
(2006) 10 AP CK 0090

In the Andhra Pradesh High Court

Case No : Appeal Suit No. 3580 of 2004

Tirumala Tirupati Devasthanams

APPELLANT

Vs

T. Venkata Padmavathamma and Others

RESPONDENT

Date of Decision : 27-10-2006

Acts Referred:

Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 — Section 14, 14A, 3, 3(4), 4
Andhra Pradesh Endowments Act, 1951 — Section 35(2)
Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2007) 6 ALT 472

Hon'ble Judges : G. Yethirajulu, J;B. Prakash Rao, J

Bench : Division Bench

Advocate : Challa Sitaramaiah for M. Adinarayana Raju, for the Appellant; Karnam Ramesh, for Respondent Nos. 6, 19 and 21 to 23, J.K. Ramjit Kumar, for Respondent No. 9, A. Rangacharyulu, for Respondent Nos. 10 to 16 and K. Ashok Reddy, for Respondent Nos. 18 and 24 to 27, for the Respondent

Final Decision : Allowed

Judgement

G. Yethirajulu, J.—This Appeal is directed against the decree and judgment in O.S. No. 69 of 1995 on the tile of the Principal Senior Civil Judge, Tirupathi, dated 11-8-2004, dismissing the suit filed by the appellant. The appellant-plaintiff filed the above suit to declare that the plaintiff is the absolute owner of plaint-A schedule property, to direct the defendants to surrender the possession of the lands detailed in plaint-B schedule, to grant permanent injunction restraining the defendants and their men from interfering with the plaintiffs possession and enjoyment of the plaint-A schedule property or in the event of the Court coming to a conclusion that the plaintiff is not in possession of the plaint-B schedule property for recovery of possession with damages for use and occupation. The appellant, being unsuccessful plaintiff in the suit, preferred this appeal challenging the validity and legality of the judgment of the lower Court.

2. The averments of the plaint in brief are as follows:

The plaintiff is the Tirumala Tirupathi Devasthanam represented by its Executive Officer, Tirupathi. The defendants are the legal heirs of late Sri T. Venkateseshacharyulu belonging to the family of late Sri Tallapaka Annamacharya, a disciple of Sri Venkateswara Swamy Varu, Tirumala. Late Venkateseshacharyulu died on 1-11-1972 leaving behind 6 sons i.e., defendant No. 5 and other defendants.

3. Late Sri Venkateseshacharyulu was rendering service of "Divyanamasankirthana" in Sri Venkateswara Swami Temple at TirumalaTirupathi.

4. During the period of Vijayanagara Empire, Sri Venkateswara Swami Temple, Tirumala was under the direct administration of the rulers. Thereafter, the Sulthans of Golkonda and Nawabs of Arcot assumed the management. After the advent of the British, the Tahsildar, Tirupathi was placed in management of the temple. In the year 1843, the management of the temple was transferred under a Sanad to Sri Sevadoss, the then head of Sri Swami Hathiramjee Mutt, Tirupati. By VII of 1871, the control of the temple was vested in the Board of Revenue through the Collector of the District and it continued till the T.T.D. Act of 1937 (sic. 1951) was passed by the erstwhile State of Madras. Under the said Act, the management of the temple was vested in a committee headed by a Commissioner. The Act of 1951 was repealed by another Act 30 of 1987 and later the A.P. State Legislature passed the Endowments Act in 1966 after repealing the Act of 1951 and subsequently the Act 30 of 1987 was brought into force by repealing the Act of 1966.

5. Several Nandanavanams (Gardens) in Tirumala were in possession and enjoyment of the temple. The Inams Commissioner in recognition of the title of temple over the gardens issued title deed Nos. 2920 and 2921, dated 9-8-1882 in respect of Items 1, 2 and 3 of the schedule mentioned lands to the Manager for the time being of Nandanavanams at Tirupathi and Tirumala. The Governor in Council of Madras acting on behalf of the Secretary of State for India in Council, acknowledged the title to the Devadayam of Nandanavanams Inam with a right to impose revenue for the lands held in support of Sri Venkateswaraswami Pagoda. The said Inam was confirmed in favour of the Manager for the time being and his successors tax-free to be held without interference as long as the conditions of the grant are duly fulfilled. These lands have been in possession and enjoyment of the temple. Ever since several Nandanavanams in Tirumala village being maintained through different Managers. The Inam Commissioner by holding that the temple was entitled to patta in respect of those properties, issued pattas describing the lands as "Nandanavanams temporarily in possession of the Managers, burdened with service to supply fruits and flowers to the deity."

6. Originally, Tirumala Hills area formed part of Tirupathi Rural and the temple was enjoying an area of about 10 1/3 square miles around the temple as owner since 1874. On 12-5-1924, the then Government had approved the proposal of the Board of Revenue sent in D.Dis. No. 2719, dated 12-12-1923 assigning the land of 10 1/3 square miles to Sri Venkateswara Swami and directed to enter the

same in the village records. The Government also issued G.O.Ms. No. 1784, Revenue (Q) Department, dated 4-11-1965, approving the suggestion of the Deputy Secretary to Government, Revenue Department to accept the title of the plaintiff in respect of an extent of 6241 acres out of the total extent of Ac.6607-78 cents or 10 1/3 square miles. The remaining extent of Ac.366-63 cents was already converted into patta land. The title of the temple was also confirmed in Rule 196 of the Rules framed under G.O.Ms. No. 311, Revenue (Endowments-I) dated 9-4-1990 and the suit lands are within the total area of 6241 acres in respect of which the title was accepted by the Government through the G.O. of 1965. In the final notification of the survey operations published on 19-7-1975 and Chittoor District Gazette, Extraordinary, dated 20-3-1980, the land registered in the name of the plaintiff was never questioned by the defendants or their predecessors. The District Collector, Survey and Land Revenue, Chittoor, mentioned in a letter dated 24-5-1974 that the entire land of Tirumala comprising an area of 10 1/3 square miles was surveyed and registered in the name of the plaintiff except an extent of Ac.1.55 cents in Sy. No. 641, Ac.2.08 cents in Sy. No. 709, Ac.232-32 cents in Sy. Nos. 680/3 and 683 (total extent Ac.235-95 cents). After the A.P. (Andhra Area) Inam (Abolition and Conversion into Ryotware) Act, 1956 came into force, the Thasildar, Chandragiri, after conducting detailed enquiry issued pattas in favour of the temple on 24-1-1960 for all the lands under Inam Title Deed No. 2885 to 2925 including Inam Title Deed Nos. 2920 and 2921.

