascertained as aforesaid, there shall be deducted -

(a) the whole of the jodi, quit-rent or other amount, if any, of a like nature, payable annually by the inamdar;

(b) the annual remuneration payable to village officers at the scales prescribed by the Government by or under the Mysore Village Officers Act, 1906, where such officers were employed by the inamdar;

(c) the average annual cost of maintenance of irrigation works incurred by the inamdar during the period of five years immediately preceding the date of vesting;

(d) the average annual cost of management of the inam incurred by the inamdar during the period of five years immediately preceding the date of vesting.

19. Payment of compensation: (1) The Government shall pay to the inamdar every year so long as the institution exists as compensation for all the rights of the inamdar vesting in the State of Mysore under this Act, the basic annual sum as a tasdik allowance.

(2) The sum payable under Sub-section (1) may be paid in such form and manner, and at such time or times, and in one or more instalments, as may be prescribed.

20. Interim payment: (1) After the date of vesting and before the sums payable to the inamdar concerned have been finally determined under Sub-section (1) of Section 19, the Government shall pay to the inamdar -

(a) in respect of the revenue year in which the notification under Sub-section (4) of Section 1 in respect of the inam concerned is published in the Mysore Gazette, such sum as they may, on an approximate calculation, determine to be payable to the inamdar under Sub-section (1) of Section 19, less the rents, if any, collected before the date of vesting by the inamdar from the Kadim tenants and permanent tenants in respect of that revenue year;

(b) in respect of each subsequent revenue year, the sum determined under Clause (a), unless data for the better calculation thereof have since become available, in which case, the sum to be paid shall be revised by the Government with reference to such data.

(2) After the sum payable to the inamdar under Sub-section (1) of Section 19, has been finally determined all interim payments made to the inamdar under Sub-section (1) of this Section together with the rent, if any, collected by the inamdar before the date of vesting, shall be adjusted towards the sum so determined; and any deficiency shall be made good to the inamdar by the Government and any excess shall be deducted from the sum payable to the inamdar by the Government in any subsequent revenue year or years.

21. Deputy Commissioner to determine basic annual sum: (1) The Deputy Commissioner shall determine in accordance with the foregoing provisions the basic annual sum in respect of the inam.

(2) Any inamdar or other person interested may, within such time as may be prescribed or such further time as the Deputy Commissioner may in his discretion allow, apply in writing to the Deputy Commissioner for a copy of the data on the basis of which he proposed to determine the basic annual sum.

(3) On the receipt of such application, the Deputy Commissioner shall furnish the data aforesaid to the applicant; and he shall also, before passing any order under Sub-section (1), give the applicant reasonable opportunity of making his representation in regard thereto, in writing or orally.

(4) A copy of every order passed under Sub-section (1) shall be communicated to every inamdar concerned, and also to every applicant under Sub-section (2)."

7. Sub-section (1) of Section 29 of the Principal Act providing for appeal from an order under Sections 21 and 21A thereof, as substituted by the Mysore Inams Abolition Laws (Amendment) Act, 1969, in so far as it is material, read:

"(1) Against any decision of the Deputy Commissioner under Section.....21 and 21A.....the Government may within six months from the commencement of the Mysore Inams Abolition Laws (Amendment) Act, 1969, or from the date of the decision, whichever is later, and any person aggrieved by such decision may, within thirty days from the said date, appeal to the prescribed authority and the decision of the prescribed authority shall be final."

8. By this order dated 1-9-1967 made u/s 21 of the Principal Act, the Special

Deputy Commissioner for Abolition of inams, Hassan Division, fixed the basic annual sum (Tasdik allowance) payable as annual compensation to Kudli Sringeri Mutt, the institution, u/s 19 of the Principal Act. The basic annual sum (Tasdik allowance) so fixed was Rs. 2,815-00. The basis for fixation of such basic annual sum was merely the Kandayam (land tax) received by the Inamdar-institution from the tenants of the lands in six Inam villages vested in the State, minus annual "jodi" (quit rent) payable to the State by the inamdar for those inam villages. Even such Kandayam derived by the Inamdar - Institution in respect of its remaining three Inam villages was not taken into account by the Special Deputy Commissioner in making the said order.

9. When the said order of the Deputy Commissioner made u/s 21 of the Principal Act for payment of compensation to Kudli Sringeri Mutt on account of vesting of its nine Inam villages in the State under the Principal Act was found totally unacceptable to Inamdar-Kudli Sringeri Mutt because of the most inadequate compensation granted by it, Mysore Inams Abolition Laws (Amendment) Act, 1969 (Act 33/1969) (for short the Amendment Act of 1969"), came into force inserting into the Principal Act Section 21A empowering the Deputy Commissioner to review any of his orders made u/s 21 of the Principal Act. That Section 21A read:

"21-A. Review by the Deputy Commissioner: If at any time after the determination of the basic annual sum u/s 21, the Deputy Commissioner is satisfied that the basic annual sum so determined was not correctly determined and requires to be revised with reference to any new and important matter which has since come to his notice or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, he may, suo motu, revise the basic annual sum determined by him u/s 21, either by increasing or decreasing it:

Provided that in cases where such revision involves a decrease in the basic annual sum determined, the person or persons affected shall be given a reasonable opportunity of making representation in regard thereto, in writing or orally."

10. By the said Amendment Act of 1969 itself, Section 29 of the Principal Act relating to appeals from the orders, stood amended to include an appeal from the order of the Deputy Commissioner u/s 21A.

11. Kudli Sringeri Mutt sought to avail of the power of review conferred on the Deputy Commissioner under the said Section 21A inserted into the Principal Act of reviewing his own orders made u/s 21 of the Principal Act, by making an application in that regard to the Minister for Revenue on 17-12-1975 for getting the aforementioned earlier order dated 1-9-1967 of the Deputy Commissioner reviewed by him u/s 21A. The Revenue Commissioner and Secretary to Government, Revenue Department, by his letter dated 9th January 1976, forwarded that application in original to the Special Deputy Commissioner,

Shimoga with a request to furnish a report in the matter. The Special Deputy Commissioner, by his letter No. INA(1) Cr. 37/75- 76 dated 17-3-1976, reported back to the Revenue Commissioner and Secretary to Government of Karnataka, expressing his view that the Petition of the Inamdar will have to be considered u/s 21A of the Principal Act as amended by the Amendment Act of 1969 and that letter reads:

"Sub:- Review of Tasdik Allowance under the Karnataka (Religious and Charitable) Inams Abolition Act - Sri Sringeri Mutt, Kudli village, Shimoga Taluk.

Ref:- Your letter No. AD.1.IMA.76 dated 9-1-76 addressed to the Administrator, Sri Sringeri Samsthanam, Kudli village, and copy endorsed to the Special Deputy Commissioner, Shimoga, for a report.

Government in their reference cited, while forwarding the Review Petition dated 17-12-75 of Sri. I.A. Ramanarayana Avadhani, Administrator, Sri Sringeri Mutt, Kudli village, Shimoga Taluk, have called for a detailed report on points urged in the Petition on the subject. The review petition is under the provisions of Section 21-A of Karnataka (Religious and Charitable) Inams Abolition Act, 1955. The main contentions of the petitioner are as under:

- 1) The applicant-Institution is of a status of Sringeri Mahasamsthanam having administrative control over 9 inam villages in Shimoga District having its branches at Chitradurga, Dharwar, Mysore and Bangalore Districts and therefore the amount of compensation awarded by the Ex-Special Deputy Commissioner, for I.A., Hassan, is meagre in any angle of view.
- 2) Full particulars of income derived by the Institution have not been furnished to the then Special Deputy Commissioner for consideration due to gross negligence of the Hon. Mutt Authorities.
- 3) The yield derived from wet lands measuring 3306 acres out of 5569 acres owned by the Mutt has not been considered for arriving basic Annual Income.
- 4) The income derived from Forests, Tanks etc., has not been taken for purpose of awarding compensation.
- 5) The proper verification of the available records has not been made before passing the award by the then Special Deputy Deputy Commissioner.

According to Government's notification No. RD.15 MIN 57 dt. 24.2.1959. nine Inam villages in this District viz., (1) Gavataru, (2) Machenahalli, (3) Kanasinakatte, (4) Gopagondanahalli, (5) Malalakoppa, (6) Settihalli, (7) Vallikeshapura, (8) Javalli and (9) Sanyasikoppa, were vested in Government under the provisions of Karnataka (Religious and Charitable) Inams Abolition Act, 1955, with effect from 1-4-1959. The then Special Deputy Commissioner, for Inams Abolition, Hassan Division, Hassan, in his order No. 49.Rc.Misc.Case No. 2-10/60/61 dated 1-9-1967 has awarded final compensation of Rs. 2815/- in respect of 6 villages to the Sringeri Mutt, Kudli, Shimoga Taluk taking into

consideration the income from lands from Kadim Tenants, permanent Tenants and minor Inams and the assessment thereof. Further, it has been stated in his order while awarding compensation that unless the Mutt Authorities show the income from Gutta in cash or kind in respect of land leased out of them was also taken over by Government, they were not entitled for Tasdik in respect of these leased lands.

Thus it could be seen that Tasdik awarded to the Mutt previously was based only on the Land Revenue Asst. The compensation on misc. items and on leased out lands has been left out without giving due consideration. It may be done to the failure or negligence on the part of the then Mutt Authorities for not furnishing the basic requirements to the then Special Deputy Commissioner for purposes of awarding compensation. The Mutt Authorities have now realised their mistake and have now come forward with details of income they were getting for reconsideration of the final award already passed, giving due consideration on the misc. income and income from leased out lands.

From the details now furnished such as Pahani Extracts, Title Deeds and Contract Deeds of 1945 and 1947, it is seen that the inam villages of the Mutt were having rich forest lands and Tanks and other natural resources which were good sources of income from misc. item to the Mutt. Apart from these misc. item, the income from wet land which is about 3306 acres in extent works out to Rs. 1,98,360/- per annum and income from other lands works out to Rs. 1,13,000-00 per annum as assessed by the Applicant.

As already stated, the Mutt was in possession of 5568 acres at the time of vesting to Government. The final compensation already awarded by the Special Deputy Commissioner in the year 1967 does not even work out one rupee per acre. Thus applicant's case is a fit case for reconsideration for the following reasons:

- 1) The vast extent of cultivated wet lands giving good returns to the Mutt by way of Gutta in kind or cash has not been previously (considered).
- 2) The abundant source of income from the misc. side has not been considered while awarding compensation.

