
(1963) 08 MAD CK 0032

In the Madras High Court

Case No : S. T. Apps. No's. 15 to 20 of 1961

The State Of Madras

APPELLANT

Vs

D. K. Guru-Nathan Cheitiar And Others

RESPONDENT

Date of Decision : 16-08-1963

Acts Referred:

Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 2(7)

Citation : (1963) 08 MAD CK 0032

Hon'ble Judges : Ramachandra Iyer, C.J.; Ramamurti, J

Bench : Division Bench

Advocate : T. N. C Rangarajan and The Govt. Pleader, for the Appellant; G. Natarajan, for the Respondent

Final Decision : Dismissed

Judgement

Ramachandra Iyer, C.J.—These appeals are filed under S. 7 of the Madras Act XXX of 1956 against the order of the Estates Abolition Tribunal at Salem which held that the villages of Nallahanahalli, Gundanahalli, Bargur, Sammadakuppam, Muthuhalli and Vanambadi, though estates within the meaning of S. 3(2) (d) of the Madras Estates Land Act were not inam estates under S. 2(7) of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948. These villages were the subject-matter of a single grant by Tippu Sultan in favour of one of his Generals, Ahmed Hussain Khader in 1784 A. D. The original grant is not now available but we have the relevant extracts from the Inam Fair Register, wherein the villages are described as Sarvadhumbala, the characteristic of a Sarvadhumbala being that the cultivating tenant should take the permission of the landholder before removing the harvest from his land. Both the Miscellaneous Settlement Officer who initiated the proceedings suo motu and the Estates Abolition Tribunal on appeal have held that the villages in question are not inam estates. The learned Government Pleader had challenged the decision of the Tribunal on the ground that it rested its conclusion on two circumstances which cannot in any way be decisive of the matter. The Tribunal held that as the grant

had been made by Tippu Sultan, a conqueror, to a military chieftain of his, it was probable that he had Granted both the warams in favour of his General. Another ground which has been relied on by the Tribunal is that the inam title deeds issued by the British Government, had recognised the title of the grantee to the lands. Neither of these two factors can obviously prove that the inam was of both the warams. Under the common law of this country kudiwaram right in a ryot accrues to him by his occupation. Therefore the fact that Tippu Sultan was a conqueror, cannot by itself afford evidence that the ryots if any in possession of the land had lost their kudiwaram right thereto. Secondly, it is well settled that the recitals in the inam title deeds relating to the right of the grantee in the land cannot displace any outstanding kudiwaram interest which the tenants might have therein. The learned Government Pleader is, therefore, well justified in his criticism that the Tribunal was in error when it sought to support its conclusion by referring to these reasons. But these were not the only reasons which induced the Tribunal to reach the conclusion it did. There was other evidence before it to show that the grantee must have been given both the melwaram and the kudiwaram under the terms of the original grant. Although all the villages appear to have been treated together as being held under the same tenure and with the same incidents the learned Government Pleader preferred to treat them separately and took us through the evidence relating to each one of the villages attempting thereby to show that the respondents have failed to discharge the onus that lay upon them under S.8 of the Madras Act XXX of 1956.

2. It will be convenient first to take the village of Nallanahalli and Bargur which respectively form the subject matter of S.T.A. Nos. 15 and 16 of 1961. The Fair Inam Register extracts relating to the two villages state that the inamdar represented to the Inam Commissioner that there were no houses or ryots in the villages and that he was obliged to import labour and give lands to ryots at low rents for cultivation. This statement which is of high probative value would show almost beyond doubt, that at the time of the tenancy and consequently at the time of the grant there could have been no ryots on the land. That would show again that the grant must have comprised the entire land. This conclusion will be sufficient to dispose of the two appeals but the Tribunal has adverted to a number of documents showing that sales of lands had been effected by the inamdar as early as the year 1875 and even subsequently and of registered leases executed in his favour by the tenants who acknowledged the title of the landlord to the possession of the property. It is true that there were certain transactions of sales by ryots inter se between the years 1878 and 1883, but the value of these documents has been considerably minimised by the existence of proved cases where the Inamdar had granted permanent leases in favour of his tenants. As we pointed out earlier there was scarcity of agricultural labour; it was in the interest of the inamdar to settle on the land ryots who would permanently devote themselves to cultivation. The grant of permanent lease was therefore probable and they can only evidence the natural anxiety on the part of the inamdar to settle down labour on his land. We are, therefore, satisfied that the

view taken by the Tribunal that neither Nallahanalli nor Bargur was inam estate is fully justified by the evidence on record.

3. S.T.A. Nos. 17 and 20 of 1961 relate to Sammandakuppam and Vanambadi respectively the latter being a hamlet of the former. In the extract from the Inam Fair Registrar relating to Vanambadi we find that the village was unoccupied at the time of the grant and that the grantee had to import labour from outside for cultivation; but we find no similar recital in regard to the main village of Sammandakuppam. The Tribunal has referred to certain other evidence in the case, namely, Exs. B-1 to B-4 of the years 1886 to 1890 in the form Mahasool patta and cowle patta. Exs. B-6, B-7, B-9 and B-11 evidence agreements by the tenants to give possession to the landlord on the termination of their lease. These documents undoubtedly support the view taken by the Tribunal that the kudiwaram right in the land had all along been with the landholder. There are however certain documents the other way. They refer to kandayam having been collected from the ryot or tenant. The use of the expression of kandayam though generally indicative of maharam right cannot be taken to outweigh the cogent evidence at forded by documents to which we have made reference earlier. Reference was made by the learned Government Pleader to Ex. A-5 dated 26th May, 1894, which proves grant of Saswatha Kayam patta by the inamdar. That Saswatha Kayam patta was granted would by itself in the circumstances of the case namely, where the landholder had to go about in search of ryots mean nothing. Probably Saswatha Kayam pattas were granted with a view to induce the tenants to continue on the lands and do cultivation. There is, however, one document which shows that on one occasion the landholder in order to take proceedings against a defaulting tenant issued a notice under S. 117 of the Estates Land Act. This circumstance might be said to show a consciousness on the part of the landholder that the land with the landholder was estate prior to 1908. But after all it is a solitary event which in the face of the other evidence to which we have referred cannot have much significance. Very probably it was due to some misapprehension on the part of the inamdar. What then remains for disposal are S.T.A. Nos. 18 and 19 of 1961 which relate to Muthahalli and Gundanaballi. The Tribunal has referred to the available evidence in the case and come to the conclusion that the inamdar should be held to have discharged the onus that lay on him. There is sufficient evidence to justify that finding. As we pointed out at the beginning all these inams were the subject-matter of a single grant. Before the Tribunal the case of the Government was that they were of the same character, namely, Dambala inam which suggests that both the warams in the land were owned by the inamdar. It is true that in the extract from the Inam Fair Register relevant to the villages in question the Inam Commissioner says that the resources of the ryots were rich but that observation was made at the time of the Inam Commission. That can hardly prove that there were ryots on the land at the time when the grant was made. On that question we see no reason to differ from the view taken by the Tribunal. We accordingly hold that none of the villages referred to above are inam estates though they must be

regarded as estates coming within the scope of S. 3(2) (d) of the Madras Estate Land Act. The appeals fail and are dismissed with costs. One set.