
(1996) 10 MAD CK 0074
In the Madras High Court

Thiruvaduthurai Adheenam	Vs	APPELLANT
State of Tamil Nadu and Another		RESPONDENT

Date of Decision : 30-10-1996

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 30

Citation : (1997) 1 LW 169 : (1997) 1 MLJ 406

Hon'ble Judges : Raju, J

Bench : Single Bench

Judgement

Raju, J.—The landholder Adheenam was filed an appeal u/s 30 of the Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of

1983, aggrieved against the order of remand passed by the Inams Abolition Tribunal/Sub Court, Tirunelveli. The lands in question are comprised in

Dharmadayam grant confirmed in T.S. No. 272 in Esanamadam Village and that Inam was said to have been granted with both warams for the

maintenance of Thiruvaduthurai Adheenam in Thiruvavaduthurai Village. The lands comprised are said to be in S. No. 838. The Settlement

Tahsildar II, Kovilpatti, has allowed patta under Seel 1 read with Section 8(1) of the Act in favour of the appellants on the ground that the land

was found to be in the enjoyment of the Adheenam and there was no rival claimant or objector. While that be the position, the State of Tamil Nadu

represented by its District Collector, Tirunelveli, filed an appeal in E.A.T. A.T. No. 8 of 1981 on the ground that there was some suppression of

materials resulting in the rights of the State being defeated necessitating fresh consideration of the matter in accordance with law. The learned

tribunal below, after careful and elaborate consideration of the matter, was of the

view that their claim in respect of the land requires to be considered in the contest of Section 13 of the Act and not u/s 8(1) of the Act and that the order of the authority below is liable to be set aside and the matter remitting for consideration afresh. As a matter of fact, while remanding the matter, the tribunal has made it clear that both parties are entitled to adduce evidence afresh in support of their respective claims. Not satisfied with the order of the tribunal below, the above appeal has been filed.

2. Mr. R. Rajarathinam, learned Counsel appearing for the appellant adheenam vehemently contended that the appeal case to be filed after a long lapse of time and even in the absence of any specified period of limitation for the State to come on appeal, the provision should be construed as to read a reasonable period of limitation even for the State and in this case, the time lag was substantial and therefore, the tribunal ought not to have countenanced the appeal for consideration on merits and interfered with the orders of the original authority.

3. We have carefully considered the submissions of the learned Counsel, but we are unable to agree with the same. Against the decision of the Assistant Settlement Officer under Sub-section (3) of Section 11, the Government may within one year from the date of decision and any person aggrieved within three months from such date, file an appeal before the tribunal. The second proviso therein provides that the tribunal may, in its discretion, entertain an appeal at any point of time at the instance of the State if it appears that the decision of the Assistant Settlement Officer was vitiated by fraud or mistake of fact. It is in the purported exercise of the second proviso to Sub-section (3) of Section 11 of the Act that the appeal before the tribunal below was entertained. A careful perusal of the order would go to show that notwithstanding the existence of the superstructures on the lands in question and enjoyment by such owners of the property by paying Municipal tax, etc., the original authority has chosen to consider the claim u/s 8(1) of the Act as though it is a ryoti land used for agricultural purposes. This manner of disposal is obviously on a patent mistake of fact which goes to the very root of the jurisdiction of the authorities. As a matter of fact, different consideration will weight if the claim has been and has to be also considered u/s 13 of the Act which alone

would apply to the case on hand having regard to the nature of the land in question on which superstructures have been put up by third parties. It is only taking into account the said vital mistake of fact that the tribunal below has chosen to entertain the appeal. The State Government cannot be attributed with the notice of the proceedings and the orders passed and it is only when the mistake committed has been found out and such mistake is also of very grave nature and would go to the root of the matter being one of vital mistake of fact. No exception could, therefore be taken to the order of the tribunal below in entertaining the appeal and remanding the matter for consideration afresh. Apart from the above, the court is also of the view that interests of the appellant cannot be said to be seriously jeopardised in any manner since he has also been permitted to participate in the remand proceedings and project his claim by adducing, if need be, evidence afresh. In view of this liberty preserved and granted by the tribunal, we are not inclined to interfere with the order of remand. The appeal therefore, fails and shall stand dismissed. No costs.