
(1996) 11 MAD CK 0022
In the Madras High Court

State of Tamil Nadu

APPELLANT

Vs

A.V. Yagappa

RESPONDENT

Date of Decision : 06-11-1996

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 46

Citation : (1997) 1 LW 274 : (1997) 1 MLJ 473

Hon'ble Judges : Raju, J

Bench : Single Bench

Judgement

Raju, J.—The above appeal really arises u/s 46 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil

Nadu Act 26 of 1963) though by mistake in the Memorandum of grounds of appeal the provisions of Tamil Nadu Act 30 of 1963 is given. The

claim in respect of the land in question had been the subject-matter of appeals before the Tribunal below on earlier occasions and by virtue of the

orders passed in second round of appeal, the Assistant Settlement Officer, Thanjavur has taken up the matter for consideration afresh. After

considering the claims of both parties viz., the respondents/claimant and the State of Tamil Nadu represented by the District Collector, Thanjavur,

the Original Authority by his proceedings dated 1.6.82 held that there is no scope for granting patta in respect of the land in question under

Sections 9, 10 or 11 and that by virtue of Section 12(1) and u/s 3(b) of the Act, the lands vest absolutely free of encumbrances with the State. The

Original S.T. Appeal by State allowed. Authority came to such a conclusion on the basis that the lands in question are as per the state on ground is

only an irrigation channel and there is, no dispute or controversy among the

parties before the authorities below that the lands are used for collecting water was catchment area and also as irrigation channel, Aggrieved the respondent has filed an appeal before the Tribunal below (Sub-Court, Thanjavur) in C.M.A. No. 79 of 1982. The Tribunal below, though found factually that the lands in question are used as catchment area for collecting water to be used for irrigation purposes and as irrigation channel also, on the view that it is only a private irrigation source and a channel, the Tribunal " differed from the decision of the Original Authority and directed the grant of patta in favour of the respondent. Aggrieved the State has filed the above appeal.

2. Though notice of the appeal has been served on the respondent, he has not taken any steps to engage any counsel to defend the proceedings.

3. The learned Government Advocate while inviting our attention to the findings and conclusions of both the authorities below has contended that the order of the Tribunal below is directly opposed to the provisions of the Act and therefore, cannot be sustained and that the order of the original Authority viz., the Assistant Settlement Officer, Thanjavur has to be restored.

4. Section 11(1), proviso stipulates that no ryotwari patta shall be granted in respect of any land falling under any of the categories specified therein of which beds and bunds of tanks and of supply, drainage, surplus or irrigation channels or one such category in respect of which no ryotwari patta can be granted. Section 11-A introduced by Tamil Nadu Act 2 of 1976 also provides that notwithstanding anything contained in the main enactment, any ryotwari patta granted in respect of any private tank or oorani under the main Act before the publication of Tamil Nadu Act 2 of 1976 shall stand cancelled and for the purposes of compensation under the Act the private tank or oorani shall be deemed to be the land in respect of which neither the land holder nor any other person is entitled to ryotwari patta under the Act. Section 3(b) of the Act also provides that the entire inam estate including all communal lands and porambokes other nonryoti lands, waste lands, pasture lands, forests, mines and minerals, "quarries, rivers" and streams, tanks and ooranies including private tanks and ooranies and irrigation works shall stand transferred to the Government and vest in them free of all encumbrances. The vesting u/s 3(b) is not only complete but absolute and having regard to the

amendments introduced under Tamil Nadu Act 2 of 1976 as also the provisions contained in Section 11 proviso, there is no scope for granting

patta in respect of the irrigation source or an irrigation channel even if it be a private source or private channel. Factually, there is no controversy

about the character of the land as noticed earlier. Even the Tribunal below has accepted the nature and character of the land to be the same as

found by the original authority and the only deviation made by the Tribunal was that being a private irrigation channel or source, there is no

impediment for grant of patta. This view is directly opposed to the amended provisions contained in the law referred to above.

5. Consequently the order of the Tribunal is hereby set aside. The order of the original authority viz., the Assistant Settlement Officer, Thanjavur,

dated 1.6.1982 is hereby restored. The appeal is allowed. No costs.