
(1952) 02 MAD CK 0011
In the Madras High Court
Case No : Second Appeal No. 1691 of 1948

The State of Madras	Vs	APPELLANT
Nadimpalli Subbaraju		RESPONDENT

Date of Decision : 22-02-1952

Acts Referred:

Contract Act, 1872 — Section 17, 18, 20

Citation : AIR 1953 Mad 235 : (1952) 65 LW 454 : (1952) 1 MLJ 689

Hon'ble Judges : Govinda Menon, J

Bench : Single Bench

Advocate : N.S. Srinivasan, for Government Pleader, for the Appellant; D. Narasaraju, for the Respondent

Final Decision : Dismissed

Judgement

Govinda Menon, J.—Mr. Narasaraju for the respondent conceded that the learned subordinate Judge is in error in thinking that the order in

question is one made by the Collector: but it is really and in essence one passed nominally by the Collector but under the directions of the Board of

Revenue who themselves have ordered the Collector to act in the manner he did under the behest of the Government. The result comes to this, that

when under Ex. B. 20 the Board of Revenue refused to interfere with the order passed by the Collector, the Panchayat Board President had

exhausted his remedies and subsequently whatever action has been taken by the Collector the same must be deemed to be passed under the

orders of the Government. The question then arises, whether the Government has got any all-pervading or supervening power to interfere, for

whatever reason it may be, in the orders passed by the subordinate revenue authority in accordance with the provisions of the Board's Standing

Orders in the grant of darkhast. That the Government cannot have any such power and cannot set aside an order of the lower authority when it has

become final is evident from the judgment of Bhashyam Aiyangar J., in -- "the Secretary of State for India in Council v. Kasturi Reddi", 26 Mad

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There are many passages in that illuminating judgment at pages 273, 277, 278, 279, 280, 281 and 283 wherein the various aspects of the question

have been discussed in great detail to show that there is no such residuary of supervisory power vested in the Government, At page 283 the

learned Judge observes as follows:

When the proposal of any applicant is accepted by an officer duly authorised in that behalf by the darkhast rules and the acceptance is

communicated to the applicant, there is a valid contract and disposal of the land, unless the grant was procured by fraud, misrepresentation or

mutual mistake as to any matter of fact essential to the agreement (Indian Contract Act, Sections 17, 18 & 20). The grant, therefore, cannot be

annulled or revoked by the officer who made the grant, by his successor in office or even by the Governor in Council.

I wish especially to emphasise the words "'or even by the Governor in Council.'" The learned Judge thinks that when there has been valid

assignment under dharkhast rules and patta granted to the applicant, the title becomes complete and vested in such assignee and the Government

cannot later on revoke or change it. It is as if the Government through its agent the Collector or the Revenue Divisional Officer or the Tahsildar, as

the case may be, has sold away or assigned rights in certain land by means of a duly stamped and registered document though according to the

Crown Grants Act then in force no such registration or stamp for the document was necessary. The grant of a patta is tantamount to assignment by

a registered document and when it is done the title becomes complete in the assignee and cannot later on be revoked by the Government.

Mr. N. S. Srinivasan for the learned Government Pleader strenuously contended that this decision in -- "the Secretary of State for India in Council

v. Kasturi Reddi", 26 Mad 263 should no longer be considered as a binding authority because of certain observations in -- "Devaramani

Bhugappa v. Pedda Bimakka Gowd", 1915 M. W. N. 148. He further contended

that at the time -- "the Secretary of State for India in Council v. Kasturi Reddi", 26 Mad 268 was passed, Board's Standing Order No. 15 did not contain rule No. 18 which empowered the authorities who made the grant to revise their own orders. The fact that Rule 18 has later on been incorporated in Standing Order No. 15 would not make any difference because it is conceded here by the respondent that the Collector himself in this case has not revised or reviewed his earlier order. So the only question as I have already stated is whether the Government can set aside an order which has been validly made, for any reason whatever arid in my view -- "Devaramani Bhogappa v. Pedd Bhimaka Gowd", 1915 MWN 148 does not say that Government has got that power. As stated by Napier J. -- "the Secretary of State in Council v. Kasturi Reddi", 26 Mad 268, decided two points;

First, that where Government has given authority to a Tahsildar to grant land subject only to a right of appeal, the grant of such land within the scope of his authority is binding on Government. The other is that a grant like any other disposition arising out of contract can be set aside if it is procured by "fraud".....

This decision does not lay down that when the agent of the Government, say the Tahsildar, Revenue Divisional Officer or the Collector has exhausted his rights under the orders, the Government can intervene and what can not be done by an agent, the principal can. If the contention put forward on behalf of the learned Government Pleader is accepted, then it comes to this, that the Government as the principal can revoke an agreement or grant made by its duly constituted agent without giving any reasons whatever. I do not think that I should go to the extent contended by the learned counsel. When the learned Subordinate Judge found that the Collector has no power to cancel his earlier order after it has become final, I would hold that the Government itself has no power to cancel an order validly and duly made by the Collector. There is no provision for a review or revision by the Government. The second appeal fails and is dismissed with costs. No leave.