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**(1974) 03 KAR CK 0008**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 3305 of 1968**

The State of Mysore

APPELLANT

Vs

Sri Murarao Narasinga Rao and Muthalik Desai and Another

RESPONDENT

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**Date of Decision :** 15-03-1974

**Acts Referred:**

**Citation :** AIR 1974 Kar 147

**Hon'ble Judges :** M.S. Nesargi, J

**Bench :** Single Bench

**Advocate :** R.N. Byra Reddy, A.G, for the Appellant; V. Krishna Murthy, for the Respondent

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## Judgement

M.S. Nesargi, J.—The State has filed this writ petition praying for issue of an appropriate writ, order or direction calling for the records and proceedings in Petition No. 227/1966 and Case No. 2940 of 1965 on the file of the then Mysore Revenue Appellate Tribunal, Bangalore, (to be hereinafter referred to as the Tribunal), and quashing the order dated 8-11-1967 passed thereon by the Tribunal. This matter arises out of the provisions of the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (to be hereinafter referred to as the Jagirs Abolition Act) under which the appointed date was 1-8-1954.

2. The necessary facts are that respondent-1 was a jagirdar under the Jagirs Abolition Act. The jagir village held by him was a "proprietary jagir village" under the Jagirs Abolition Act. The lands in question are grazing lands where grass is naturally grown, and situated in this village. They were, on the appointed date, in actual possession of respondent-1 as provided in Section 5(1)(b) of the Jagirs Abolition Act. Respondent-1's name came to be entered as an "occupant" under the Jagirs Abolition Act, in the record of rights. Certain objections were raised by certain members of the public in regard to these entries, and demands were made to the concerned authorities in the Revenue Department for sanction of certain areas in the lands in question to people belonging to backward classes as sites for construction of houses. An enquiry u/s 37 of the Bombay Land Revenue

Code (to be hereinafter referred to as the Code) was held. All the Revenue authorities, including the Divisional Commissioner, Belgaum concerned with the enquiry, held that the lands in question vested in the Government u/s 8 of the Jagirs Abolition Act and respondent-1 was not entitled to occupancy rights and therefore, could not be recognised as occupant. Respondent-1 instituted proceedings before the Tribunal and the Tribunal decided in favour of respondent-1. This is the order that is challenged in this writ petition.

3. The records make it clear that the following facts are found either undisputed or established.

(1) The village in question is a Proprietary jagir village.

(2) the lands in question are grazing lands where grass grows naturally and

(3) the said lands were, on the appointed date, in actual possession of respondent-1 and respondent-1 was securing some income from these lands by sale of the naturally grown grass etc.

4. The questions that have arisen for determination are: (1) whether in view of Section 5(1)(b) of the Jagirs Abolition Act, respondent-1 is entitled to occupancy rights, or (2) whether in view of Section 8 of the Jagirs Abolition Act, the lands vest in the Government.

5. Section 5(1)(b) of the Jagirs Abolition Acts reads as follows:--

(5)(1) In a proprietary jagir village,--

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(b) in the case of lands other than Gharkhed land, which is in the actual possession of the jagirdar or in the possession of a person other than a permanent holder holding through or from the jagirdar, such jagirdar,..... shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force:

On reading the above provisions independently of the other provisions in the Jagirs Abolition Act, it appears that respondent-1 would be entitled to be recognised as an occupant, in regard to the lands in question, under the Code.

6. Section 8 of the Jagirs Abolition Act, reads as follows:--

All public roads, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same the bed of the sea and of harbours, creeks below high water mark, and of rivers, streams, nalas, lakes, wells and tanks and all canals and water courses, and all standing and flowing water, all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) which are situate within the limits of any jagir village, shall, except in so far as any rights of any person other than the jagirdar may be established in or over the same and except as may otherwise be provided by any

law for the time being in force, vest; in and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the State Government and all rights held by a jagirdar in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the State Government, to dispose them of as he deems fit subject always to the rights of way and other rights of the public or of individuals legally subsisting.