Having due regard to the status of the "Moola Mutt" at Kudli, Shimoga Taluk, with its branches outside the District, the request of the applicant-institution requires reconsideration.

Section 21A of Karnataka (Religious and Charitable) Inams Abolition Act provides that the Deputy Commissioner Inam, suo motu, revise the Basic Annual sum, if he is satisfied, that the basic Annual sum already determined is not correct and requires to be revised with reference to a new and important matter which has come to his notice or on account of some mistake or error apparent on the face of the record or for any other sufficient reasons either by increasing or decreasing it, The applicant's case come well within the ambit of Section 21 -A

of the said Act and requires review of the final award already passed.

The Petition of Sri. I.A. Ramanarayana Avadhani for purpose of review of the final Award will be taken on file and disposed on merits u/s 21A of the said Act.

This is for favour of information of Government."

12. The Government having received that letter, which contained the report of the Special Deputy Commissioner, informed the Inamdar-Kudli Sringeri Mutt by its letter dated 12-4-1976, that it has asked the Deputy Commissioner to take necessary action in terms of his letter. Note contained in that letter itself read:

"Copy to the Special Deputy Commissioner, Shimoga, with a request to take necessary action as proposed in your letter No. INA (1) CR.37/75-76 dated 17-3-1976. The Petition subsequently received is also forwarded herewith."

13. Pursuant to the said instructions received by the Special Deputy Commissioner, Shimoga, he exercised the power of review conferred upon him u/s 21A of the Principal Act, as stood amended by the Amendment Act of 1969, and made an order on 5-5-1976 reviewing the earlier order dated 1-9-1967 which had been made u/s 21 of the Principal Act, after holding a further enquiry as provided for u/s 30 of the Principal Act. Because of the said order made u/s 21A by the Deputy Commissioner reviewing an earlier order made u/s 21, the Inamdar-Kudli Sringeri Mutt, the institution, became entitled to get the basic annual sum of Rs. 1,90,860/- plus Rs. 3,815/- in all Rs. 1,94,875/- as Tasdik allowance from 1-4-1959 during its existence, the same being the compensation payable u/s 19 of the Principal Act for all its rights, title and interest in the aforesaid nine Inam villages vested in the State under the Principal Act on 1-4-1959. Thus, the order dated 1-9-1967 of the Special Deputy Commissioner made u/s 21 got substituted by its order dated 5-5-1976 of the Special Deputy Commissioner made u/s 21 A.

13. However, the said order of the Special Deputy Commissioner made in exercise of his power of review u/s 21A of the Principal Act was appealed against by the State before the prescribed authority - Karnataka Appellate Tribunal, in an appeal preferred u/s 29 of the Principal Act, as it stood amended by the Amendment Act of 1969 in July 1979, after an inordinate delay of one year seventy eight days. But the Karnataka Appellate Tribunal, by its order dated 6.10.1978 made in the said appeal, Appeal No. 453/77 (IAS) found no good ground to condone the inordinate delay of one year seventy eight days, which had occurred in the filing of the appeal by the State. Yet, if having considered the merit of the Appeal, has found no substance. The Karnataka Appellate Tribunal has summed up its conclusion thus:

In the result, the appeal fails both on the grounds of limitation as well as merits, to the extent urged before us during the argument."

It is this order the validity of which is questioned by the State in its Writ Petition W.P.No. 2590/79, filed on 9.2.1979.

14. At this stage, State has thought of removing the very basis in the Principal Act by which Inamdars, Religious Institutions had become entitled to compensation for their Inams and Inam villages which had been long before abolished and vested in the State under the Principal Act and of nullifying the orders of adjudicatory authorities which had adjudicated upon the amounts of compensation payable to Inamdars, the Religious Institutions, in exercise of their judicial powers conferred under various provisions of the Principal Act as had stood amended by the Amendment Act of 1969. Karnataka Inams Abolition Laws (Amendment) Act, 1979 (for short the Amendment Act of 1979) is the legislation enacted by the State Legislature and brought into force for the said purpose on 1.5.1979. The Amendment Act of 1979 is reproduced:

"KARNATAKA ACT NO.26 OF 1979.

THE KARNATAKA INAMS ABOLITION LAWS (AMENDMENT) ACT, 1979.

An Act further to amend the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 and the Mysore (Religious and Charitable) Inams Abolition Act 1955.

Whereas it is expedient further to amend the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act 1 of 1955) and the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act 18 of 1955) for the purposes hereinafter appearing:

Be it enacted by the Karnataka State Legislature in the Thirtieth Year of the Republic of India as follows:

1. Short title and Commencement:- (1) This Act may be called the Karnataka Inams Abolition Laws (Amendment) Act, 1979.

(2) It shall come into force at once.

2. Amendment of Mysore Act 1 of 1955:- In the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954, (Mysore Act 1 of 1955).

(1) in section 2, in Sub-section (1), -

(a) in Clause (3), for the words, "not below the rank of a Deputy Commissioner" the words, "not below the rank of an Assistant Commissioner" shall be substituted:

(b) after Clause (15), the following clause shall be inserted, namely:

"(16) "Tribunal" means a Tribunal constituted u/s 48 of the Karnataka Land Reforms Act, 1961":

(2) in Section 10

(A) in the heading for the figures, letters and words "9 and 9A", the word and figures "and 9" shall be substituted:

(B) Sub-section (1), for the words "Deputy Commissioner" the word "Tribunal" shall be substituted and the words "or in respect of which any person claims to be continued as tenant u/s 9A" shall be omitted:

(C) in Sub-section (3),

-(a) in Clause (a),

(i) for the words "Deputy Commissioner" the word "Tribunal" shall be substituted:

(ii) in Sub-clause (i), for the words "one year" the words "six years", shall be and shall be deemed always to have been substituted:

(iii) in Sub-clause (ii), for the words "one year" the words "three years" and for the words "the inam concerned", the figures, letters and words "the inam concerned or 31st December 1979 whichever is latter" shall be and shall be deemed always to have been substituted.

(b) in Clause (b), at the end, the following shall be inserted, namely:-

"such land shall be disposed of in accordance with the rules relating grant of lands",

(c) after Clause (b), the following clause shall be inserted, namely:-

"(c) the provisions of Sections 48A, 48C And 112 of the Karnataka Land Reforms Act, 1961 and the relevant rules framed thereunder shall mutatis mutandis apply to an enquiry for determination of a claim under this Section and the decision of the Tribunal shall be final".

(3) in Section 10A, for the words " Deputy Commissioner" the words "Tribunal" shall be substituted:

(4) in Section 12, at the end, the following shall be inserted, namely:-

"Any dispute relating thereto shall be decided by the Tribunal and such decision shall be final".

(5) Section 20A, shall be and shall be deemed always to have been omitted:

(6) in Section 28, -

(a) for the heading, the following shall be substituted, namely:- "28. Appeal from orders u/s 11 .":-

(b) in Sub-section (1), the words and figure "Section 10 or" shall be omitted and for the figures "1969" the figures "1979" shall be substituted:

(c) Sub-section (2) shall be omitted,

(7) in Section 31, in Sub-section (1), the words, figures and letter "or Section 20A" shall be and shall be deemed always to have been omitted and for the figure "1969", the figures "1979" shall be substituted:

(8) for Section 32, the following Section shall be substituted, namely:-

"32. Enquiries by the Tribunal and the Deputy Commissioner, - (1) In respect of every enquiry under this Act by the Tribunal, the provisions of the Karnataka Land Reforms Act, 1961 applicable to enquiries by the Tribunals under the said Act shall mutatis mutandis apply and the decision of the Tribunal shall be final.

(2) In respect of every enquiry, under this Act, by the Deputy Commissioner, the provisions of the Karnataka Land Reforms [SIC: Revenue] Act, 1964, relating to summary enquiry shall apply as if such enquiry is a summary enquiry under the said Act.

(3) No legal practitioner shall be allowed to appear in any proceedings under this Act before the Tribunal or the Deputy Commissioner."

3. Amendment of Mysore Act 18 of 1955, - In the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act 18 of 1955),-

(1) in Section (2), -

(a) in Clause (3), for the words "not below the rank of a Deputy Commissioner", the words "not below the rank of an Assistant Commissioner" shall be substituted:

(b) after Clause (14), the following clause shall be inserted, namely:-

"(15) "Tribunal" means a Tribunal constituted u/s 48 of the Karnataka Land Reforms Act, 1961":

(2) in Section 9 -

(A) in Sub-section (i), for the words "Deputy Commissioner", the word "Tribunal" shall be substituted:

(B) in Sub-section (2)

(a) in Clause (a), -

(i) for the words "Deputy Commissioner", the word "Tribunal" shall be substituted:

(ii) in Sub-section (i), for the words "one year" the words "six years" shall be and shall be deemed always to have been substituted.

(iii) in Sub-clause (ii), for the words "one year" the word "three years" and for the words "the inam concerned", the word "the inam concerned on 31st December 1979 whichever is later" shall be and shall be deemed always to have been substituted:

(b) in Clause (b), at the end the following shall be inserted, namely, -

"such land shall be disposed of in accordance with the rules relating to granted lands";

(c) after Clause (b), the following clause shall be inserted, namely, -

"(C) The provisions of Section 48A, 48C and 112 of the Karnataka Land Reforms Act, 1961 and the relevant rules framed thereunder shall mutatis mutandis apply to an enquiry for determination of a claim under this Section and the decision of the Tribunal shall be final".

(3) in Section 9A, for the words "Deputy Commissioner" the word "Tribunal" be substituted:

(4) in Section 11, at the end, the following shall be inserted, namely :-

"Any dispute relating thereto shall be decided by the Tribunal and such decision shall be final."

(5) Section 16,17, and 18 shall be omitted:

(6) in Section 19, in Sub-section (1), for the words "the basic annual sum as a tasdik allowance", the words, "an amount equal to the amount that would have been payable to a religious or charitable institution under Clause (iii) of the second proviso to Section 51 of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1961 [SIC: 1962]) as if the inamdar were a land holder and his rights in the inam land had become extinguished and vested in the State Government u/s 44 of the said Act." shall be substituted:

(7) for Section 20, the following Section shall be substituted, namely:-

"20. Interim Payment:- After the date of vesting before the amount payable to the Inamdar concerned have been finally determined under Sub-section (1) of Section 19 the Government shall pay to the inamdar such sum as may be determined in the manner prescribed."