7. When the plaintiff filed an application covered by M.P. No. 4 of 1962 before the R.D.O. Chandragiri u/s 35(2)(f) of the A.P. Endowments Act, 1951 against late Sri T. Venkateseshacharyulu for an order of resumption of the Inam, the R.D.O. dismissed the application on 30-6-1964 on the ground that the Inam Deputy Tahsildar, Chandragiri in his enquiry u/s 4 of the A.P. Inams (Abolition and Conversion into Ryotwari) Act, 1956 has already issued Ryothwari patta in respect of the lands through his order dated 24-1-1960 in favour of the plaintiff. Against the order of the R.D.O. dated 30-6-1964, Sri T. Venkata Srinivasacharyulu filed a revision u/s 14(A) of the Inams Abolition Act after a lapse of 18 years before the Commissioner, Survey, Settlements and Land Records, Hyderabad by contending that his father late Venkata Seshacharyulu was alone entitled for Ryothwari patta u/s 4(1) of the Act. The Commissioner, Survey, Settlements and Land Records entertained the revision petition and allowed the same on 19-8-1982 by setting aside the order of the Inam Deputy Tahsildar dated 24-1-1960 and that of the R.D.O. dated 30-6-1964 and remanded the case to Inam Deputy Tahildar for fresh enquiry through the order dated 19-8-1982. The Commissioner, Survey, Settlement and Land Records has no jurisdiction over the subject matter. All the proceedings issued subsequent to the order dated 19-8-1982 were in collusion with the defendants and they are vitiated by fraud depriving the plaintiff temple of its legitimate right to the suit property. Since the order of the Commissioner dated 19-8-1982 is vitiated by misrepresentation, collusion, fraud and without jurisdiction, all the subsequent

proceedings are vitiated for want of jurisdiction.

8. The Deputy Tahsildar in the order dated 29-8-1983 passed u/s 3(iv) of the A.P. Inams Abolition Act, 1956 subsequent to the remand of the matter, did not assign any reasons in support of his decision that the suit lands are Inam lands, that they are in Ryothwari village and they are not held by any institution and did not give any opportunity to the plaintiff before passing the said order. When the plaintiff preferred an appeal to the R.D.O., Tirupathi, he passed an order on 10-12-1984 neither dismissing nor allowing the appeal. When the plaintiff preferred a revision before the Commissioner Survey, Settlement and Land Records, Hyderabad, it was dismissed on 7-2-1986.

9. The Deputy Tahsildar before passing the order ought to have examined the relevant records, but he deliberately ignored the entries in the relevant records by colluding with the defendants. The R.D.O. failed to discuss about the material contentions in his order dated 10-2-1984 by simply referring to the earlier order dated 30-6-1964. The order of the Deputy Tahsildar dated 24-1-1960 had become final, since no statutory appeal has been preferred under the Act. The officials of the plaintiff did not properly brief its counsel making him aware of sequence of events and about the finality of the order of the Deputy Tahsildar dated 24-1-1960. Some of the officials of the plaintiff colluded with the defendants at the relevant time and failed to produce title deed No. 2921, which was available in the office of the plaintiff. Sri M. Chakrapani Rao, an employee of the plaintiff who briefed the Advocate colluded with the defendants and their predecessors connected with an intention to deprive the plaintiff. The Superintendent of the suits Section of the plaintiff must have also colluded with the defendants by failing to take necessary steps knowing fully well that there was suppression of relevant facts and misrepresentation before the Courts and tribunals. The involvement and collusion of the then Deputy Tahsildar Sri B. Venkataswami Reddy, the revenue Divisional Officer, Chandragiri, Sri T. Satyanarayana Rao, the Revenue Divisional Officer Chandragiri, Sri B.R.K. Satry, Commissioner, Survey Settlement and Land Revenue records cannot also be ruled out. The temple officials fraudulently misquoted the records by suppressing the material facts in collusion with certain statutory authorities, the defendants and their predecessors by defrauding the plaintiff and by abusing the process in the High Court and the Supreme Court. When the Revision Petition was dismissed by the Commissioner, the plaintiff filed W.P. No. 11895 of 1986 in A.P. High Court praying for a writ of Certiorari to call for the records of the Revenue authorities and quash the orders. Late T. Venkata Srinivasacharyulu also filed W.P. No. 11437 of 1986 seeking a direction by way of a writ of Mandamus to the plaintiff to pay Rs. 3.5 lakhs towards compensation of the land situated in S. No. 679/2 and 645 alleging that the plaintiff encroached the said land from 10-7-1986. Both the writ petitions were heard and the writ petition filed by the plaintiff was allowed by dismissing the writ petition filed by late Sri T.V. Srinivasacharyulu. Sri T.V. Srinivasacharyulu filed W.A. No. 1752 of 1987 against the order in W.P. No. 11437 of 1986 filed by him, but did not file any appeal

against the order in W.P. No. 11895 of 1986 filed by the plaintiff. At the time of hearing of the writ appeal filed by Sri T.V. Srinivasacharyulu when pointed by the Court, Sri Srinivasacharyulu filed W.A. No. 4 of 1993 against the order in W.P. No. 11895 of 1986. Both the appeals were heard by a Division Bench and an order was passed on 23-12-1992 holding that the Inam was granted personally to Thallapaka family and that the decision of the revenue authorities holding that the lands are not held by the institution is correct and also directed the plaintiff to pay compensation for the occupation of an extent of Ac.3.50 cents by allowing both the appeals preferred by Sri T.V. Srinivasacharyulu. Against the order of the High Court in both the appeals, the plaintiff filed special leave petitions covered by SLP (Civil) No. 8370 of 1993 and 8371 of 1983 and the Hon'ble Supreme Court allowed the petitions by granting special leave, but ultimately dismissed the Appeals on 11-1-1995 by passing the following order:

In view of the finding of fact reached by the three authorities under the Act it was not open to the learned single judge of the High Court to have interfered, with the same. In any case the findings of the learned single judge having been set aside by the Division bench of the High Court we see no ground to interfere with the same. The appeals are dismissed.