Explanation: For the purposes of this section land shall be deemed to be uncultivated if it has not been cultivated for a continuous period of three years immediately before the appointed date.

There can be no doubt that the lands in question are "uncultivated lands" mentioned in the above provision. The explanation to Section 8 has not been called into application in this case. Reading of Section 8, independently of the other provisions of the Jagirs Abolition Act, makes it appear that the lands in question vest in the State Government.

7. It is therefore, seen that so far as the type of the lands involved in the petition is concerned, the above two provisions in the Jagirs Abolition Act, appear to overlap.

8. The learned Advocate-General appearing on behalf of the State vehemently argued that the aims and objects of the Jagirs Abolition Act should be borne in mind and the principle of harmonious construction of the provisions of a Statute should be taken into consideration while interpreting the above two provisions. He urged that according to the above two principles, the Courts should first consider as to which properties vest in the State Government u/s 8 of the Jagirs Abolition Act and thereafter proceed to consider whether out of the residual properties the jagirdar or jagirdars under the Jagir Abolition Act would be entitled to occupancy rights u/s 5 of the Jagirs Abolition Act.

9. Sri V. Krishna Murthy, the learned Advocate appearing on behalf of respondent-1, contended that there is no non obstante clause in Section 8 of the Jagirs Abolition Act and therefore Section 5 is independent of Section 8 and, hence, what a jagirdar is entitled to u/s 5 cannot be regarded as having been taken away by Section 8. He further urged that when once a jagirdar becomes entitled to occupancy rights u/s 5 of the Jagirs Abolition Act, provisions of Section 8 would not at all be called into play and even if according to Section 8 the very property can be regarded as vesting in the State Government, it cannot, under the scheme of the Act, be held that such property vests in the State Government in spite of the provisions of Section 5 of the Jagirs Abolition Act. He placed reliance on the decision of the Bombay High Court in *Ambabai Janhavibai v. State of Maharashtra*, 67 Bom LR 291 and on the decision in *U.R. Mavinkurve Vs. Thakor Madhavsinghji Gambhirsingh and Others*, In the decision in *Ambabai's* case the provisions of the Bombay Personal Inams Abolition Act, 1952 (to be hereinafter referred to as the Inams Abolition Act), have been considered.

In *Mavinkurve*'s case the provisions of the Jagirs Abolition Act have been considered.

10. There can be no doubt that harmonious constructions of all the provisions in the Jagirs Abolition Act is called for.

11. The aim and object of the Inams Abolition Act was to abolish personal inams in the State of Bombay. By Section 4 of the Inams Abolition Act, all personal inams and rights in respect of such personal inams were deemed to have been extinguished with effect from and on the appointed date, save as expressly provided by the provisions of the Act. Section 5(1) of the Inams Abolition Act made the inam village or the inam land liable to payment of land revenue. Section 5(2) of the Inams Abolition Act made an inamdar, in respect of the inam land in his actual possession entitled to all the rights and liable to all obligations as an occupant, under the Code, in respect of such land. It may be mentioned here itself that uncultivated grazing lands where grass was growing naturally and in actual possession of the inamdar would naturally be included in this provision. By Section 7 of the Inams Abolition Act, all public roads, lanes and paths, bridges, ditches, dikes, fences etc., and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) were made to vest in the State Government. It is, in my opinion, appropriate to mention here that Section 5(2)(a) of the Inams Abolition Act is in no way different from Section 5(1)(b) of the Jagirs Abolition Act and Section 7 of the Inams Abolition Act is almost in *pari materia* with Section 8 of the Jagirs Abolition Act.

12. The aim and object of the Jagirs Abolition Act was to abolish jagirs of various kinds in the merged territories and merged areas in the State of Bombay and to provide for matters consequential and incidental thereto. By Section 3 of the Jagirs Abolition Act, all jagirs, were deemed to have been abolished, save as expressly provided by or under the provisions of the Act, on and from the appointed date. As already narrated the Jagirs Abolition Act by Section 5(1)(b), recognised that jagirdars in regard to lands other than Gharkhed lands in their actual possession, were entitled to rights of an occupant under the Code. The Act, by Section 8, vested certain pieces of properties in jagir villages, in the State Government.