(8) Section 21 shall be omitted:

(9) Section 21A shall be and shall be deemed always to have been omitted:

(10) in Section 28, in Sub-section (2), for the words "tasdik allowance" the word "amount" shall be substituted:

(11) in Section 29, -

(a) in the heading the figure "9" and "21" shall be omitted and the words "and references to the prescribed authority" shall be omitted:

(b) in Sub-section (1), the figures "9" and "21" and the figures and letters "21A" shall be omitted and for the figures "1969" the figure "1979" shall be substituted:

(c) Sub-section (2) shall be omitted:

(12) For Section 30 the following Section shall be substituted, namely:-

"30. Enquiries by the Tribunal and the Deputy Commissioner,-(1) In respect of every enquiry under this Act by the Tribunal, the provisions of the Karnataka

Land Reforms Act, 1961 applicable to enquiries by the Tribunals under the said Act shall mutatis mutandis apply and the decision of the Tribunal shall be final.

(2) In respect of every enquiry under this Act by the Deputy Commissioner, the provisions of the Karnataka Land Revenue Act, 1964 relating to summary enquiry shall apply as if such enquiry is a summary enquiry under the said Act.

(3) No legal practitioner shall be allowed to appear in any proceedings under the Act before the Tribunal or the Deputy Commissioner".

4. Savings and pending proceedings:- (1) All applications relating to matters specified in Sub-section (1) of Section 10 of the Mysore Act 1 of 1955 and in Sub-section (1) of Section 9 of the Mysore Act 18 of 1955, -

(a) pending before the Deputy Commissioner immediately before the date of commencement of this Act shall, with effect from the said date, stand transferred to the concerned Tribunal and shall be disposed of by it as if they had been instituted and commenced before it,

(b) having been disposed of by the Deputy Commissioner are pending in appeal or revision, such appeal or revision shall be continued as if this Act had not been passed;

Provided that if the matter is remanded by the appellate or revisional authority it shall be heard and disposed of by the Tribunal.

(2) Every order made by a Deputy Commissioner prior to the commencement of this Act u/s 20A of the Mysore Act 1 of 1955 or u/s 21A of the Mysore Act 18 of 1955 or u/s 21A of the Mysore Act 18 of 1955 shall be null and void and shall have no effect.

Provided that nothing in this subsection shall affect the payment of any amount made in pursuance of such order prior to the commencement of this Act,"

15. For a proper appreciation of the precise changes which were sought to be brought about by the provisions of the Amendment Act of 1979, in the existing provisions of the principal Act as stood amended by the Amendment Act of 1969, it would be advantageous to refer to the gist of the material provisions of the Principal Act.

16. definition Clause (2) in Section 2 of the Principal Act refers to the date of vesting in the State of the minor Inams and Inam villages sought to be abolished under the Principal Act, as the date appointed by the notification issued by the State Government under Sub-section (4) of Section 1 of the Principal Act. Sub-section (1) of Section 3 of the Principal Act refers to various consequences flowing from the vesting of Inam and inam villages in the State as a result of issuance of notification by the Government under Sub-section (3) of Section 1 of the Principal Act. One of such consequences envisaged in Clause (b) of Sub-section (1) thereof is that all rights, title and interest vesting in the Inamdar including those in all communal lands, cultivated lands, uncultivated lands,

whether assessed or not, waste lands, pasture lands, forests, mines and minerals, quarries, rivers and streams, tanks and irrigation works, fisheries and ferries, shall cease and be vested absolutely in the State of Mysore, free from all encumbrances. A corresponding consequence, which is envisaged in Clause (h) of Sub-section (1) thereof, states that the Inamdar, whose rights have vested in the State of Mysore under Clause (b) shall be entitled only to compensation from the Government as provided in the Principal Act. What is such compensation, to which Inamdar becomes entitled from the Government as provided in the Principal Act, is stated in Section 19 of the Principal Act as the basic annual sum as a Tasdik allowance payable by the Government to the Inamdar every year so long as the institution exists. Then, as to what are the components of that basic annual sum having been specified in Section 17 of the Principal Act, Sections 14, 15 and 16 thereof indicate the method to be followed in the determination of such basic annual sum. Section 18 of the Principal Act refers to "jodi", etc. payable by the Inamdar to the State Government of his inam, which has to be deducted in determining the basic annual sum u/s 17 of the Principal Act. As to the person who should determine the basic annual sum payable as compensation u/s 19 of the Principal Act to the Inamdar for such Inamdar's Inam or Inam village vested in the State, as provided for in Sections 14 to 17, Section 21 specifies such person to be the Deputy Commissioner. According to Sub-sections (2), (3) and (4) of Section 21 thereof, it is the Deputy Commissioner, who is required to prepare the data on the basis of which he proposes to determine the basic annual sum, and determine the same by an order to be made by him after affording the Inamdar a reasonable opportunity of making a representation therefor. Section 21A of the Principal Act, as amended by the Amendment Act of 1969, invests in the Deputy Commissioner, who will have made an order u/s 21 determining the basic annual sum, the power of reviewing such order under any of the circumstances stated therein and to make an order thereunder revising the basic annual sum determined by him u/s 21, either by increasing or decreasing it. Section 29 of the Principal Act, as amended by the Amendment Act of 1969, invests in the Karnataka Appellate Tribunal the appellate power of revising such order of the Deputy Commissioner made either u/s 21 or Section 21A.

17. We shall now refer to the provisions of the Amendment Act of 1979 and specify the changes they had sought to bring about in the material provisions of the Principal Act.

18. By Sub-section (5) of Section 3 of the Amendment Act of 1979, Sections 16, 17 and 18 of the Principal Act are required to be omitted. By Sub-section (6) of Section 3 of the Amendment Act of 1979, the words "basic annual sum as a Tasdik allowance" in Sub-section (1) of Section 19 of the Principal Act are required to be substituted by the words "an amount equal to the amount that would have been payable to a religious or charitable institution under Clause (3) of the second proviso to Section 51 of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10/1961 [SIC: 1962]) as if the Inamdar were a land holder and his rights in the inam lands had become extinguished and vested in the State

Government u/s 44 of the said Act". Omission of Sections 16, 17 and 18 of the Principal Act brought about by Sub-section (5) of the Amendment Act of 1979 and substitution of the words "the basic annual sum as Tasdik allowance" in Sub-section (1) of Section 19 of the Principal Act by the words referred to by us earlier, are intended to bring about two changes, to wit, (i) to fix a fictional date of vesting of Inam or Inam villages in the State as 1-3-1974 as if they had vested u/s 44 of the Karnataka Act 10 of 1961 [SIC: 1962], even though those Inams and Inam villages had been vested in the State Government on 1-4-1959 - the appointed date specified in the Government notification issued under Sub-section (4) of Section 1 of the Principal Act; and (ii) to deny compensation to which Inamdars had become entitled u/s 19 of the Principal Act for their Inams or Inam villages vested in the State, even though such compensation had been determined by adjudicatory authorities in exercise of powers of adjudication vested in them under the provisions of the Principal Act as amended by Amendment Act of 1969, and, in its place, provide for payment of fictional amount of compensation under the second proviso to Section 51 of the Karnataka Act 10 of 1961 [SIC: 1962], as if the Inams and Inam villages had vested in the State under Karnataka Act 10 of 1961 [SIC: 1962]. By Sub-section (8) of Section 3 of the Act, Section 21 of the Principal Act is required to be omitted, so that the basic annual sum determined by the Deputy Commissioner thereunder, to which the Inamdar had become entitled u/s 19 of the Principal Act, may not be paid to the Inamdar, in that, the basic annual sum payable as compensation to the Inamdar, had been taken away under sub-sections (5) and (6) of Section 3 of the Amendment Act of 1979. By Sub-section (9) of Section 3, Section 21A of the Principal Act, as inserted by the Amendment Act of 1969, is required to be omitted so that the basic annual sum, the compensation to which the Inamdar had become entitled u/s 19 of the Principal Act in the event the Deputy Commissioner had reviewed his earlier order made u/s 21 of the Principal Act, may not be paid. By Sub-section (10) of Section 3 of the Amendment Act of 1979, Sections 21 and 21A are required to be omitted from Section 29 of the Principal Act as they had stood amended by the Amendment Act of 1969, so that the Inamdar may not, because of the appellate orders made u/s 29, in appeals from orders u/s 21 and 21 A, get the amount of compensation, to which he had become entitled u/s 19 of the Principal Act, for his Inam or Inam village vested in the State. By Section 4 of the Amendment Act of 1979, which provides for a consequence flowing from the amendments brought to the provisions of the Principal Act by Sub-sections (5) and (6) of Section 3 of the Amendment Act 1979, it is declared that an order made by the Deputy Commissioner u/s 21 -A of the Principal Act shall be null and void and shall have no effect. The other provisions found in the Amendment Act of 1979 are those which are made to provide for incidental or ancillary matters arising from removal of the basis of compensation for abolished Inams or Inam villages under the Principal Act as amended by Amendment Act of 1969 and providing a substituted basis therefor. Thus, all the provisions in the Amendment Act of 1979 constitute an integral legislative scheme for fresh vesting of Inams and Inam villages in the State and

taking away of compensation payable for Inamdars - religious and charitable institutions - under the Principal Act for their Inams and Inam villages abolished and vested in the State Government thereunder.

19. Kudli Sringeri Mutt - the Inamdar, which had become entitled to the compensation payable u/s 19 of the Principal Act for its nine Inam villages mentioned earlier, as determined by the order dated 5-5-1976 of the Special Deputy Commissioner, Shimoga, made u/s 21A of the Principal Act, as stood amended by the Amendment Act of 1969, reviewing his earlier order dated 1-9-1967 made u/s 21 of the Principal Act, and affirmed by the appellate order dated 6-10-1978 of the Karnataka Appellate Tribunal in the appeal of the State filed u/s 29 of the Principal Act as stood amended by the Amendment Act of 1969, when was made to lose such compensation by the provisions of the Amendment Act of 1979, the constitutional validity of that Amendment Act of 1979 has been questioned by filing the Writ Petition - W.P.No. 7230 of 1979, which is now under consideration.