10. The defendants and their predecessors were never in possession and enjoyment of the suit property either as owners or as Inamdars. The plaintiff therefore filed the present suit for declaration of its title to the suit property and the findings of the Inam Tribunal are vitiated by misrepresentation, fraud and collusion between the officials of the plaintiff, statutory authorities, the defendants and their predecessors. The principle of res judicata and estoppel has no application in the present suit in the light of the fraud pleaded by the plaintiff. The fraud played by the defendants came to the notice of the plaintiff when they verified the old records to brief the senior counsel in July and August, 2003 at the time of final hearing of C.A. No. 16727-28 of 1986 before the Supreme Court. Since the plaintiff was ignorant of the fraud, the title and possession to the suit schedule lands are not affected by lapse of time. Hence, the suit for the reliefs as mentioned above.

11. The 7th defendant filed a written statement on behalf of all the defendants except defendant Nos. 10 to 16 and the averments made in the written statement are briefly as follows:

The defendants and their ancestors are the absolute owners of plaint-A schedule land and they have been in possession and enjoyment of the same paying land revenue from times immemorial. The Inam Deputy Tahsildar granted ryotwari patta in favour of Sri Tallapakam Venkata Sreenivasa Charyulu under the Inams Abolition Act, 1956. The appeal preferred by the plaintiff before the Revenue Divisional Officer was dismissed on 10-2-1984 and it was also confirmed by the Commissioner of Survey Settlements and Land Records, through the order dated 7-2-1985 in a revision filed by the plaintiff. A Division Bench of this Court in W.A. Nos. 4 of 1993 and 1752 of 1987 was also decided in favour of the defendants.

The appeals filed by the plaintiff vide appeal Nos. 3468 and 3464 of 1993 before the Supreme Court of India were dismissed on 11-1-1995 and the orders became final. The review petitions covered by Nos. 683 and 684 of 1995 were also dismissed on 9-5-1995. Thus the plaintiff lost its claim to plaint-A schedule property from revenue authorities through the Supreme Court of India. The plaintiff now resorts to file this frivolous suit before disposal of the review petitions by the Supreme Court of India. The facts alleged in the plaint were not raised by the plaintiff either before the High Court or the Supreme Court, therefore, it is now not open to the plaintiff to raise such pleas and the plaintiff is estopped by its conduct from alleging those facts. The plaintiff resorted to file the present suit having failed in all attempts in previous proceedings, therefore, the suit is barred by res judicata and limitation. The plaintiff is not entitled for declaration of title to plaint-A schedule land and delivery of possession of plaint-B schedule land. The suit is, therefore, liable to be dismissed with exemplary costs.

12. The 10th defendant filed a written statement with the following averments in brief:

The defendants and their ancestors are the absolute owners of plaint-A schedule property and they have been in possession and enjoyment of the same. Sri Krishnadevaraya, Emperor of Vijayanagaram granted plaint-A schedule land situated in Survey Nos. 686, 645, 679/2 covering an extent of Ac.28.58 cents of Tirumala Hills as Inam grant to Tallapakam Annamacharyulu. Those lands were in possession and enjoyment of Annamacharyulu's family from generations with absolute title. After demise of late Sri T. Venkata Seshacharyulu, the 10th defendant filed O.S. No. 254 of 1984 for partition against his brothers on the file of the Senior Civil Judge's Court, Tirupati to divide the plaint-A schedule property into six equal shares and to allot one such share to him. A preliminary decree was passed and a petition for final decree was also filed and pending. After the decision of the Supreme Court, the Deputy Tahsildar, Chittoor granted patta u/s 7(1) of the Inams Abolition Act, 1956 in favour of the family of defendants. The defendants filed Writ Petition Nos. 5997 of 1996 and 8347 of 1996 before the High Court of Andhra Pradesh seeking a writ of prohibition against the revenue authorities from entertaining and dealing with the civil suit of the plaintiff and the appeal of the plaintiff. They also filed a contempt case covered by C.C. No. 373 of 1996 alleging that the filing of the civil suit amounts to willful disobedience of the earlier proceedings of the High Court. A common Judgment was passed by the High Court holding that there is no contempt involved. When the matter was carried in Appeal, the Supreme Court directed the Principal Senior Civil Judge, Tirupati to render the judgment on the preliminary issues regarding the maintainability of the suit in view of Section 14-A of the Act and also directed to give a finding whether the suit is barred by res judicata/estoppel. The Inam Deputy Tahsildar, through the order dated 29-8-1983 held that the lands are Inam lands situated in Ryotwari village and those lands were not held by institution, which became final under the Act 37 of 1956. The Inam Deputy Tahsildar conducted an enquiry u/s 4 read with Section 7

of the Act and did not grant patta in favour of the defendants on the ground that they did not produce any documentary evidence showing possession and enjoyment of the land. The 10th defendant filed an appeal before the Revenue Divisional Officer, Tirupati and the Revenue Divisional Officer disposed of the appeal on 22-4-1986 observing that as the civil Court is seized of the matter in O.S. No. 254 of 1984, whatever decision the civil Court gives shall become applicable in the appeal also. Against the decision of the Revenue Divisional Officer, the 10th defendant preferred revision petition before the Commissioner of Settlements u/s 14-A of the Act and the same was allowed by the Commissioner of Settlements in his order dated 15-12-1994 by setting aside the order of the Inam Deputy Tahsildar dated 17-7-1984 and also the order of the Revenue Divisional Officer, dated 22-4-1986.

13. After remand from the Commissioner, the Revenue Divisional Officer remanded the case to the Inam Deputy Tahsildar for grant of joint patta to the defendant No. 10 and his brothers. The Inam Deputy Tahsildar issued a notice on 29-1-1996 to all his brothers and himself to appear before him for enquiry. The Commissioner of Survey Settlements and Land Records, Hyderabad granted a ryotwari joint patta to this defendant and his brothers. The Inam Deputy Tahsildar, Chittoor issued a ryotwari patta in favour of this defendant and his brothers on 10-3-1999. Therefore, the right title, possession and enjoyment of the plaint-A schedule vested with the defendants. The plaintiff has no right to file the suit and the suit is barred by limitation and res judicata. Hence, the suit is liable to be dismissed with costs.