13. It is, therefore, manifest that the principle governing the interpretation of the provisions of Sections 4, 5 and 7 of the Inams Abolition Act and the provisions of Sections 3, 5 and 8 of the Jagirs Abolition Act would be one and the same.

14. In *Rangildas Varajdas Khandwala Vs. The Collector of Surat and Another*, the Bombay High Court considered Sections 4, 5 and 7 of the Inams Abolition Act in regard to certain inam lands which fell within the category of "uncultivated lands" (excluding lands used for building or other non-agricultural purposes) in Section 7 of the Act. It was held that by Section 4 not only all personal inams but also all rights which were subsisting in respect of such personal inams were extinguished so that any privileges that an inamdar enjoyed in respect of an

inam village or land ceased to be available to him from the appointed date. It was also held that the enumeration of "lands used for building or other non-agricultural purposes" is undoubtedly in terms an exception to Section 7 and by no stretch of imagination can that be deemed to be an exception to Section 5. Their Lordships found that all that happened by reason of the exclusion of such lands from the operation of Section 7 of the Act was that such lands do not vest in the State Government, but they remain liable, as other inam lands and inam villages do to assessment to land revenue. The said case went up to the Supreme Court and the decision of the Supreme Court is Rangildas Varajdas Khandwala Vs. Collector of Surat and Others, The main contention all through was that Section 7 of the Inams Abolition Act created an exception to Sections 4 and 5 with respect to lands of inamdars used for building or for other non-agricultural purposes and therefore, the appellant's inam land which was used entirely for non-agricultural purposes (namely, building) could not be assessed to land revenue u/s 5 of the Act. The Supreme Court found that there was no warrant for holding that Section 7 was an exception to Sections 4 and 5 of the Act. It was pointed out that Section 4 abolished personal inams and the rights of inamdars with respect to such inams and Section 5 made all inam villages or inam lands subject to the payment of full assessment of land revenue in accordance with the Code, and Section 7 dealt with vesting of certain parts of inam lands in the State (namely, public roads, lanes and paths, all unbuilt village site lands all waste lands and all uncultivated lands and so on), and further that an exception had been made so far as vesting was concerned, with respect to lands used for building or other non-agricultural purposes by the inamdar. The result of this exception was summarised as follows by the Supreme Court:

The result of the exception is that such inam lands do not vest in Government and remain what they were before and are thus subject to the provisions of Sections 4 and 5 of the Act The appellant therefore cannot claim because of the exception contained in S. 7 that the lands excepted from vesting are not subject to Sections 4 and 5 of the Act. The argument therefore based on Section 7 must fail.

What has been clearly held by the Supreme Court is that the lands which do not fall within the categories mentioned in Section 7 of the Inams Abolition Act, will retain their original character but will be subject to payment of land revenue under the Code as provided in Sections 4 and 5 of the Inams Abolition Act. It did not accept the contention that Section 7 was an exception to Sections 4 and 5. It, therefore, follows, in my opinion, that Sections 4 and 5 also cannot be regarded as exceptions to Section 7. In this view of the matter, the contention of Sri V. Krishna Murthy, the learned Counsel appearing for respondent-1, that because u/s 5(1)(b) of the Jagirs Abolition Act, respondent-1 is entitled to be recognised as an occupant in regard to the lands in question, the lands cannot vest in the Government in spite of the provisions of Section 8 of the Act, has to fail.