20. However, during the pendency of the said Writ Petition of Kudli Sringeri Mutt - the Inamdar, the State Legislature, by enacting the Mysore (Religious and Charitable) Inams Abolition (Karnataka Amendment) Act, 1984 (for short "the Amendment Act of 1984") published in the Karnataka Gazette Extra-ordinary dated 7-6-1985, has sought to amend the Principal Act, which was amended by the Amendment Act of 1979, so as to restore it to the conditions in which it was before the Amendment Act of 1979.

21. The Amendment Act of 1984, for easy reference, is reproduced:

"1. Short title and commencement.-

(1) This Act may be called the Mysore (Religious and Charitable) Inams Abolition (Karnataka Amendment) Act, 1984.

(2) This section and Section 8 shall come into force at once and in remaining provisions shall be deemed to have come into force on the first day of May, 1984.
[SIC: 1979]

2. Insertion of new Sections 16, 17 and 18.-After Section 15 of the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act 18 of 1955) (hereinafter referred to as the Principal Act), the following sections shall be inserted, namely:

16. Basic annual sum.-- A sum called "the basic annual sum" shall first be determined in respect of the inam.

17. Component parts of basic annual sum of an inam.-- (1) The basic annual sum of an inam shall be the aggregate of the sum specified below, less the deductions specified in Section 18, namely:-

(i) the whole of the average net annual income derived by the inamdar during a period of five years immediately preceding the date of vesting from lands in

respect of which any person is entitled to be registered under Sections 4, 5 and 7;

(ii) the whole of the average net annual income derived by the inamdar during a period of five years immediately preceding the date of vesting from lands other than lands in respect of which any person is entitled to be registered under Sections 4,5,7 and 8:

Provided that,--

(a) the income from sandalwood or any other reserved forest produce shall not be included in the annual income from forest unless the right thereto was expressly conferred on the inamdar by a competent authority;

(b) the income from royalty on minerals or from mining leases shall not be included in the annual income unless the right to such minerals or mines was expressly conferred on the inamdar u/s 38 of the Land Revenue Code;

(c) the income from ferries shall not be included in the annual income unless the right to ferries was expressly granted to the inamdar by a competent authority;

(2) Where the particulars necessary to compute the average net annual income under Clause (ii) of Sub-section (1) are not available or appear in material respects to be incorrect, the computation may be made in such manner as may be prescribed.

(3) The provisions of Sub-section (1) shall in their application to a minor inam be subject to the modification that in Clause (i) and Clause (ii) the reference to Section 7 and Section 8 respectively, shall be omitted.

18. Jodi etc., to be deducted. - From the aggregate of the sums referred to in Clause (i) and (ii) of Sub-section (1) of Section 17, ascertained as aforesaid, there shall be deducted,-

(a) the whole of the Jodi, quit-rent or other amount, if any, or a like nature, payable annually by the inamdar;

(b) the annual remuneration payable to village officers at the scales prescribed by the Government by or under the Mysore Village Officers Act, 1906 where such officers were employed by the inamdar;

(c) the average annual cost of maintenance of irrigation works incurred by the inamdar during the period of five years immediately preceding the date of vesting;

(d) the average annual cost of management of the inam incurred by the inamdar during the period of five years immediately preceding the date of vesting."

3. Amendment of Section 19. - In Section 19 of the Principal Act, in Sub-section (1) for the words "an amount equal to the amount that would have been payable to a religious or charitable institution under Clause (iii) of the second proviso to

Section 51 of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962) as if the inamdar were a land holder and his rights in the inam lands had become extinguished and vested in the State Government u/s 44 of the said Act, the words, "the basic annual sum as a tasdik allowance" shall be substituted.

4. Insertion of new Section 21. - After Section 20 of the Principal Act, the following new Section shall be inserted, namely:-

"21. Deputy Commissioner to determine basic annual sum.-(1) The Deputy Commissioner shall determine in accordance with the foregoing provisions the basic annual sum in respect of the inam.

(2) any inamdar or other person interested may, within such time as may be prescribed or such further time as the Deputy Commissioner may in his discretion allow, apply in writing to the Deputy Commissioner, for a copy of the data on the basis of which he proposed to determine the basic annual sum.

(3) on the receipt of such application, the Deputy Commissioner shall furnish the data aforesaid to the applicant and he shall also, before passing any order under Sub-section (1), give the applicant, reasonable opportunity of making his representation in regard thereto in writing.

(4) a copy of every order passed under Sub-section (1) shall be communicated to every inamdar concerned, and also to every applicant under Sub-section (2)."

5. Amendment of Section 28.- In Section 28 of the principal Act, in Sub-section (2), for the words "amount" the words "tasdik allowance" shall be substituted.

6. Amendment of Section 29.- In Section 29 of the principal Act,-

(i) in the heading, for the words and figures "or 26" the figures and words, "21 or 26 and reference to the prescribed authority", shall be substituted;

(ii) in Sub-section (1), after the figures "10", the figures "21" shall be inserted;

(iii) after Sub-section (1), the following sub-section shall be inserted, namely:-

"(2) If any question arises whether any building or land falls within the scope of Sub-section (2) of Section 7 or Sub-section (2) of Section 8 or Section 11 it shall be referred to the prescribed authority whose decision shall be final."

7. Amendment of Section 30.- In Section 30 of the principal act, Sub-sections (2) and (3) thereof shall be renumbered as Subsection (3) and (4) and before the sub-section as so renumbered the following sub-section and proviso shall be inserted, namely:-

"(2) The Deputy Commissioner may, by general or special order authorise any officer not below the rank of a Tahsildar subordinate to him to hold enquiries on his behalf, under this Act:

Provided that the Deputy Commissioner may in respect of any enquiry held by

any such officer, direct such officer to hold a fresh or further enquiry or himself hold a fresh or further enquiry if in his opinion a fresh or further enquiring is necessary."

8. Savings.- (1) All applications u/s 21 of the principal Act and all appeals from orders under the said Section, pending immediately before the commencement of the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (Karnataka Act 26 of 1979) (hereinafter referred to as the said Act) and which had abated on the commencement of the said Act shall stand revived and shall be disposed of under the provisions of the principal Act, as if they had remained pending till the commencement of Section 1 of this Act.

(2) Appeals allowed by law against any decision of the Deputy Commissioner u/s 21, which, consequent to the enactment of the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (Karnataka Act 26 of 1979) could not be preferred, may be so preferred before the prescribed authority,-

(a) by the State Government within six months;

(b) by any person aggrieved by such decision within thirty days from the date of the commencement of this Act."

22. The said Amendment Act of 1984 is enacted to restore the basis on which the Inamdars - religious institutions - had become entitled to compensation for their abolished Inams or Inam villages, under the principal Act, by getting rid of the change of such basis that had been brought about by the Amendment Act of 1979, becomes clear from its provisions and their summary to be given here.

23. Section 3 of the Amendment Act of 1984 since states that the amendment brought by it to Sub-section (1) of Section 19 of the principal Act is a substitution, it has sought to restore Sub-section (1) of Section 19 of the principal Act to its condition as was before the Amendment Act of 1979. By Section 2 of the Amendment Act of 1984, Sections 16, 17 and 18 of the principal Act are inserted. The Sections so inserted, though in substance correspond to Sections 16 to 18 in the principal Act before they were omitted by Sub-section (5) of Section 3 of the Amendment Act of 1979, cannot be regarded as being in operation in the principal Act between the date on which the Amendment Act of 1979 has come into force and the date on which the Amendment Act of 1984 has come into force. Section 6 of the Amendment Act of 1984, though inserts Section 21 in Sub-section (1) of Section 29, cannot be regarded as being in operation between the date on which the Amendment Act of 1979 has come into force and the date on which the Amendment Act of 1984 has come into force.

24. This Amendment Act of 1984 is enacted by the State Legislature to get rid of its earlier Amendment Act of 1979, becomes obvious from the very Statement of Objects and Reasons appended to the Bill of Amendment Act of 1984, which read thus:

"The Mysore (Religious and Charitable) Inams Abolition Act 1955 (Mysore Act 18

of 1955) which came into force on 1st September 1955 was amended by the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (Karnataka Act 26 of 1979). The amendment which came into force with effect from 1st May 1979 altered the principle of payment of compensation payable to the inamdar (Religious Institutions) for all the rights vested in the State.

Prior to the amendment, as per Section 19 of the Principal Act, Government had to pay to the inamdar (Religious Institutions) every year so long as the Institution existed as compensation for all the rights of the inamdar vested in the State, the basic annual sum as a tasdik allowance determined by the Deputy Commissioner in accordance with the provisions of Sections 16 to 18 of the said Act. The basic annual sum represented the whole of the net average income derived by the Institution out of the lands during the period of 5 years preceding the date of vesting, less certain items like jodi, quit-rent, remuneration payable to the Village Officers towards realisation of land revenue, etc. The Act also provided for interim payment to the institutions enabling them to carry on the day to-day administration.

The amendment Act No. 26 of 1979 replaced the provision contained in Section 19 relating to payment of "Basic Annual Sum as a Tasdik Allowance". The amendment Act provides for payment of an amount equal to the amount that would have been payable to a religious or charitable institution under Clause (iii) of the second proviso to Section 51 of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962), as if the inamdar were a land holder and his rights in the inam lands had become extinguished and vested in the State Government u/s 44 of the Land Reforms Act.

These amendments reduced the amount payable to the institutions considerably and it became very difficult to manage their offices. Subsequently by Act 3 of 1982, the Karnataka Land Reforms Act was amended retrospectively substituting the second proviso to Section 51 and omitting Clause (iii) thereof.

It is considered necessary to amend the provisions of the Mysore (Religious and Charitable) Inams Abolition Act, 1955 and to restore Sections 16, 17, 18 and 19 of the Principal Act, as they existed prior to the coming into force of the Amendment Act 26 of 1979 on 1st May 1979 and to provide for payment of tasdik allowance.

Hence the Bill."

25. As the said Amendment Act of 1984 would be a superfluous Act, if the Amendment Act of 1979 itself is found to be a null, void and still-born Act, being a colourable piece of legislation as claimed on behalf of the Inamdar - Kudli Sringeri Mutt, the question which needs our consideration here would be - whether the Amendment Act of 1979 is a colourable piece of legislation as would render it a null, void and still-born Act.

