
(1952) 02 MAD CK 0036

In the Madras High Court

Case No : Civil Revision Petition No. 1632 of 1948

Sri Dantuluri Butchi Ramayya

APPELLANT

Vs

Gundu Ramanna and Others

RESPONDENT

Date of Decision : 28-02-1952

Acts Referred:

Madras Estates Land Act, 1908 — Section 3

Citation : AIR 1953 Mad 562 : (1952) 65 LW 916 : (1952) 2 MLJ 408

Hon'ble Judges : Rajamannar, C.J.;Venkatarama Ayyar, J

Bench : Division Bench

Advocate : D. Narasaraju and K.B. Krishnamurthy, for the Appellant; P. Somasundaram and P. Suryanarayana, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—This revision petition originally came on before Balakrishna Aiyar J. but has been referred to a Bench because the learned Judge thought that the questions raised in it were of considerable importance and the matter was barren of direct authority.

2. The petitioner filed a suit in the District Munsif's Court of Vizianagaram to eject the contesting respondents from the lands in suit and to recover past and subsequent profits from them. It was "inter alia" pleaded by the defendants that the Civil Court had no jurisdiction to entertain the suit as the provisions of the Madras Estates Land Act would govern the case. Both the learned District Munsif and the learned District Judge have upheld this plea of the defendants and directed the plaint to be returned for presentation to the Revenue Court.

3. The origin of the title of the plaintiff to the suit lands is not in dispute. It appears from the Inam statement and the proceedings of the Inam Commissioner as recorded in the Inam fair register that the then Rajah of Vizianagaram one Sri Raja Pusapati Viziaramaraju granted in mark to Poosapati Ramachandraraju lands in two villages, viz., Korukonda and Nerellavalasa,

yielding an income of Rs. 750 sometime in 1791. Subsequently at a partition among the sons of the original grantee, the lands in these two villages fell to the share of three of his sons. In or about 1813 the Raja of Vizianagaram took these lands and in exchange granted to the Inamdars portions of zeroyati lands in the village of Kanimeraka yielding an income of Rs. 750. These are the suit lands. It is common ground that the village of Kanimeraka was part of the permanently settled estate of Vizianagaram. These lands were the subject of enfranchisement proceedings at the time of the inam settlement in 1863. It was evidently brought to the notice of the Inam Commissioner that the lands being enjoyed at the time by the Inamdars were lands which their predecessors had obtained in exchange for the pre-settlement grants in favour of the original grantee. The enfranchisement was made presumably in the belief that the lands obtained by exchange were held under the same tenure as the lands given in exchange. The question for decision in this revision petition is whether the petitioner can be deemed to be a landholder within the meaning of the Madras Estates Land Act. If the suit lands are treated as forming part of a pre-settlement minor inam validly enfranchised by the Government in 1863, then obviously the Madras Estates Land Act would have no application to the case.

4. Admittedly the village of Kanimeraka was a zeroyati village which was included within the Vizianagaram zamindari. Did these lands which are situated in that village cease, for any reason, to be part of the permanently settled estate because of the exchange in 1813? In our opinion, the nature of the lands did not change because of the exchange. The principle which should govern a case like this has been authoritatively enunciated by the Judicial Committee in -- "Apparao v. Satyanarayana Varaprasada Rao", AIR 1918 P C 148 (A). In that case, part of a permanently settled estate was acquired by the Government under the Land Acquisition Act. The proprietor was entitled to compensation which might have been paid in cash, or if he consented, there could have been a reduction of the peishkush on the estate. But the proprietor requested --and his request was complied with -- that he might be given some Government lands in another district. By order of the Collector, the new lands were transferred to the proprietor and they were even entered in the register as zamindari lands instead of Government lands as formerly. The question which fell for decision was whether these lands formed part of a permanently settled estate. Their Lordships held that even after they were transferred to the proprietor, they did not become part of the permanently settled estate. Their Lordships pointed out that unless there was a formally effected settlement with some recorded evidence of it under which these lands may be said to have been separately settled, the land would continue to be what they were before they were transferred to the proprietor. What has happened in the present case is the converse of what happened in -- AIR 1918 PC 148 (A).

There are two decisions of this Court which deal with facts more or less similar to those in the present case. The first is in -- Chipurapalli Appayya Vs. Sri Raja Kakarlapudi Ramachandra Raju Bahadur Garu and Others, . Certain lands in the

village of Mallavaram which was part of a permanently settled estate, viz., Uratala estate were given to one Subadrayya in exchange for certain inam lands of his situated elsewhere. The question arose whether a suit for ejectment relating to these lands could be maintained in a civil Court. It was held by Wallis C. J, and Seshagiri Aiyar J. that the civil Court had no jurisdiction. As admittedly the lands were originally ryoti lands in a permanently settled estate, the fact that the lands for which they were exchanged were inams did not have any bearing on the question. That had to be decided upon their own character and not upon that of the property for which they were substituted.

The other case is -- Lakshmi Narasimham Vs. Veerabadra and Others, . Certain lands in a Chathurabhagam mokhasa which originally formed part of the Nuzvid zamindari were the subject matter of that case. These lands had been exchanged for patta lands held under Government. In a suit for ejectment, it was pleaded by the defendants that the civil Court had no jurisdiction to entertain the suit as the lands formed part of an estate within the meaning of the Estates Land Act. It was held that though these lands were obtained in exchange for Government lands, they did not cease to be lands in a permanently settled estate. The learned Judges said:

"As regards the exchange alleged by the plaintiffs, we do not think it would, even if true, change the character of the plaint lands. It has been shown that the consent of the Zamindar had been obtained. The question is concluded by the decision of their Lordships of the Privy Council in -- AIR 1918 PC 148 (A)."

5. The above authorities directly apply to the present case. It must be decided, following them, that the character of the lands in suit which were situated in a zeryoati village forming part of a permanently settled estate, did not cease to be such even though they were obtained by the petitioner's predecessors in exchange for lands in a pre-settlement minor inam.

6. As these lands were given to the plaintiff's predecessor free of rent, it may be said that the lands formed part of a post settlement or Dharmila Inam. Now it is well established that a post settlement grantee, even of both the warams, would be a landholder within the meaning of that term as used in the Madras Estates Land Act and the persons in occupation of the holdings would be ryots (see the Full Bench ruling of this Court in -- Jarugumilli Brahmayya by mother and next friend Rajeswaramma Vs. Challaghali Achiraju, approved by the Privy Council in -- AIR 1939 244 (Privy Council) . The Courts below were, therefore, right in holding that the civil Court had no jurisdiction to entertain the suit. The civil revision petition is, therefore, dismissed with costs.