15. In U.R. Mavinkurve Vs. Thakor Madhavsinghji Gambhirsingh and Others, the lands concerned were forest lands. The dispute was in regard to right to cut and remove the trees from the forest lands and application of Section 40 of the Code. It has already been mentioned that the forest lands were in a jagir village and the provisions of the jagirs Abolition Act were applicable. The High Court as well as the Supreme Court held that the jagirdars became the occupants of the forest lands and were entitled to trees standing on the forest lands. We are not concerned with the dispute relating to the right to cut and remove the trees from the said forest lands and the interpretation of Section 40 of the Code. Sri V. Krishna Murthy sought support of this decision to substantiate his contention that when a jagirdar became entitled to occupancy rights in regard to all lands in his actual possession (except Gharkhed lands) u/s 5(1)(b) of the Jagirs Abolition Act, such lands fell out of the application of Section 8 of the Jagirs Abolition Act. He contended that forest lands fell within the category of uncultivated lands and hence, this decision conclusively laid down the proposition canvassed by him. I am not impressed by this reasoning because a reading of Sec. 8 of the Jagirs Abolition Act makes it abundantly clear that forest lands are excepted from the application of Section 8 as there is no reference made therein to such lands. On the other hand, separate provision in Section 9 in regard to right to trees, is made. Similarly there is a separate provision in regard to such a right in the Inams Abolition Act also. It is evident that there was no dispute before the Supreme Court as to whether the jagirdar in question was or was not entitled to occupancy rights in regard to such forest lands. The Supreme Court has not held that the jagirdar in question was entitled to occupancy rights in regard to forest lands on the basis that the forest lands fell within the category of uncultivated lands. When Section 8 of the Jagirs Abolition Act did not make such forest lands-vest in the Government, there was no obstacle in the operation of Section 5(1) (b) of the Act, in favour of the concerned jagirdar. Therefore, this argument of Sri V. Krishna Murthy has to fail.

16. In Ambabai's case (1965) 67 Bom LR 291 the lands concerned were uncultivated lands wherein grass was growing naturally and the concerned inamdars were getting some income. The Bombay High Court held that Section 7 of the Inams Abolition Act does not apply to lands which, on the appointed date, were in actual possession of the inamdar even if they were uncultivated lands, and, therefore, when it was shown that the lands, cultivated or uncultivated, were in possession of the inamdar on the appointed date, the inamdar would become the occupant of such lands u/s 5 of the Act and such lands will not vest in the State Government u/s 7 of the Act. It further held that Section 7 of the Act deals with lands and other properties, which were not in the possession of any person on the appointed date, while Section 5 of the Act makes provision for lands, which on that date were in possession of the inamdar or some other person. It cannot be gainsaid that the principle laid down in this decision amply supports the contention of Sri V. Krishna Murthy. The relevant portion of the judgment reads as follows:--

There, therefore, appears to be a conflict between the two provisions. It is a well-settled rule of construction that different provisions of the Act must be read together, so as to bring about harmony between them. This can be done by holding that Section 7 applies to lands, which were not in the possession of any person on the appointed date. This is also suggested by the scheme of the Act. Apart from waste and uncultivated lands, the other properties mentioned in Section 7 are public roads, paths, lanes rivers, canals etc., which ordinarily are not in the possession of any particular person, but the use and benefit of which are taken by the public in general. Section 7, therefore, appears to deal with lands and other properties, which were not in the possession of any person on the appointed date, while Section 5 makes provision for lands which on that date were in possession of the Inamdar or some other person. It has been urged by Mr. Bane that Section 7 carves out an exception to what is provided in Section 5. This argument does not seem to be correct, because Section 7 refers to many other properties such as public road, rivers and canals to which Section 5 does not apply and which ordinarily are not in the possession of any particular person. It has been contended that the intention of the Legislature that such lands should vest in Government is also shown by the fact that in Section 10 it has made provisions for compensation for the abolition or extinguishment of rights in uncultivated lands. This circumstance is not of much assistance, because in many villages there are uncultivated lands such as lands used for grazing of village cattle which are not in the possession of any person, but which are set apart or reserved for the use of all the villagers. The Legislature may have considered it desirable to provide for compensation for the loss of the inamdar's rights, if any, in such lands.