26. Where a challenge to the validity of an Act is founded on the ground that it is

a colourable piece of legislation, what has to be proved to the satisfaction of the Court is that though the Act appears to be ostensibly within the legislative competence of the concerned Legislature, in substance and in reality it covers a field which falls outside such legislative competence, is well settled (JAORA SUGAR MILLS (P) LTD v. STATE OF MADHYA PRADESH AIR 1968 SC416). Therefore, if we are to hold that the Amendment Act of 1979 is a colourable piece of Legislation, it must be shown to our satisfaction that, that Act is enacted by the State Legislature without the necessary legislative power or competence though it is purported to have been enacted by the State Legislature as if it possessed of such legislative power or competence. The satisfaction that the Legislature which has enacted the Act did possess the legislative competence needed for enacting such Act, since could be obtained only if the field or subject of the Act is within its competence, it becomes necessary to examine the provisions of the Act as such to know the field or subject covered by them. We shall, therefore, endeavour to examine the provisions of the Amendment Act of 1979 to know whether the field or subject covered by them is Inam land or Inam village, respecting which State Legislature has legislated purporting to be the subject of agrarian reform or something other than Inam land or Inam village falling outside the subject of agrarian reform.

27. As has been pointed out by us earlier, Religious and Charitable Inams and Inam villages of which Religious or Charitable Institutions were the Inamdars, were sought to be abolished as a measure of agrarian reform of conferring absolute rights of ownership of agricultural lands comprised in Inams or Inam villages on the tillers of such lands, by the State Legislature enacting the principal Act and bringing it into force on 19-8-1955. Provisions in that principal Act not only provided for vesting of Inams and Inam villages in the State Government but also provided for payment of compensation to Inamdars for their Inams and Inam villages to be vested in the State Government according to claims for compensation to be adjudicated upon by the adjudicating machinery provided for under that Act. In fact, Religious and Charitable Inams which were to be abolished under the principal Act came to be vested in the State Government in the year 1959 itself by the State Government issuing the notifications envisaged in that Act. Coming to nine Inam villages of Kudli Sringeri Mutt, they came to be vested in the State Government on 1-4-1959 itself by a notification issued in that regard by the State Government. The amount of compensation which had become payable under the principal act for Kudli Sringeri Mutt, the Inamdar for its nine villages, vested in the State Government also came to be adjudicated upon in some measure by the adjudicatory machinery, namely, the Deputy Commissioner, as provided for in the principal Act itself, as it had happened in similar cases. Later, in the year 1969, the State Legislature having come to realise that the compensation determined by certain orders of the Deputy Commissioner made u/s 21 of the principal Act suffered from mistakes, errors apparent on the face of the record and like causes, enacted the Amendment Act of 1969 by inserting Section 21A into principal Act

so as to enable the Deputy Commissioner to review such orders relating to compensation made u/s 21 of the principal Act and also to enable the Inamdars or the State Government to take up such orders of the Deputy Commissioner made on review, in appeals before the Karnataka Appellate Tribunal, if either of them was aggrieved against such orders. In fact, the order by which the Deputy Commissioner had determined the compensation payable to Kudli Sringeri Mutt the Inamdar u/s 21 of the principal Act having been reviewed by the Deputy Commissioner in exercise of the power of review invested in him u/s 21A of the principal Act as amended by the Amendment Act of 1969, the State Government feeling aggrieved against that order made on review, filed an appeal respecting it before the Karnataka Appellate Tribunal u/s 29 of the principal Act as amended by the Amendment Act of 1969. However, that order of the Deputy Commissioner made on review is affirmed by the Karnataka Appellate Tribunal by dismissing the appeal of the State Government. There appears to be some other cases as well where such orders of the Deputy Commissioner relating to payment of compensation to Inamdars made u/s 21 of the principal Act, had come to be reviewed by him u/s 21A of the principal Act as amended by the Amendment Act of 1969. Thus when the Inams and Inam villages had been abolished and vested in the State Government under the principal Act entitling the Inamdars of such Inams and Inam villages to compensation as provided for, and, further when the adjudicating authorities set up under the principal Act of 1969 had finally adjudicated upon the claims of Inamdars for such compensation, the Amendment Act of 1979 has been enacted by the State Legislature and the same is sought to be brought into force, as has been stated by us earlier.

28. We shall now examine the provisions of the Amendment Act of 1979 to know whether the field or subject sought to be covered by them relate to abolition of Inams and Inam villages the subject or field or agrarian reform falling within the competence of the State Legislature under Entry 18 of State List of Schedule VII to the Constitution.

29. The provision in Section 3(6) of the Amendment Act of 1979 being the main provision thereunder, we have to examine it to know the subject or field intended to be covered by it, though the subsidiary provisions in other Sections of that Act are to be examined to know if they are intended to cover matters ancillary or incidental to such subject or field. For such examination, it would be advantageous to reproduce Section 3(6):

"3. Amendment of Mysore Act 18 of 1955,-

In the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act 18 of 1955) ,-

(1) to (5).....

(6) in Section 19, in Sub-section (1) for the words "the basic annual sum as tasdik allowances", the words "an amount equal to the amount what would have been payable to a religious or charitable institution under Clause (iii) of the

second proviso to Section 51 of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1961 [SIC: 1962]) as if the inamdar were a land holder and his rights in the inam lands had become extinguished and vested in the State Government u/s 44 of the said Act", shall be substituted.

(7) & (8)

30. Subject dealt with in the said sub-section, as appears therefrom, is the abolition of Religious and Charitable Inam or Inam villages which comprised of agricultural lands as well, notwithstanding the fact that such Inams and Inam villages had been abolished and vested in the State under the principal Act, as early as in the year 1959 itself, and the Religious and Charitable Institutions - the Inamdars, to which those Inams and Inam villages belonged, had become entitled to the amounts of compensation payable therefore and the amount payable therefore under the principal Act had also been adjudicated upon by the adjudicatory authorities under the principal Act as amended by the Amendment Act of 1969. The subject dealt with in the sub-section, therefore, in substance and in reality is the confiscation by the State of the compensation payable to the Inamdars under the principal Act for their Inams and Inam villages vested in the State in the year 1959, Sub-section (6) of Section 3 of the Amendment Act of 1979 has thus envisaged the confiscation of the compensation payable under the principal Act to the Inamdars for their Inams or Inam villages vested in the State, in the guise of changing the basis of compensation provided under the principal Act on the legal fiction created to the effect that the Inams and Inam villages of the Inamdars must be regarded as vested in the State on 1-3-1974 under the Karnataka Land Reforms Act, 1961. What we have stated hereinbefore, to be the, real subject or field covered by Sub-section (6) of Section 3 of the Amendment Act of 1979, becomes manifest and indisputable because of what is stated in the Statement of Objects and Reasons to the Bill of the Amendment Act of 1984, itself which we have excerpted already. Hence, we are not left in doubt that the State Legislature which had no competence to legislate on the subject of lands in Inams or Inam villages for the purpose of agrarian reforms after it had legislated on that subject under the Principal Act," could have enacted Sub-section (6) of Section 3 of the Amendment Act of 1979 respecting self- same Inams or Inam villages, otherwise than in the guise of or under the pretence of making a law under the Amendment Act, 1979, as if for the abolition of Inams and Inam villages and paying compensation therefor. The view we have taken of Sub-section (6) of Section 3 of the Amendment Act of 1979 receives full support from the observations of our Supreme Court in Mohd. Shaukat Hussain Khan Vs. State of Andhra Pradesh, made while dealing with an Act of Andhra Pradesh State Legislature purporting to legislate on Inams already abolished and vested in the State, resulting in denial to Inamdars of such Inams the compensation to which they had become entitled under an earlier Act, thus:

"In the case before us, it has attempted to do something which the Legislature could not do namely to abolish inams which did not exist and which had already

vested in the Government and which the Legislature could not abolish again. In these circumstances, the repeal of an enactment, which had already been given effect was a device for depriving the Inamdars whose rights had been abolished, of their right of compensation and was accordingly struck down as still-born, null and void, as such unconstitutional from the inception and cannot have the effect as if it had repealed the previous Acts. On this analysis the provisions of Act 8 of 1955 as amended by Act 10 of 1956 could not be held to have been repealed at all, and therefore they are in existence."

31. Provisions is Sub-section (6) of Section 3 of the Amendment Act of 1979 when is thus found to cover a subject which was beyond the Legislative competence of State Legislature, we have to regard that provision as a colourable legislation and a null, void and still-born provision.

32. When we come to the other provisions in the Amendment Act of 1979, Sub-section (5) of Section 3 thereof seeks to omit Sections 16, 17 and 18 of the principal Act relating to determination of compensation thereunder for giving effect to the change in the basis of compensation envisaged in Sub-section (6) thereof and hence it is an ancillary provision to that sub-section. Sub-sections (8), (9) and (11) of Section 3 thereof when seek to omit Sections 21, 21A and 29 of the principal Act, by which adjudicatory powers were invested in Adjudicating Authorities created thereunder, of adjudicating upon the amounts of compensation payable to Inamdars for their Inams or Inam villages under the principal Act, the same have to be regarded as ancillary provisions of sub-sections (5) and (6) of Section 3 of the Amendment Act of 1979, made to deny the compensation payable thereunder to the Inamdars due to the change in the basis of compensation envisaged under sub-sections (5) and (6) of Section 3 of the Amendment Act of 1979. Sub-section (2) of Section 4 of the Amendment Act, 1979 seeks to declare the orders made by the Deputy Commissioner u/s 20A of the principal Act as null and void and of no effect, in that such orders could not have stood as those enforceable when the basis on which compensation was fixed by them was lost. All other provisions found in Sections 2, 3 and 4 of the Amendment Act of 1979 are those which are also intended to effectuate the change of basis of compensation payable to Inamdars for their Inams or Inam villages sought to be brought about under Sub-section (6) of Section 6 of the Amendment Act of 1979. As all these provisions in Sections 2, 3 and 4 of the Amendment Act, 1979 along with Sub-section (6) of Section 3 of that Act constitute an integral legislative scheme envisaged by the Legislature for carrying out its object of denying the compensation payable to the Inamdars for their Inams and Inam villages under the principal Act, the Amendment Act of 1979 itself has to be regarded as an Act covering a subject of legislation which was beyond the competence of State Legislature and a colourable legislation.