14. The 10th defendant also filed an Additional written statement in reply to the amendment of the plaint made by the plaintiff by reiterating the sequence of events relating to this dispute. The lower Court on the basis of the pleadings of both parties, framed the following issues:

(1) Whether the suit is maintainable in view of Section 14 of A.P. Inams (Abolition and Conversion into Ryotwari) Act, 1956?

(2) Whether the suit is barred on principles of res judicata/estoppel?

The followings additional issues were also framed:

(1) Whether the plaintiff is entitled for relief of permanent injunction as prayed in respect of plaint-A schedule property?

(2) Whether the plaintiff is entitled for alternative relief as prayed for in para 32(d)?

(3) Whether the order of the Commissioner dated 19-8-1982 is nullity, non-est and passed on misrepresentation and suppression of material facts, collusion, fraud and without jurisdiction as contended in para 17(F) and 17(G)?

(4) Whether the findings of Inam Tribunal are vitiated by misrepresentation, fraud and collusion as contended in para 25(A)?

(5) Whether the prior proceedings before revenue authorities in obtaining patta under Inams Abolition Act are vitiated by fraud and misrepresentation and collusion?

During the course of trial on the preliminary issues, the plaintiff examined P.Ws. 1 to 4 and marked Exs. A-1 to A-42. The defendants examined DWs.1 and 2 and marked Exs. B-1 to B-18. The lower Court after considering the oral and documentary evidence placed by both parties, disposed of the suit by holding that the plaintiffs failed to prove the allegation of fraud, misrepresentation and collusion and that the suit is hit by principles of res judicata and estoppel, through the judgment dated 11-8-2004. The plaintiff aggrieved by the order of the lower Court preferred this appeal challenging its validity and legality.

15. In the light of the findings of the lower Court and the contentions of the respective parties, the following are the points for consideration before this Court:

(1) Whether the earlier proceedings before the revenue authorities in obtaining patta under the Inams Abolition Act, 1956 are vitiated by fraud, misrepresentation and collusion?

(2) Whether the suit is maintainable in view of Section 14 of the Inams Abolition Act, 1956?

(3) Whether the suit is barred by res judicata or estoppel?

Point Nos. 1 to 3.

16. The plaintiff contended that there was a collusion between the revenue authorities, the defendants and the officers of the plaintiff institution and they played fraud by failing to produce all the relevant documents before the lower Court for appreciation of the evidence and to give a reasonable finding. Since the plaintiff mainly relied on the allegation of fraud, it has to be considered whether the plaintiff established the fraud to maintain the present suit.

17. In order to arrive at a conclusion regarding the plea of fraud, we wish to refer to the sequence of events of the earlier proceedings.

18. Ex. A-1 is a certificate dated 23-2-1879 issued by the Deputy Conservator of Forests mentioning that an area of about 10 1/3 square miles demarcated around Tirupati temples were made over to Sri P. Ranjan Ram, Sheristadar of temples on behalf of the temple authorities. Ex. A-1 certificate is not disputed by the defendants.

19. Ex. A-2 is a title deed bearing No. 2920 dated 9-8-1882 issued by the Inam Commissioner to the Manager of Nandanavanams at Tirupati and Tirumala. In pursuance of the order of the Governor in Council of Madras acting on behalf of the Secretary of State for India in Council by acknowledging the title to a Devadayan of Nandanavanam Inam consisting of the right to the Government Revenue on land claimed to be 1.53 acres of dry land situated in the village of Tirumala and held for the support of Venkateshwara Sway Pagoda in the village.

It was further mentioned in the title deed that the said Inam was confirmed to the Manager of Nandanavanams and his successors tax-free to be held without interference as long as the conditions of the grant duly fulfilled. Ex. A-2 does not indicate that the title deed was issued to anybody in his personal capacity and the name of the grantee is also not mentioned in it. It was granted to the Manager of Nandanavanams by way of a title to a Devadayam of Nandavanam Inam to be held for the support of Sri Venkateswara Swamy Pagoda to be enjoyed by the Manager and his successors tax-free as long as the conditions of the grant duly fulfilled.

20. The plaintiff contended that the Inam Commissioner also granted another title deed bearing No. 2921 of the same date in favour of the Manager, Nandavanams for an extent of Ac.27-15 cents. But the title deed has not been produced before the Court. Though the photos of the title deeds covered by Nos. 2920 and 2921 are available on the enquiry file, the Deputy Tahsildar did not consider them and the defendants misrepresented before the concerned authorities that there was no such title deeds, therefore, the non-filing of the original of title deed No. 2921 was taken into consideration while passing the order by the concerned authorities.

21. The present suit is in respect of plaint-A schedule of an extent of Ac.28.58 cents comprising an extent of 97 cents in S. No. 645, 46 cents in S. No. 686 and Ac.27.15 cents in S. No. 679/2 of Tirumala village.

22. Ex. A-3 is the judgment in O.S. No. 51 of 1937, dated 15-6-1942 on the file of the Sub-ordinate Judge, Chittoor filed by the present plaintiff against a Mahant of the Hathiramji Mutt for recovery of 10 items of properties. The suit was decreed in favour of the plaintiff for recovery of possession of all those items. This judgment indicates that Tirumala Tirupathi Devasthanam has right over several items of properties created in favour of the institution from time to time. It was filed to show that the temple was having right over several items of properties situated at Tirumala.