It seems to us that the question whether the inamdar loses his rights to the lands, which were in his actual possession, but which were not cultivated, should be decided by reading together Sections 5 and 7 and so construing them as to bring about harmony between them, and if this is done. Section 7 will, in our opinion not apply to lands, which on the appointed date were in actual possession of the inamdar even if they were uncultivated lands.

Their Lordships of the Bombay High Court have proceeded on the basis that apart from waste and uncultivated lands, the other properties mentioned in Sec. 7 are public roads, paths, lanes, rivers, canals etc., use and benefit of which is taken by the public in general and, therefore. Section 7 appears to deal with lands and other properties which were not in the possession of any person on the appointed date. Reading of Section 7 of the Inams Abolition Act does not appear to warrant such an assumption. "Fences, wells, canals and all unbuilt village site lands" are also mentioned in Section 7. These are properties in regard to which it cannot be said that they are ordinarily not in possession of any particular person. Therefore, to assume that Section 7 appears to deal with lands and other properties which were not in possession of any person on the appointed date, would not in my opinion, be accurate reading of Section 7 of the Act. This aspect of the matter is further clear on reading the later part of Section 7 wherein it is

provided as follows:--

..... in so far as any rights of any person other than the inamdar may be established in or over the same and except as may otherwise be provided by any law for the time being in force vest in and shall be deemed to be with all rights in or over the same or appertaining thereto, the property of the State Government and all rights held by an inamdar in such property shall be deemed to have been extinguished.....

Section 10 of the Inams Abolition Act makes it further clear that any inamdar having any right or interest in any property referred to in Section 7 shall be entitled to compensation in the manner provided therein. It cannot be gainsaid that an inamdar would generally be in possession of all the pieces of properties in that inam. What is particularly stressed in Section 5(2)(a) of the Inams Abolition Act is actual possession of lands. It is in the very manner that the provisions in Section 5(1)(b). Section 8 and Section 11 run in the Jagirs Abolition Act. Therefore, it is with great respect that I do not agree with this decision.

17. It is true that the statement of objects and reasons for introducing a particular piece of legislation cannot be used for interpreting the legislation if the words used therein are clear enough. But the statement of objects and reasons can be referred to for the purpose of ascertaining the circumstances which led to the legislation in order to find out what was the mischief which the legislation aimed at. In construing an enactment and determining its true scope, it is permissible to have regard to all such factors as can legitimately be taken into account to ascertain the intention of the legislature, such as the history of the Act, the reason which led to its being passed, the mischief which had to be cured as well as the cure as also the other provisions of the Statute. I have already pointed out that the principle of harmonious construction has to be applied. In doing to the attempt should be to avoid conflict rather than create it.

18. The Supreme Court has in *Sirajul Haq Khan and Others Vs. The Sunni Central Board of Waqf, U.P. and Others*, while interpreting Section 5(2) of the U.P. Muslims Waqfs Act, laid down as follows:--

It is well settled that in construing the provisions of a statute, courts should be slow to adopt a construction which tends to make any part of the statute meaningless or ineffective; an attempt must always be made so to reconcile the relevant provisions as to advance the remedy intended by the statute. In such a case, it is legitimate and even necessary to adopt the rule of liberal construction so as to give meaning to all parts of the provision and to make the whole of it effective and operative.

19. It is laid down in *New India Sugar Mills Ltd. Vs. Commissioner of Sales Tax, Bihar*, that it is a recognised rule of interpretation of statutes that the expressions used therein should ordinarily be understood in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the Legislature, and further that if an expression is susceptible of a

narrow or technical meaning, as well as a popular meaning, the Court would be justified in assuming that the Legislature used the expression in the sense which would carry out its object and reject that which renders the exercise of its powers invalid. It is also held that in interpreting a statute, the Court cannot ignore its aim and object. To the very same effect, is what is laid down in *Gamini Krishnayya and Others Vs. Curza Seshachalam and Others*, The Supreme Court has observed as follows:--

It is common place that every provision of a statute has to be given full effect and wherever possible the Court should not place that construction upon a provision which would tend to make it redundant or to overlap another provision or to limit its application in disregard to its general applicability unless, of course, that is the only construction which could be reasonably placed upon it.