33. From what we have stated hereinbefore, it follows that the Amendment Act, 1979 is a still-born, null and void Act which did not by its provisions, in any way affect the continued existence and validity of the provisions of the principal Act.

Thus if there was no permissible change brought about in the provisions of the principal Act by the provisions of the Amendment Act of 1979, the Amendment Act of 1984 by which the provisions of the principal Act are sought to be restored to the condition in which they were before they were sought to be changed by the Amendment Act of 1979, has to be inevitably regarded as a superfluous Act, in that, no option is left to us.

34. As the stand taken by the learned Advocate General in resisting the Writ Petition of the Inamdar - Kudli Sringeri Mutt was that we should confine our examination in the instant case to the constitutional validity of Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, in that, the Amendment Act of 1984 enacted by the State Legislature after the filing of the Writ Petition by the Inamdar had itself nullified all other provisions of the Amendment Act of 1979, by restoring the main provisions of the principal Act sought to be amended thereby, and dismiss the Writ Petition of the Inamdar by upholding the constitutional validity of those two provisions, we shall consider here the sustainability or otherwise of such stand.

35. In considering the constitutional validity of the Amendment Act of 1979 we have already pointed out that Sub-section (6) of Section 3 therein is the main provision which provides for fresh vesting of Inams and Inam villages, and for payment of compensation therefore and all other sub-sections of Section 2, 3 and 4 therein including Sub-section (9) of Section 3 and Sub-section (2) of Section 4 therein are subsidiary (incidental or ancillary) provisions intended to effectuate the object sought to be achieved by that main provision. We have also pointed out in that context, as to how all the provisions in the Amendment Act of 1979 are in integral legislative scheme envisaged to take away the compensation payable to Inamdars under the principal Act for their Inams and Inam villages vested thereunder in the State providing for fresh fictional vesting of non-existing Inams and Inam villages in the State and fresh payment of notional compensation to Inamdars therefor. We have further pointed out on a thorough examination of the provisions of the Amendment Act of 1979 that the State Legislature which did not have the legislative competence to legislate, respecting non-existing Inams and Inam villages, had since enacted the Amendment Act of 1979 thereto, that Act was still-born, void and invalid.

36. If the Amendment Act of 1979 as a whole is a still-born, void and invalid Act, as has been pointed out by us, the same with all its provisions has to be struck down as a colourable piece of Legislation. Such being the position, Sub-section (9) of Section 3 of the Amendment Act, 1979, by which provisions empowering the review of orders relating to compensation payable to Inamdar under the principal Act was omitted, and of Sub-section (2) of the Amendment Act of 1979 by which orders made on review under the principal Act are declared null, void and of no effect, forming an integral part of the Amendment Act of 1979, cannot be served and regarded as those surviving for our consideration independently of the other provisions of that Act. Hence, question of considering their

constitutional validity independent of the other provisions of the Amendment Act of 1979 cannot arise merely because by the Amendment Act of 1984 main provision and several subsidiary provisions in the Amendment Act of 1979 are sought to be nullified on the supposition that it was a valid Act and not a still-born one as we have held.

37. However, without prejudice to what we have said of the non-survival of Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979 for examination by us of their constitutional validity, we shall examine their constitutional validity as if those were the only two provisions enacted by the State Legislature in the Amendment Act of 1979, in the light of the submissions made in that regard by the learned Advocate General and the Decisions of the Supreme Court relied upon in support thereof.

38. As there cannot be an effective examination of the constitutional validity of Sub-section (9) of Section 3 and sub-section (2) of Section 4 of the Amendment Act, 1979 without a proper understanding of the purpose sought to be achieved in omitting to nullify those two provisions alone by the Amendment Act of 1984, while all other provisions in the Amendment Act of 1979 were not sought to be nullified thereby, it would be advantageous to identify that purpose before taking up the examination of their constitutional validity.

39. Inams and Inam villages in the erstwhile State of Mysore belonging to Religious and Charitable Institutions became the subject of agrarian Reform Legislation enacted by the then State as early as in the year 1955 in the form of Principal Act. Those Inams and Inam villages having come to be vested by the year 1959 itself, their Inamdars Religious and Charitable Institutions, became entitled by way of compensation for a basic annual sum called Tasdik allowance, to be adjudicated upon by the adjudicatory machinery, all according to the provisions of the Principal Act. When the Deputy Commissioners who were invested u/s 20 of the Principal Act with the power of adjudicating upon the amount of compensation-Tasdik allowance" payable to each Religious and Charitable Institutions for its lost Inams and Inam villages, were found not to have properly adjudicated upon such amount of compensation, the State Legislature, by enacting the Amendment Act of 1969, inserted into the Principal Act Section 21-A investing in the Deputy Commissioners the power of reviewing their earlier orders made u/s 21 and correcting them, at the same time amending Section 29 so as to enable the aggrieved party including the State Government to question the correctness of the order of the Deputy Commissioner made u/s 21-A in an appeal to be preferred before the Karnataka Appellate Tribunal. When at the instance of the State Government itself the order dated 1-9-1957 made by the Deputy Commissioner u/s 21 of the Principal Act fixing a meagre amount of compensation-Tasdik allowance" for Kudli Sringeri Mutt for its nine Inam villages, was reviewed by the Deputy Commissioner in exercise of his newly invested power of review u/s 21-A of the Principal Act as amended, an order dated 5-5-1976 was made by him in substitution of his

earlier order dated 1-9-1967. Though the State preferred an appeal therefrom before the Revenue Appellate Tribunal, that order in review appealed against was affirmed by the Revenue Appellate Tribunal by its order dated 6-10-1978. The non-success of the State in appeal appears to be the ultimate cause for the State Legislature to enact the Amendment Act of 1979 for vesting of Inams and Inam villages of Religious and Charitable institutions already vested in the State, over again under a legal fiction created for such vesting and fixation of compensation giving a go by to the earlier orders of compensation made by the Adjudicating Authorities under the Principal Act as amended by the Amendment Act of 1969. However, what was sought to be done by enacting the Amendment Act of 1979 was not a right thing done, becomes clear from the very Statement of Objects and Reasons annexed to the Bill of the Amendment Act of 1984, which has sought to nullify the Amendment Act of 1979 and restore the provisions of the Principal Act, on the plea that the Amendment Act of 1979 has reduced the amount payable to the institutions considerably and it became very difficult to manage their offices. Though the Amendment Act of 1984 is enacted with the avowed object of saving the Religious and Charitable Institutions from their extinction, it has, as if designedly, left untouched Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act, 1979, which read thus:

"3. Amendment of Mysore Act 18 of 1955.- In the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act 18 of 1955)-

(1).....

(9) Section 21A shall be and shall be deemed always to have been omitted;

4. Savings and pending proceedings. -

(1).....

(2) Every order made by a Deputy Commissioner, prior to the commencement of this Act u/s 20A of the Mysore Act 1 of 1955 or u/s 21A of the Mysore Act 18 of 1955 shall be null and void and shall have no effect."

40. For the facility of consideration of the matter by us, Section 21A of the Principal Act (Mysore Act 18 of 1955) is excerpted, though a repetition:

"21-A Review by the Deputy Commissioner. - If at any time after the determination of the basic annual sum u/s 21, the Deputy Commissioner is satisfied that the basic annual sum so determined was not correctly determined and requires to be revised with reference to any new and important matter which has since come to his notice or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, he may, suo motu, revise the basic annual sum determined by him u/s 21, either by increasing or decreasing it;

Provided that in cases where such revision involves a decrease in the basic annual sum determined, the person or persons affected shall be given a

reasonable opportunity of making representation in regard thereto, in writing or orally."

41. What cannot be hidden from the facts adverted to by us herein before, is that the enacted Amendment Act of 1979 with its provisions in Section 3(9) and Section 4(2), has sought to nullify and annihilate the order of the Deputy Commissioner made u/s 21A of the Principal Act on 5-5-1976 reviewing his earlier order dated 1-9-1967 made u/s 21 thereof and thus deny the amount of compensation-"Tasdik allowance" made payable thereunder to Kudli Sringeri Mutt for its nine Inam villages abolished and vested in the State in the year 1959 under the Principal Act.

42. Keeping in view the said situation which prevailed when the Amendment Act of 1979 was enacted, we shall now proceed to examine the constitutional validity of Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, as sought for by the learned Advocate General.

43. Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act, 1979, if are regarded as valid, they would nullify the orders of the Deputy Commissioner made in exercise of his powers of review u/s 21A of the Principal Act, leaves no room for doubt. If so, Religious and Charitable Institutions which had become entitled to compensation for their lost Inam villages by reason of the orders of the Deputy Commissioner u/s 21A of the Principal Act, will be denied such compensation in its entirety, cannot be disputed. Even if Section 21 of the Principal Act is regarded as surviving because of the Amendment Act of 1984, the Religious and Charitable Institutions cannot have the benefit of an order for compensation made by the Deputy Commissioner under that Section because of its annihilation due to the order made by the Deputy Commissioner in exercise of his power of review u/s 21A of the Principal Act, cannot admit of any controversy. Thus, when Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, are provisions enacted by the State Legislature to deprive the amount of compensation payable to Religious and Charitable Institutions under the Principal Act, they cannot be regarded as provisions made by the State Legislature on the subject of agrarian reform as would have given it the necessary Legislative competence. So also, they cannot be regarded as provisions made without infringing Article 31(2) of the Constitution when they take away the money compensation which had become payable to Religious and Charitable Institutions under the Principal Act. Further, they cannot be regarded as provisions made to invalidate the judicial orders made by the Deputy Commissioner u/s 21-A of the Principal Act when where was no Legislation made to change the basis on which such orders were made.

44. The submission of the learned Advocate General was that Subsection (9) of Section 3. and Sub-section (2) of Section 4 of the Amendment Act of 1979 are to be regarded as those enacted by the State Legislature on the topic of agrarian reform, a protected legislation under Article 31A of the Constitution covered by

the Principal Act, in that, the Supreme Court in *S. Thenappa Chettiar and Others Vs. State of Tamil Nadu*, has regarded the topic of Tamil Nadu Act 30 of 1969 as agrarian reform, a protected legislation under Article 31A of the Constitution. This submission, in our view, is devoid of substance.