23. Ex. A-4 is an order of the Revenue Divisional Officer, Chandragiri, dated 30-6-1964 passed in an application covered by M.P. No. 4 of 1962 filed by the plaintiff herein u/s 35(2) and (d) of the Act XIX of 1951 requesting resumption of lands bearing T.D. No. 2921 comprising an extent of Ac.27.04 acres situated in S. No. 679/2. It was further mentioned in the order that the Inam Tahsildar, Chandragiri after enquiry issued Ryotwari patta u/s 4 of Inams Abolition Act, 1956 in favour of the Executive Officer, Tirumala Tirupati Devasthanams, Tirupati. Therefore, further relief is not called for u/s 35(2) and (f) of the Act XIX of 1951. Accordingly, the Revenue Divisional Officer rejected the application filed by the plaintiff. The order clearly indicated that a ryotwari patta was issued in favour of the Executive Officer, Tirumala Tirupati Devasthanams, Tirupati, for an extent of Ac.27.04 cents for the land situated in S. No. 679/2. On account of the rejection of the application, if there is any grievance, it should have been to the plaintiff and not to the defendants. The defendants did not challenge the ryotwari

patta granted by the Inam Deputy Tahsildar, Chandragiri, in favour of the plaintiff, though the order indicates that the plaintiff wanted recovery of possession of the property from Sri Tallapakam Venkata Seshacharyulu. It further indicated that the temple was the pattadar and owner of the land. After the order of the Revenue Divisional Officer on 30-6-1964 in M.P. No. 4 of 1962, Sri Tallapakam Venkata Seshacharyulu and his legal heirs kept quiet for a period of 18 years without expressing any grievance either regarding the granting of patta in favour of the plaintiff or regarding the observation of Revenue Divisional Officer in the order dated 30-6-1964. Ultimately, late Sri Venkata Srinivasacharyulu, the husband of the first defendant filed Case No. V-2/251/82 before the Commissioner of Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad.

24. Ex. A-5 is the order of the Commissioner of Survey, Settlements and Land Records of Andhra Pradesh, Hyderabad, dated 19-8-1982. The Commissioner observed that the order issuing ryotwari patta was not found in the record. As per the Inam B-register against S. No. 679/2 it was noted as T.T.D. Nandanavanam temporary Inam and as per the orders, the land was converted into the Government land in the year 1961. The Commissioner mentioned in the order that the petitioner contended that the lands in T.D. 2921 were granted to him in the year 1898 as per Inam Fair Register and they were in possession of the land as on 1959 as per the notice issued by the T.T.D. dated 8-8-1959 to the petitioner. He further mentioned that the petitioner contended that while deciding the issue regarding the Inam lands u/s 3 of the Inams Abolition Act 1956, they were not issued any notice by the Deputy Tahsildar and they get title being in possession as on the crucial date, that the petitioner was paying Nazarana of Rs. 2/- to the Tirumala Tirupati Devasthanam, whenever Parruveta Utsavam taking place and produced a letter of T.T.D., dated 5-1-1980 contending that they are the Mirasidars and were receiving instructions from T.T.D. for making arrangements for the said utsavam. The Commissioner also mentioned that the advocates of T.T.D. represented that the Inam was originally not granted to the temple and the patta issued by the Inam Deputy Tahsildar is not available with T.T.D. except the entries in the Inam B-register. He further mentioned that the Tahsildar, Chandragiri was not present at the time of hearing of the matter. The Commissioner ultimately observed that since no notice was issued to the parties by the Inam Deputy Tahsildar, the order of the Revenue Divisional Officer and the Inam Deputy Tahsildar are set aside by remanding the matter to the Deputy Tahsildar for a fresh enquiry in accordance with the provisions of the Act.

25. After receiving the order of the Commissioner, the Inam Deputy Tahsildar passed an order dated 29-8-1983 covered by Ex. A-6, which reads as follows:

It is hereby notified that it has been finally decided by the Revenue Department under Sub-section (4).

Inams Deputy Tahsildar, Chittoor, under sub-section (4) of Section 3 of the Andhra Inams (Abolition and conversion into Ryotwari Act, 1956)(Andhra Act

XXXVII of 1956), that the land specified below:

(iv) is an Inam land

(v) is in Ryotwari vil

(vi) is not held by an institution

SCHEDULE District : Chittoor Taluk : Chandragiri Village : Tirumaia														
T.D. No. So. No.														
Classification					Extent									
2920 686 Dry														
Ac.0-46			2920	645	Dry	Ac.0-97			2921	679	Dry	Ac.27-15		

Remarks: Temporary Manager Tirumaia Tirupati Devasthanams, Tirupati Tallapakam Venkata Sreenivasa Charyulu and others, Executive Officer, Tirumaia Tirupati Devasthanam, Tirupati.

B. Venkataswamy Reddy, Inam Deputy Tahsildar

26. In Ex. A-6, the Inam Deputy Tahsildar mentioned that it is an Inam land situated in a ryotwari village and it is not held by an institution. But in the remarks column he mentioned as Temporary Manager, T.T.Ds. Tiruparti, Tallapakam Venkata Sreenivasacharyulu and others, the Executive Officer, T.T.Ds., Tirupati. The contents of the remarks column do not indicate any meaning that Tallapakam Sreenivasacharyulu alone was in possession of the property or that he was granted patta under the Inams Abolition Act in his personal capacity or his predecessors. The mentioning of Temporary Manager, T.T.D. and Executive Officer, T.T.D. indicates that the temple has considerable interest over the land. Ex. A-6 is only a certificate. The speaking order if any preceding the issuance of Ex. A-6 was not filed.

27. Against the order of the Inam Deputy Tahsildar dated 29-8-1983, an appeal was preferred by the plaintiff and the Revenue Divisional Officer passed Ex. P-19 order dated 10-2-1984.

28. The learned Revenue Divisional Officer in the said order observed that no ryotwari patta was given previously to T.T.D. In respect of the lands of Tirumala covered by T.D.Nos. 2920 and 2921. The advocate for the petitioner filed T.D. 2920 only. He failed to produce T.D. 2921. It is not proper to say that I.F.R. need not be relied upon when there is title deed. The entries in the I.F.R. have to be necessarily verified before giving any decision u/s 3(3) of the Inams Abolition Act, 1956. He further observed that Inam Fair Register is the basis for holding any Inam enquiry. As per the copy of the I.F.R. relating to the land covered by T.D.Nos. 2920 and 2921, the lands are Dharmadayam and are not held by any institution. The entries in the I.F.R. relating to the land covered by T.D. 2920 is being used as a grave yard for Tallapakam people.