Secondly. Court cannot ignore the object of the Legislature in enacting this Act which was to grant relief to the agriculturist and any beneficial measure of this kind should as far as permissible, be interpreted in such a way as to carry out the main object which the Legislature had in view.

20. I have already made clear as to what are the aims and objects of the Inams Abolition Act and the Jagirs Abolition Act. Occupancy rights in inamdars have been recognised by Section 5 of the Inams Abolition Act. Occupancy rights in jagirdars have been recognised by Section 5 of the Jagirs Abolition Act. These rights are recognised simultaneously with the abolition of Inams and Jagirs and vesting of certain pieces of properties in the Inams and Jagirs in the Government. All these provisions have simultaneously come into force. But the objects and aims of abolishing inams and jagirs have to be borne in mind in understanding and interpreting these provisions. Here again, it is to be particularly noted that in Section 7 of the Inams Abolition Act and in Section 8 of the Jagirs Abolition Act, it is specifically provided that all rights held by an inamdar (under the Inams Abolition Act) and a jagirdar (under the Jagirs Abolition Act) in such property, shall be deemed to have been extinguished and it shall be lawful for the collector, subject to the general or special orders of the State Government, to dispose them of as he deems fit, subject always to the rights of way and other rights of the public or of individuals legally subsisting. It is for the first time that the two Acts make either the inamdar or the jagirdar entitled to occupancy rights. It is, therefore, essential to achieve the object of abolishing the inam or jagir, to extinguish all rights of the inamdars or the jagirdars in such inams or jagirs and to vest pieces of properties in inams or jagirs in Government so as to enable the Government to dispose of the rights in these properties as deemed fit by it. In view of such a position being available in the very scheme of the Jagirs Abolition Act, I consider that there is considerable force in the arguments put forward by the learned Advocate-General.

21. I am of the view that the decision of the Supreme Court in *Shivashankar Prasad Shah and Others Vs. Baikunth Nath Singh and Others*, , amply supports the aforementioned view. In the said decision the Supreme Court has considered

the provisions of the Bihar Land Reforms Act (30 of 1950). In that case, the property in question was an estate as defined in Section 2(i) and the notification issued u/s 3 covered the entirety of the estates. What was urged on behalf of the appellants was that what had vested in the State was the non-bakasht lands as well as the proprietary interest in the Bakasht lands and hence, the Bakasht lands do not have the protection of Section 4(d): consequently it is not necessary for them to exclusively proceed u/s 14. The Supreme Court held as follows:--

Beading Sections 3, 4 and 6 together, it follows that all Estates notified u/s 3 vest in the State free of all encumbrances. The quondam proprietors and tenure-holders of those Estates lose all interests in those Estates. As proprietors they retain no interest in respect of them whatsoever. But in respect of the lands enumerated in Sec. 6 the State settled on them the rights of raiyats. Though in fact the vesting of the Estates and the deemed settlement of raiyat's rights in respect of certain classes of lands included in the Estates took place simultaneously, in law the two must be treated as different transactions; first there was a vesting of the Estates in the State absolutely and free of all encumbrances. Then followed the deemed settlement by the State of raiyat's rights on the quondam proprietors. Therefore, in law it would not be correct to say that what vested in the State are only those interests not coming within Section 6.

22. It is easy to see that the contention that was repelled by the Supreme Court was that what vested in the State were only those interests not falling within Section 6 of the Bihar Land Reforms Act, and that contention is similar to the contention put forward on behalf of respondent-1 that what vests in the State u/s 8 of the Jagirs Abolition Act is what does not come within Section 5(2) of the Jagirs Abolition Act. In view of the foregoing reasons. I allow this writ petition with costs, and quash the order dated 8-11-1967 passed by the Tribunal in Petition No. 227 of 1966 and Case No. 2940 of 1965. Advocate's fee Rs. 250/-.