

(1964) 02 MAD CK 0033

In the Madras High Court

Case No : Special Tribunal Appeal No's. 44 to 49 of 1960

The State of Madras

APPELLANT

Vs

Ramiah Vanniar and Others

RESPONDENT

Date of Decision : 19-02-1964

Acts Referred:

Madras Estates Land Act, 1908 — Section 3(2)

Citation : (1965) ILR (Mad) 594

Hon'ble Judges : S. Ramachandra Ayyar, C.J.; Venkatadri, J

Bench : Division Bench

Advocate : A. Alagiriswami, Government Pleader and K.V. Ramaswami, for the Appellant; R. Gopalaswami Ayyangar and Vittal V. Souli and N. Vanchinathan, Amicus Curiae, for the Respondent

Judgement

S. Ramachandra Ayyar, C.J.—These appeals raise the question, whether the village of Ariyampadaiveedu in Kumbakonam taluk of

Thanjavur district is an Inam Estate or not. Three suits, Original Suit Nos. 216 and 258 of 1955 and 13 of 1956, were filed by certain ryots in the

village against the land-holder raising the question as to whether the lands in their occupation were situate in an Inam Estate or not. They were

transferred to the Estates Abolition Tribunal at Vellore u/s 11 of Madras Act XXX of 1956. The land-holder also filed three applications before

the same Tribunal u/s 3 of that Act for a declaration that the village was not an Inam Estate. All the above matters were consolidated and disposed

of by a common judgment by the Estates Abolition Tribunal, which held that the village in question was not an Inam, much less an Inam Estate.

2. This conclusion was reached on the finding that the grant comprised only a part of the village. In view of the fact that both the landholder as well

as the tenants, who took opposite positions in regard to the nature of the grant, figured as Applicants, the rule as to burden of proof that has been

enunciated by the Supreme Court in *Varada Bhavanarayana Rao Vs. State of Andhra Pradesh and Others*, namely, that the onus of proving that

an area covered by an inam title deed is not an estate would be on the party who asks the Court for such a declaration, cannot be applied in this case.

3. We shall, therefore, proceed to advert to the materials available. The village was granted by Tulaja Raja Sahib of Tanjore to one Govinda Rao

Bhonsle, personally a relation in the year 1763. The grant is not forthcoming. But we have the extract from the Fair Inam Register prepared at the

time of the enquiry by the Inam Commission. Column 11 therein refers to the fact that the grant was made by Tulaja Raja Sahib. Column 12 states

that the original grant was not produced before the Inam Commission but that there was an entry in a Register of the year 1809 of the Sanad

granting the Inam to one Govinda Rao Bhonsle of the village of Ariyapadaiveedu. Column 14 refers to the fact that there were three minor inams in

the village (i) to a Brahmin, (ii) to a Chatram, and (iii) to Amirtha Siddhi Vinayakar temple at Karunthattangudi in Tanjore. The extent granted to

the temple is a sizable one, nearly 20 acres of land. There also appears to have been another minor inam of the melwaram over a small area of

land. There are separate entries in the Fair Inam Register for the minor inams. It is seen that the grant to the Brahmin and that to the Chatram were

made by one Amara Singh Raja in Hijri 1190, that is, 13 years after the date of the major grant. It would follow from that that the two aforesaid

minor inams must have been granted by the grantee of the major inam. But there is no indication in the Fair Inam Register as to when the grant was

made to the temple. The inam itself appears to have been confirmed recently in the year 1933. Column 21 of exhibit A-4 which relates to that inam

states.

This was one of the cases that came under the management of Government on the extinction of the late Raja of Tanjore. From the report of the

Collector No. 1144, dated 13th October 1856, it is observed that the Inam village of Ariyapadaiveedu did not form part of the estate of the late

Raja of Tanjore. Four cases of Inams in the village were brought on the Inam

Register. The Inams covered by cases 1, 2 and 4 were settled by the Inam Commissioner and title deeds were issued for them. As regards case No. 3, relating to the Inam granted for the support of Amirtha Siddhi

Vinayakaswami pagoda, the confirmation of the grant was not ordered by the Inam Commissioner pending final decision on some matter regarding the nature of which clear information is not at present available....