29. Ex.A-20 is the order dated 7-2-1986 of the Commissioner passed in the

revision petition filed by T.T.D. against the order of Revenue Divisional Officer dated 10-2-1984. The Commissioner in Ex.A-20 order observed that the learned counsel for T.T.D. contended that the respondents were in possession of the lands as on the crucial date as per the notice issued by the Executive Officer, T.T.D. on 8-8-1959. Section 4(1) contemplates that ryotwari patta should be granted in favour of the person holding the land as Inamdar on the crucial date i.e., at the commencement of the Act on 7-1-1948. Title to the Inam lands is not a condition precedent for the grant of patta. The respondents were holding the Inam land and they will be eligible for a patta subject to the other provisions of the Act. No case has been made out by T.T.D. that there existed a master-servant relationship between the contesting parties. The title deed cannot be construed in favour of the institution. Since it will be meaningful for the institution to burden itself with service and hence the presumption is that the grant was not in favour of an institution and that it is the office bearer and his successors who are burdened with service, the respondents have been in continuous possession of the lands on the crucial dates. The Commissioner, accordingly, upheld the finding of the Inam Deputy Tahsildar and the Revenue Divisional Officer that the lands are not held by an institution and accordingly dismissed the revision petition.

30. The plaintiff, being aggrieved by the order of the Commissioner, Survey, settlements and land records under Ex.A-20, filed W.P.No. 11895 of 1986 before this Court seeking to direct the production of the records relating to the order of the Commissioner dated 7-2-1986 confirming the proceedings of the Revenue Divisional Officer dated 10-2-1984 in turn confirming the order of the Inam Deputy Tahsildar, Chittoor, dated 29-9-1983, and to quash those orders. Sri T.V. Srinivasacharyulu also filed W.P.No. 11895 of 1986 seeking to direct the plaintiff herein to pay compensation for use and occupation of the land for an extent of Ac.3.50 cents in Sy.No. 679/2. Both the writ petitions were disposed of through a common order dated 17-4-1987 covered by Ex.A-7. W.P.No. 11895 of 1986 was allowed and W.P.No. 11437 of 1986 was dismissed. A learned single Judge of this Court in Ex.A-7 considered whether the grant of Inam is in favour of T.T.D. or in favour of the ancestors of the defendants. In Column No. 2 of the Inam Fair Register, it is mentioned as "Dharmadayam" and in Column No. 3, it is mentioned as "Garden". In Column No. 8, it was further mentioned as Garden containing sandal, mango and other fruit bearing trees and the produce is being appropriated for the use of the temple. There are also two Mandapams in the garden to which the deity at Tirumala is taken in possession (sic. procession) periodically. When the land is also meant for deity during the relevant festivals, whether the defendants could claim that it is their exclusive property and whether they are entitled to alienate the same to others without showing any origin of title to the property and only relying on the order of the Inams Deputy Tahsildar. In column No. 10, there is a mention "Hereditary". In column No. 11, there was a mention "the Inam appears to have been granted by Srikrishnadevarayala Varu, Rajah of Chandragiri, 500 years ago" and no document is placed by the defendants to prove that the original grant was given

by Srikrishnadevaraya. In column No. 13, the name of the original grantee is mentioned as Tallapaka Chinnayyavarlu. In Column No. 16, the name and age is mentioned as Tallapaka Seshacharlu, 60 years. Column No.18 mentions the 12th descendant from the original grantee. Surviving heirs have been mentioned in column No. 19 as Bhoja Srinivasa Murthy and Annatacharyulu and Raghavacharyulu. Column 21 contains the Deputy Collectors opinion and recommendations as "To be confirmed free of tax so long as the grant is fulfilled" and the Inam Fair Register was signed by the Tahshdar on 15-12-1881. It cannot be said that the land is for the service to be rendered to the deity Sri Venkateswaraswamy Varu. These recitals prevail over the title deeds, which were subsequently granted by the Government on 9-8-1982. The learned Judge further observed that where there is a grant and the title deed is available, the primary source from which the nature of the Inam has to be gathered is the grant itself. If there is no title deed filed, then the relevant recitals in the Inam Fair Register are to be looked into to gather the intention whether the grant is for the institution or for the named individual or for the holder of the office burdened with service. Moreover, Section 3 of the Government Grants Act postulates that:

All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the legislature to the contrary notwithstanding.

31. The learned Judge further observed that there is no recital made in the grant that the grant was made to the named individual or holder of an office burdened with service. The grant was made to the Manager for the time being as Devadayam obviously holding on behalf of Sri Venkateswara Swamy Pagoda so long as the condition of grant i.e., supply of flower etc. to Swami Varu are duly fulfilled. Therefore, on the date when the Act came into force, the Inamdar Sri Venkateswara Swami Varu and is in possession of Tallapakam people held the lands on behalf of Sri Venkateswara Swamy Varu. They have no legal title and they were not in lawful possession in their own right as Inamdars. Their possession must be permissible under the circumstances. The finding of the Commissioner that it is burdened with service is contrary to the recitals in the title deeds. The finding that mere possession is sufficient to grant patta is also palpably untenable. Accordingly W.P. No. 11895 of 1986 was allowed by setting aside the orders of the Inam Deputy Tahsildar, R.D.O. and Commissioner of the respective dates. Consequentially W.P.No. 11437 of 1986 was dismissed.

32. Sri T.V. Srinivasacharyulu and some of the defendants filed W.A.No.4 of 1993 and W.A.No. 1752 of 1987 challenging the common order of the learned single Judge. A Division Bench of this Court through the Judgment dated 23-12-1992 allowed the appeals by setting aside the common order of the learned single Judge in both the writ petitions.

33. The Division Bench, while dismissing the Writ Appeal, observed that the applicability of Endowments Act, 1987 was not raised before the learned single

Judge. Regarding the finality of the patta issued by the R.D.O. u/s 7 of the Inams Abolition Act, it was in favour of the appellants and the Bench was not inclined to express any view in the writ appeals since that issue does not arise. After the R.D.O. upholding the order of the Inams Deputy Tahsildar, the patta was issued in favour of the Inamdars before the revisional order of the Commissioner was passed u/s 14-A of the Inams Abolition Act. As the nature of the land was decided u/s 3 of the Inams Abolition Act to the effect that the grant does not belong to the institution, it is probable that the institution was not heard when the patta was granted. Therefore, the Division Bench saw no justification, whatsoever, to express any view on the finality of the patta granted by the Inams Deputy Tahsildar u/s 7 of the Inams Abolition Act in favour of the appellants. The Division Bench further observed that the learned single Judge was right in not considering the Xerox copy of Inams Title Deed No. 2921. The appellate authority's findings on fact cannot be disturbed except on permissible grounds of judicial review i.e., conclusions recorded without any evidence, violation of principles of natural justice, failure to notice relevant provisions of law or misdirection either in regard to question of law or fact. The Division Bench further observed that no attempt was made by T.T.D. to canvass the correctness of the finding of the appellate authority "as per entries in T.T.D. No. 2920 (title deed), the land was used as grave yard by Tailapaka people". There was no reference in the said title deed about the existence of the graveyard or the use of the land as graveyard by the Tailapaka people. Therefore, it is legitimate to infer that I.T.D. No. 2920 filed before the R.D.O. is different from the one placed before us. The certified copy or Xerox copy of I.T.D. No. 2921 was never produced before the appellate or revisional authorities, therefore it is open to the Bench to proceed on the supposition that both the I.T.Ds are couched in identical language.