45. As already pointed out by us relying on the Decision of the Supreme Court in *Mohammed Shaukat Hussain Khan's case (supra)*, the topic of the Legislation under the Amendment Act of 1979 inclusive of its Sub-section (9) of Section 3 and Sub-section (2) of Section 4 is not the topic of agrarian reform, in that, the topic dealt with thereunder was the non-existing Inams and Inam villages. Even if the topic of legislation covered in Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979 is considered as the whole Amendment Act of 1979, the topic of its legislation, at the best, would be the topic relating to deprivation of compensation which had become payable to Institutions under the Principal Act for their extinguished Inams and Inam villages. If so, the same cannot be regarded as a topic with regard to which the State Legislature had competence to legislate under the guise of agrarian reform. Therefore, what we have stated regarding the competence of the State Legislature in having enacted the Amendment Act of 1979 equally holds good respecting the provisions in Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979. This situation makes us treat the said provisions in Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979 as those which are still-born, null and void.

46. In *Thenappa Chettiar's case (supra)*, the Supreme Court has no doubt examined the constitutional validity of the Tamil Nadu Amendment Act 30 of 1969 by which part Inam villages of Pudukottai which had fallen earlier within the purview of the Madras Minor Inams (Abolition and Conversion into Raitwari) Act, 1963 (Madras Act 30 of 1963), but later brought within the purview of Tamil Nadu Inams (Estates Abolition and Conversion into Raitwari) Act, 1963 (Tamil Nadu Act 26 of 1963) by including them in Schedule I-A of that Act. Such examination had become necessary as the appellants, who had obtained Ryotwari Patlas for their lands in part inam villages of Pudukottai under the Madras Act 30 of 1963 raised the question of competence of the Tamil Nadu State Legislature in taking away such lands from the purview of Madras Act 30 of 1963 and putting them in Schedule I-A of the Tamil Nadu Act 26 of 1963 for bringing them within the purview of the latter Act. While answering that question, the Supreme Court has observed in paragraph-9 thus:

"A reading of the provisions of Act 26 of 1963 clearly establishes that it was intended to bring about agrarian reform in the State of Tamil Nadu in respect of the estates which were included in Schedule 1A which included the lands of the appellants also. It may be observed here that even granting for purposes of argument that the lands in question were ryotwari lands they would still come within the definition of the expression estate given in Clause (2) of Article 31A of the Constitution. After the 17th Amendment of the Constitution the expression

"estate" for purposes of Article 31A included within its scope (i) any jagir, inam or muafi or other similar grant and in the State of Tamil Nadu and Kerala, any janam right; (ii) any land held under ryotwari settlement; and (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans and the expression rights in relation to an estate, included any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under raiyat or other intermediary and any rights or privileges in respect of land revenue."

As seen from the above observations of the Supreme Court, what becomes obvious is that the Supreme Court has regarded the topic of legislation covered by the Tamil Nadu Amendment Act of 1969 as agrarian reform. But, the topic of legislation under the Amendment Act of 1979 with which we are concerned, cannot be regarded to be the topic of agrarian reform as we have already pointed out, in that, there were no lands at all of the Religious and Charitable Institutions for being legislated upon as a measure of agrarian reform at the time that legislation was made. In *Thenappa Chettiar's case* (supra), it is the lands of part-Inam villages of Pudukkottai which were put by the Tamil Nadu State Legislature by Tamil Nadu Amendment Act 30 of 1969 in Schedule 1 -A of the Tamil Nadu Act 26 of 1963, for the purpose of being dealt with as a measure of agrarian reform. Hence, the submission of the learned Advocate General that the provisions in Section 3(9) and Section 4(2) of the Amendment Act of 1979 are an agrarian reform measure of the State Legislature, must fail.

47. We shall now turn to the challenge directed against the constitutional validity of the Amendment Act of 1979 and its provisions -Sections 3(9) and 4(2) as those which infringe Article 31(2) of the Constitution. As we have held that the provisions of the Amendment Act of 1979 are not protected as an agrarian reform legislation under Article 31A of the Constitution, there can be no bar to its challenge as infringing Article 31(2) of the Constitution, in that, the Amendment Act of 1979 had admittedly come into force prior to the amendment to the Constitution by the 44th Amendment Act, 1978, viz., 20-6-1979, by which date Article 31(2) was deleted. Article 31(2) of the Constitution as it stood when Amendment Act of 1979 was enacted, reads thus:

"No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisition of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any Court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash."

48. As pointed out by us earlier, the amounts of compensation which were payable to certain Religious and Charitable Institutions under the Principal Act for

their Inams and Inam villages vested in the State, were adjudicated upon under that Act by the Deputy Commissioner by their orders made in exercise of powers of review expressly invested in them u/s 21A of that Act. Wherever such orders were made by the Deputy Commissioners in exercise of their power of reviewing their earlier orders made u/s 21 of the Principal Act, the earlier orders got annihilated and the orders made in their places by the Deputy Commissioners u/s 21A thereof alone survived. It is those orders which enabled the Inamdars-Institutions to recover the compensation payable to them under the Principal Act as Tasdik allowance. By Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, when such orders made by the Deputy Commissioners in exercise of their powers of review u/s 21A of the Principal Act were sought to be nullified, the same resulted in deprivation to the Inamdars-Institutions the amounts of compensation, to which they had become entitled under the orders of the Deputy Commissioners. Such deprivation of the amounts of compensation to Inamdars-Institutions when was made by legislation, such legislation, without doubt, infringes Article 31(2) of the Constitution, in that, such legislation would result in confiscation by the State of the amounts of compensation which belonged to Inamdars-Institutions (See: State of Madhya Pradesh Vs. Ranojirao Shinde and Another,

49. The other submission of the learned Advocate General was that when the State Legislature, by enacting Sub-section (9) of Section 3 in the Amendment Act of 1979, had retrospectively omitted Section 21A of the Principal Act which provided for review by the Deputy Commissioner of his orders made u/s 21 of the Principal Act, such orders made by the Deputy Commissioner u/s 21A of the Principal Act have stood invalidated.

50. According to the learned Advocate General, power of review by the Deputy Commissioner of his orders made earlier determining the amount of compensation, when was vested in him by the Amendment Act of 1969 by inserting in the Principal Act Section 21 A," it cannot be said that the Legislature could not have retrospectively deleted that Section 21A by enacting Sub-section (9) of Section 3 of the Amendment Act of 1979 for obliterating the orders of the Deputy Commissioner made u/s 21 -A. What was sought to be maintained by him was that the State Legislature when had, by enacting Sub-section (9) of Section 3 in the Amendment Act of 1979, retrospectively deleted Section 21A from the Principal Act the provision under which the Deputy Commissioner had made the review orders, that Legislature must be regarded to have removed the basis of review orders and invalidated them, though such orders were by way of abundant caution invalidated by Sub-section (2) of Section 4 in the Amendment Act of 1979. He sought to obtain support for his submission from the Decisions of the Supreme Court in Jyoti Prokash Mitter Vs. Hon"ble Mr. Justice Himansu Kumar Bose, Chief Justice, High Court, Calcutta and Another, Sunder Dass Vs. Ram Prakash, and S. Thanappa Chettiar v. State of Tamil Nadu³. We are unable to accept the submission of the learned Advocate General as propounded by him nor are we able to find any support for his submission from the Decisions of the

Supreme Court on which he heavily relied, for the reasons which we shall presently state.

51. Orders made by the Deputy Commissioners u/s 21A of the Principal Act by reason of judicial power of review expressly invested in them under that Section, are judicial decisions, cannot be disputed. How judicial Orders or Decisions or Judgments rendered by competent Courts or Tribunals in due exercise of the judicial or adjudicatory powers invested in them under a Legislative enactment could be made ineffective, is well known. In the authoritative pronouncement of the Supreme Court in *NARAYANA SAKSENA v. STATE OF MADHYA PRADESH* AIR 1976 SC 2250 as to how a competent Legislature can make the judicial Decisions, Judgments or Orders of Courts or Tribunals ineffective is exhaustively dealt with and explained thus:

".....the legislature cannot by a bare declaration, without more, directly over-rule, reverse or override a judicial decision, it may, at any time in exercise of the plenary powers conferred on it by Articles 245 and 246 of the Constitution render a judicial decision ineffective by enacting a valid law on a topic within its legislative field fundamentally altering or changing with retrospective, curative or neutralising effect the conditions on which such decision is based.

The rendering ineffective of judgment or orders of competent Courts or Tribunals by changing their basis by legislative enactment is a well known pattern of all validating Acts....."

51. When we see Sub-section (9) of Section 3 of the Amendment Act of 1979, all that has been done by it is to omit retrospectively Section 21A of the Principal Act, which, according to the learned Advocate General, has the effect of making the orders made u/s 21A ineffective. When we see Sub-section (2) of Section 4 of the Amendment Act of 1979, it declares the orders made u/s 21A as null, void and ineffective. What is done by the State Legislature by enacting Sub-section (9) of Section 3 and Sub-section (2) of Section 4 in the Amendment Act of 1979, to get over judicial orders made by Deputy commissioners u/s 21A, if those provisions are treated as those independently enacted as was sought by the learned Advocate General, is what the Supreme Court, in *Narayana Saksena's* case (*supra*), has said to be an impermissible course for the State Legislature to adopt in achieving the object sought to be achieved by it. Probably the State Legislature when enacted Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, could not have intended that they should, by themselves, make the orders rendered u/s 21A of the Principal Act ineffective as is now thought of by the learned Advocate General, in that, by enacting Sub-section (6) of Section 3 of the Amendment Act of 1979, the basis on which amounts of compensation payable to Institutions-Inamdars under the Principal Act with reference to which orders were rendered by the Adjudicatory Authorities under the Act, had itself been changed. But, when Sub-section (6) of Section 3 in the Amendment Act of 1979, even according to the learned Advocate General, cannot be regarded as having come into existence, we are

unable to think that sub- section (9) of Section 3 of the Amendment Act of 1979, by which Section 21A is omitted retrospectively, has in any way changed the basis on which compensation was fixed by the Deputy Commissioner u/s 21A of the Principal Act. If so, the said Sub-section (9) of Section 3 cannot make the orders of the Deputy Commissioner made in exercise of his powers of review u/s 21A of the Principal Act in any way void or ineffective though the learned Advocate General strongly felt that by deletion of Section 21A from the Principal Act, the basis of the orders made thereunder was removed by the State Legislature.