4. This extract refers to the other minor Inam to which we have referred earlier. From the materials available, it is not possible to say as to when

the original grant to the temple was made. The relevant entries in the Fair Inam Register appear to show that what was granted to the major

Inamdar in the year 1763 was a named village. Then although it can be taken as proved that the grants in favour of the Brahmin and the Chatram

were subsequent to the major grant and that too by the Inamdar, no such conclusion is possible in regard to the grant in favour of the Vinayakar

temple. Evidence does not show whether it was granted prior or subsequent to the major grant. We have pointed out in several cases that there

are as many as four possibilities in such cases : (i) The minor Inam might have been granted before the grant of the major Inam, (ii) The minor Inam

might have been granted simultaneously with the major Inam, (iii) The land pertaining to the minor Inam might have been reserved by the grantor at

the time of making the major grant, albeit that major grant might be of a named village, (iv) The minor Inam might have been granted by the major

Inamdar after the date of the grant in his favour. As we said the grant to the Chatram as well as the Brahmin form the fourth of the type of cases set

out above. So far as the grant to the temple is concerned, it has not as we said earlier been proved that it was granted prior to 1763, the date of

the major grant. If it had been so done, the ryots could certainly contend that inasmuch as the major grant was of a named village, it would be an

Inam Estate. That fact, namely, that the minor Inam in favour of the Vinayakar temple was made prior to the" major grant, not being proved, the

case will fall either under Clauses (ii) or (iii) mentioned above.

Again Explanation (1) to Section 3(2)(d) of the Madras Estates Land Act States:

Where a grant as an inam is expressed to be of a named village, the area which forms the subject-matter of the grant shall be deemed to be an

estate notwithstanding that it did not include certain lands in the village of that

name which have already been granted on service or other tenure or been reserved for Commercial purposes.

5. To repeat, it can be taken that the original grant in the instant case in favour of Govinda Rao Bhonsle has been shown to be a named village. But

before the village can be regarded as an Inam within the meaning of Section 3(2) (d) of the Madras Estates Land Act, it is necessary to find that the

minor Inam in favour of Amirtha Siddhi Vinayakar temple, which covers a part of the original village of an Ariyapadaiveedu, had been granted

prior to the grant of the rest of the village. There is nothing in the evidence or in the various Inam Register extracts, to which we have made

reference, to show that the grant in favour of the temple was made prior to the grant of the named village. The case, therefore, cannot be taken as

covered by Explanation (1) to Section 3(2)(d) of the Madras Estates Land Act.

6. In Varada Bhavanarayana Rao Vs. State of Andhra Pradesh and Others, , the Supreme Court has pointed out that the Explanation does not

create any presumption as to whether the minor Inam grant had been made prior or subsequent to the grant of the named village and that it will not

apply where it has not been proved that it was antecedent to the grant of the named village. There being no evidence to show that the case is

covered by Explanation (1) to Section 3(2)(d), we must hold that the village in question is not an Estate.

7. Learned Government Pleader has contended that once it is shown that the minor Inam was not granted subsequent to the major grant, it must

follow that it was granted prior thereto. We are unable to accept that argument for, it is always possible that the minor Inam grant to the temple

might have been made either simultaneously with the major grant or the subject-matter of that grant had been reserved by the grantor while granting

the named village. In either of those cases the major grant, of a named village, will not be an estate.

8. Learned Government Pleader has, however, referred us to certain observations made by a Bench of this Court in Varada Bhavanarayana Rao

Vs. State of Andhra Pradesh and Others, as supporting a contrary view. The relevant observations are.

If the grantor of the minor inams had not made the grant simultaneously with the major grant, or subsequently, the only other inference that is

possible is that the minor inams must have preceded, the grant of the major inam and what was granted for the purpose of tank repairs was only

the balance left after deducting the minor inams and that was certainly a named village.

9. We are unable to find any support in the above passage for the contention now urged before us. The learned Judges have pointed out that the

inference that the minor Inam grant was anterior to the major grant would follow only if the minor Inam had not been granted either simultaneously

or subsequent to the major grant.

10. As we are not satisfied from the materials in the case that the minor Inam in favour of the Vinayakar temple was not granted either by the major

Inamdar subsequent to the grant or by the Raja anterior to the major grant, we are unable to hold that the major grant was an Inam coming within

the meaning of Section 3(2)(d) of the Madras Estates Land Act. The village in question cannot, therefore, be an Inam Estate within the meaning of

Section 2(7) of the Abolition Act. We, therefore, agree with the view taken by the Tribunal and dismiss these appeals with costs (one set). Before

concluding we must express our obligation to Mr. N. Vanchinathan who appeared as Amicus Curiae for the Respondent in Special Tribunal

Appeal Nos. 44 and 45 of 1960.