34. In the suit, the plaintiff examined P.Ws.1 to 3 and defendants examined D.Ws.1 and 2. P.W.1 stated the contents of the plaint in his evidence. P.W.1 in the cross-examination stated that when he met the Senior Counsel at Delhi and discussed about the case by showing some documents, he entertained a doubt that some fraud was played in the revenue proceedings starting from the order of the Commissioner in 1982 till the order of the Commissioner in 1986. He secured the copies of all relevant documents and the T.T.D. authorities decided to take further course of action in the matter. Though he handled the section from 1995, he could not detect the fraud and misrepresentation till he met the Senior Counsel at Delhi. The Inam Title Deeds in favour of T.T.D were granted by the then British Rulers in or about 1882. They handed over the Tirumala Temple to the Mahanths in 1843. From the administration of Mahanths, Tirumala Temple was handed over to the Government in the year 1933. He further deposed that the said lands are Inam lands. Tirupati and Tirumala are ryotwari villages. The findings of the Commissioner are not based on the letters of peishkar dated 5-1-1980 and 8-8-1959 addressed to the defendants. As per Ex. A-15, the Revenue Department has to serve notices to the Inamdars. In Ex. A-18, Inam Fair Register, there is no mention with regard to ownership of the lands in favour

of anybody including T.T.D. He denied a suggestion that basing on the entries in the Inam Fair Register, pattas were granted to the defendants. In Ex. A-23 no survey number was mentioned with regard to extent of 10 1/3 square miles. He denied a suggestion that G.O.Ms. No. 105 was not issued by the Government. He also denied a suggestion that the proceedings covered by G.O.Ms. No. 1784 dated 4-11-1965 were not issued. He also denied a suggestion that the entries in survey and boundaries have not become final. There was no discussion in the writ appeals regarding the jurisdiction of the Commissioner under the Madras Endowment Act. There was no discussion about para 25 of the proceedings in the writ appeals. The order of Inam Deputy Tahasildar dated 29-8-1983 is not a speaking order. He denied a suggestion that the plaint schedule property exclusively belongs to Tallapaka people.

35. Though the lengthy cross-examination of P.W.1 was done by the defendants, they did not try to elicit any information or given a suggestion to P.W.1 as to how the defendants got the title over the suit schedule property and how much land was given to the defendants by whom and for what purpose.

36. P.W.2, the Inam Deputy Tahasildar deposed that the Inam Enquiry Record discloses that the then Inam Deputy Tahasildar issued notices to the interested parties including the Institutions as against the survey numbers noted therein. In Column No. 5 of the Ex. A-25 there was a mention that the Inamdars are T.T.D., Nandanavanam, Tatkal Manager, Executive Officer. The said record finds served notices to the Inamdars in pursuance of original Ex. A-15. The then Inam Deputy Tahasildar followed the procedure in serving notices to the Inamdars as contemplated under the Act and the Rules. In the cross-examination he stated that in column No. 5 of Ex. A-25 names of inamdars/enjoyers are mentioned. In Ex. A-26 notices, there is no mention about the specific notices are served to the inamdars against Title Deed Nos. 2920 and 2921. Those notices were not served to the defendants herein by the Inam Deputy Tahasildar for Title Deed Nos. 2920 and 2921. As the Inam Deputy Tahasildar is under an impression that the inamdars for the said title deed numbers belongs to Institution, no notices were served to the defendants. He denied a suggestion that the entries in Ex. A 25 register are created to support the case of the plaintiff.

37. P.W. 4, the then Assistant Executive Officer mentioned about the survey of lands at Tirumala, the survey notification dated 27-3-1980 covers the properties at Tirumala including suit survey No. 679/2 among others. He stated in the cross-examination that the disputes started in the year 1962. On 16th January of every year there will be Parveti Uthsavam (hunting festival). On the date of festival, the defendants are Ubayadathas. He denied a suggestion that the originals of letters 8-8-1959 and 5-1-1980 are very much available and the Exs.A-36 to A-40 correspondence was created to suppress the earlier proceedings.

38. Against the above oral evidence, the defendants examined D.Ws. 1 and 2. D.W. 1, the General Power of Attorney of defendants 1 to 6 and 18 to 24, deposed that almost all the Inams were accounted to the temple treasury by

their ancestors and the suit properties were kept by them for their individual purposes. The suit lands are in possession of Thallapaka family since 500 years and above and even by the date of his evidence, they are in possession of the lands with absolute ownership title and mutation of revenue records. He further stated that Sri Thallapaka Annamacharya lived during the dynasty of Sri Salva Narasimharaya of Vijayanagaram and the said Narasimharaya introduced several Sevas to Lord Venkateshwara. In a Sanad executed in favour of Sri Seva Dassjivaru of Sri Hathiramji Matam on account of disputes between Saivas and Vaishnavas about the temple administration. He further deposed that there was a dispute arose between the Jiyangars and Thallapaka family on the Ubhayam and the matter was placed before the Vicharanakarthha i.e. Mahanth on 9-1-1864. The Vicharanakarthha passed the order in favour of Thallapaka people mentioning that they are Ubhayadars in Parveti Utasavam and no one else has such right. He further deposed that G.O.Ms. No. 1784 issued by the British Government was struck down by the High Court and the said order became final.