52. In Jyoti Prakash's case(supra), the scope and ambit of Clause (3) of Article 217 inserted into the Constitution by the Constitution (Fourteenth Amendment) Act, 1963, and made thereunder retrospective, came up for consideration before the Supreme Court. By that clause, question relating to the age of a High Court Judge, if arose, was made the subject of decision of the President of India. In dealing with an argument of the Attorney General respecting the Decision of the Punjab High Court made in a Writ Petition deciding the question of age of the Judge concerned, it was observed by the Supreme Court thus;

"This argument is obviously misconceived. First and foremost, if Article 217(3) is retrospective in operation, any decision of the Court on this question must be deemed to be without jurisdiction, because from January 26, 1950 itself this question must be deemed to have fallen within the exclusive jurisdiction of the President."

At an earlier stage, the Supreme Court, while dealing with the retrospective operation of Clause (3) of Article 217, had observed thus:

"The retrospective operation of this provision postulates that this provision must be read in the Constitution as from January 26, 1950; and so, it will apply even in regard to the determination of the ages of Judges of High Courts who had been appointed to their Office before the actual provision was inserted in the Constitution by the Amendment Act of 1963. This provision vests the jurisdiction to determine the question about the Judge's age exclusively in the President, and so, it follows that in the presence of this provision, no Court can claim jurisdiction to deal with the said question. It is true that before this provision was inserted in the Constitution, the question about the age of a sitting Judge of a High Court could have been theoretically brought before the High Court in a proceeding by way of writ for Quo Warranto under Article 226. But, now there can be no doubt that the question about the age of a Judge of a High Court has to be determined only in one way, and that is the way prescribed by Article 217(3)."

Based on the said observations of the Supreme Court, the learned Advocate General wanted us to hold that Sub-section (9) of Section 3 of the Amendment Act of 1979, which omitted retrospectively Section 21A of the Principal Act with the constitutional validity of which we are concerned in the instant case, was

valid.

53. We are unable to see how the observations of the Supreme Court made in Jyoti Prakash's case (supra) can be used to validate Sub-section (9) of Section 3 of the Amendment Act of 1979, which we have held is a colourable piece of legislation and is that which offends Article 31(2) of the Constitution. It does not change the authority empowered to exercise the power of review as has been done in Jyoti Prakash's case (supra). On the other hand, it has the effect of directly overruling the judicial orders made u/s 21A of the Principal Act. Thus, the said observations of the Supreme Court in Jyoti Prakash's case (supra), cannot be of any assistance to the learned Advocate General in his attempt to sustain the validity of Sub-section (9) of Section 3 of the Amendment Act of 1979.

54. Sundar Dass v. Ram Prakash is the Decision of the Supreme Court on which reliance was placed by the learned Advocate General to support his submission that Sub-section (9) of Section 3 of the Amendment Act of 1979 enacted by the State Legislature retrospectively omitting Section 21A from the Principal Act had obliterated the review orders of the Deputy Commissioner made thereunder. We are unable to see how the said Decision could support the submission of the learned Advocate General.

55. The Supreme Court was concerned in that Decision with an eviction decree made by a Civil Court, which was affirmed by both the District Court and the High Court. That eviction decree related to a Government premises which fell outside the purview of the Delhi Rent Control Act, 1958. Before that eviction decree could be put into execution for recovering possession of Government premises concerned therein, Section 3 of the Delhi Rent Control Act, 1958, was amended to bring within its purview retrospectively all Government premises including that covered by the said eviction decree, by adding a proviso to Section 3 thereof, thus:

"Provided that where any premises belonging to Government have been or are lawfully let by any person by virtue of an. agreement with the Government or otherwise, then, notwithstanding any judgment, decree or order of any Court or other authority, the provisions of this Act shall apply to such tenancy."

When by the enactment of the said proviso, the Delhi Rent Control Act 1958, took within its purview the premises belonging to the Government retrospectively, the eviction decree which had been made by the competent Civil Court was rendered ineffective. Such thing happened because the Legislature concerned had the necessary competence to legislate regarding the tenancy of Government premises as well. Hence, this Decision which has upheld a Legislative provision made on a subject within its competence so as to render a decree of a Civil Court ineffective, cannot assist us in upholding the provision in Sub-section (9) of Section 3 of the Amendment Act of 1979 made by the State Legislature on a subject which was not within its competence and without

changing the basis on which orders u/s 21A were made as would make such orders ineffective.

56. Coming to the case of Thenappa Chettiar's case (*supra*), it was a case where, no doubt, Pattas had been issued by an adjudicatory authority in respect of lands belonging to the appellants in exercise of its judicial powers invested under an Act. But, when the lands respecting which Pattas had been issued were brought within the purview of an agrarian reform legislation, such Pattas granted by an adjudicatory authority, no doubt became ineffective. The situation, which arose on account of a valid legislation enacted by a competent legislature on a subject of agrarian reform protected under Article 31A of the Constitution, cannot be compared with the situation arising in respect of the provisions in Sub-section (9) of Section 3 and Sub-section (2) of Section 4 of the Amendment Act of 1979, with the constitutional validity of which we are now concerned. Hence, the submission of the learned Advocate General that the omission of Section 21A from the Principal Act by Sub-section (9) of Section 3 of the Amendment Act of 1979 retrospectively, has the effect of obliterating the orders made by the Deputy Commissioner u/s 21A of the Principal Act, becomes unacceptable.

57. Having regard to the conclusions which we have reached as to the constitutional validity of the provisions in the Amendment Act of 1979, we are not left in doubt that the Amendment Act of 1979 is liable to be struck down as a still-born, void and invalid Act, and the Amendment Act of 1984, which has sought to nullify the effect of the provisions in the Amendment Act of 1979, has to be declared as superfluous.

58. What remains then for our consideration is the merit of Writ Petition No. 2590 of 1979 filed by the State questioning the correctness of the order dated 6-10-1978 made in Appeal No. 453 of 1977 (IAS) by the Karnataka Appellate Tribunal in exercise of its appellate powers u/s 29 of the Principal Act. By that order the Appellate Tribunal has not only found the appeal filed by the State before it against the order dated 5-5-1976 made by the Deputy Commissioner u/s 21A of the Principal Act as barred by time, but also as one without merit. In fact, there was not much argument addressed by the learned Advocate General against the said order of the Karnataka Appellate Tribunal, as there was neither an error apparent on the face of the order nor want of jurisdiction on the part of the Revenue Appellate Tribunal in making that order as would call for our interference in exercise of our discretionary Writ jurisdiction.

59. The Karnataka Appellate Tribunal when was asked by the State to condone the delay of 1 year 78 days which had occurred in the filing of the appeal against the order dated 5-5-1976 made by the Deputy Commissioner in favour of Kudli Sringeri Mutt - the Inamdar - in exercise of the power of review conferred upon him u/s 21A of the Principal Act, on the ground that the Deputy Commissioner had made that order appealed against without notice to the Tahsildar or to the Muzrai Officer, the Appellate Tribunal pointed out that when the Deputy Commissioner has made an order at the very instance of the State Government,

and, according to its directions, question of any prejudice being caused in the making of the order without notice to the Tahsildar or the Officer of the State Government, cannot arise. It has also pointed out that the order appealed against was within the knowledge of the State Government and its authorities and the State Government had in fact made budget provisions in its budget for payment of the amount due to religious institution under that order; and that there was no sufficient reason for condoning the inordinate delay of 1 year 78 days which had occurred in the filing of the appeal. However, the Tribunal has also examined the merits of the appeal and has stated that the order made by the Deputy Commissioner is virtually in the nature of the consent order, in that, the Deputy Commissioner had made an order by intimating the Government about the nature of the order which he wanted to make and the Government had given directions to make the order under appeal accordingly. It is how the Karnataka Appellate Tribunal has come to affirm the order made by the Deputy Commissioner u/s 21A of the Principal Act.

60. No other ground was urged nor were we able to find any, which would vitiate the order made by the Karnataka Appellate Tribunal as would call for our interference in exercise of our discretionary jurisdiction under Articles 226 and 227 of the Constitution. Hence, Writ Petition No. 2590 of 1979 filed by the State is liable to be dismissed.

61. In the result,

A) Writ Petition No. 7230 of 1979 of the Kudli Sringeri Mutt is allowed - (i) declaring that the Karnataka Inams Abolition Laws (Amendment) Act, 1979, (Karnataka Act 26 of 1979) is as till- born, void and invalid Act, in that, it is enacted by the State Legislature without the necessary legislative competence; (ii) declaring that the Karnataka Inams Abolition Laws (Amendment) Act, 1979, is otherwise also a void and invalid Act, in that, it is enacted by the State Legislature by infringing Article 31(2) of the Constitution; (iii) declaring that the Mysore (Religious and Charitable) Inams Abolition (Karnataka Amendment) Act, 1984, is a superfluous Act in so far as it has sought to restore the provisions of the Mysore (Religious and Charitable) Inams Abolition Act, 1955, because of the purported amendments effected by the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (Karnataka Act 26 of 1979) being void; (iv) declaring that the Mysore (Religious and Charitable) Inams Abolition Act, 1955, as amended by the Mysore Inams Abolition Laws (Amendment) Act, 1969, has stood unaffected by the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (Karnataka Act 26 of 1979); and (v) declaring that Sub-section (9) of Section 3 and Sub-section (2) of Section, 4 of the Karnataka Inams Abolition Laws (Amendment), Act, 1979, even when considered independently of the other provisions of that very Act, are the still-born void and invalid provisions, in that, they are made by the State Legislature without necessary legislative competence - are even otherwise, void and invalid provisions, in that, they have infringed Article 31(2) of the Constitution - are also void provisions, in that, they are made

to overrule directly the judicial orders made u/s 21A of the Mysore (Religious and Charitable) Inams Abolition Act, 1955, as amended by the Mysore Inams Abolition Laws (Amendment) Act, 1969, without changing the basis of compensation, for payment of which such orders had been made:

B) Writ Petition No. 2590 of 1979 of the State questioning the correctness of the order dated 6-10-1978 passed by the Karnataka Appellate Tribunal in Appeal No. 453 of 1977 (IAS) is dismissed; and

C) In the circumstances of these Writ Petitions, parties are directed to bear their own costs.