39. This witness did not mention anything about the origin of the title to the suit lands and referred only to the happenings subsequent to the filing of the writ petitions by the plaintiff. Exs. B-1 and B-2 are inscriptions printed and published by T.T.D. and Ex.B-2 is Annamacharya Cheritham. Exs. B-3 to B-11 relate to the orders from 1999 to 2005. Therefore, no reliance need be placed on those exhibits which came into existence subsequent to the initiation of the proceedings by the plaintiff.

In the cross-examination he stated that the basis for defendants' claim is Ex. B-1 and other documents. The Inams covered by Title Deed Nos. 2920 and 2921 are burdened with service. He had seen two title deeds. He is aware of the proceedings under Ex. A-14 decision under the Inams Abolition Act made by the Inam Deputy Tahasildar in the year 1960. He further deposed that in Ex. A-5 there is no mention about the condonation of delay of 18 years" The revision petition before the Commissioner of Land Revenue is barred by limitation. It is true that Ex. A-4 was under the Endowments Act and Ex. A-5 was under the Inams Abolition Act. The plaintiff filed proof of service of notices under the provisions of the Inams Abolition Act, vide Exs. A-15 to A-17. Exs.A-15 to A-17 do not pertain to suit property. In Ex. A-14 the Inam Title Deed Nos. 2920 and 2921 were mentioned along with other survey numbers. It is true that in pursuance of the said order, the Inam Deputy Tahasildar again gave a fresh decision under Ex. A-6 dated 29-8-1983. The remarks column of Ex. A-6 had a mention that Temporary Manager, T.T.D., Tirupati, Thallapakam Venkata Sreenivasacharyulu and others. Ex. A-6 was published in Chittoor District Gazette. Ex. A-2 discloses one title deed No. 2920. It is true that the title deed bearing No. 2921 is also to the same effect, but in respect of different extent of land. The contents of Ex. A-19 reveal that the Revenue Divisional Officer mainly relied on the entries in the Inam Fair Register. He is aware that a permanent "B" register is available with concerned revenue authorities regarding Tirupati village accounts. He personally compared the original of Ex. A-13, Inam "B" register in

public Court. The recitals in Ex. A-13 reveal that the lands pertaining to title deed Nos. 2920 and 2921 belong to T.T.D. and shown as Devadayam. The subject matter of the present suit was not the subject matter of O.S. No. 17 of 1983. He further deposed that the plaintiff itself conducts Parveti Uthsavam. He also stated that on the occasion of those uthsavams the plaintiff was asking the defendants to white-wash the Mantapam and to clean the surroundings. The plaintiff was issuing such proceedings to the defendants every year. The defendants are Thallapaka Mirasidars. He further stated that Gograbam Water Dam was constructed by the plaintiff about fifty years back, but denied suggestion that it was constructed in Survey No. 645 which is part of the suit land. He also conceded that the plaintiff laid road leading from Tirumala to Papanasanam and part of it goes through the land shown in item No. 3 of plaint schedule. He further conceded that Gosala and Departmental Public Works Stores were constructed in part of the suit schedule property in the year 1923. He further conceded that all the constructions in the suit schedule lands were made prior to 1960 and allowed the constructions without raising any objection. D.W.1 further deposed that survey was conducted and completed during the years 1972 to 1980 in respect of suit property and other lands. They did not raise any objection for survey of suit land also and nobody challenged the survey conducted under the Survey and Boundaries Act.

40. D.W. 2, the 10th defendant deposed that the suit properties are personal grant to Thallapaka Annamacharya by Sri Krishna Deverayulu appreciating the service rendered by him at Tirumala and for supply of flowers, fruits and any other things necessary from garden to temple, which was named as "Dharmadaya". His predecessors, himself and his family members have been in possession and enjoyment of the suit schedule properties with absolute owners and Inamdars since 500 years by paying cist to the Government. The Madras Governor in Council or the then Inam Commissioner, Madras did not issue Inam Title Deed Nos. 2920 and 2921 for plaint schedule lands in favour of the plaintiff. He and other defendants obtained ryotwari pattas from the revenue authorities prior to filing of the suit for the suit land. They did not play any fraud, collusion or misrepresentation in the earlier proceedings. In the cross-examination he stated that they have not filed the grant given by Sri Krishna Devaraya into the Court. They have not filed cist receipts to show the payment of cist to the Government at any point of time. He is aware that the title deed Nos. 2920 and 2921 are in existence and they relate to suit schedule property.

41. The defendants did not file any documents for the period prior to 1999 to prove that they are the Inamdars of the suit schedule property and that they have been in possession and enjoyment of the property with absolute rights. The defendants did not explain as to how they allowed construction of road through the land, construction of Gograbam Water Dam, Parveti Mantapam, Stores, Gosala etc. They did not raise any objection at any time after the issuance of the patta by the Inam Deputy Tahasildar in the year 1960 for a period of 22 years. Except two names in the Inam Fair Register as persons in possession of the

property, no other document discloses that any of the defendants or their predecessors was in possession of the property as Inamdars. The silence on the part of the defendants and their predecessors for more than two decades after the order of the Revenue Divisional Officer that the plaintiff was already granted patta in respect of the suit lands, is leading to an inference that the defendants never asserted title to the suit property and never claimed that they are the Inamdars of the suit land till the patta was cancelled by the Commissioner of Land Revenue at the instance of Thallapaka Venkata Sreenivasa Charyulu.

42. In the light of the above circumstances, it has to be examined:

Whether the orders passed by the revenue authorities and the Courts in the earlier round of litigation are inflicted by fraud, collusion and misrepresentation among the defendants, revenue authorities and the officials of the plaintiff.

43. The defendants asserted in the present suit that the suit schedule lands were granted by Sri Krishnadevaraya in favour of late Sri Tallapaka Annamacharya, the original ancestor of the defendants. They further asserted that Sri Tallapaka Venkata Seshacharyulu was the progeny in 11th generation and the defendants belong to 12th generation of late Sri Annamacharya. They further asserted that their predecessors and themselves are in possession of the suit properties with absolute rights since generations and the plaintiff trespassed into Item Nos. 1 and 2 of the plaint schedule lands. But, in a partition suit between the 10th defendant and his brothers covered by O.S. No. 254 of 1984 on the file of the Subordinate Judge Tirupati, they projected a different story regarding their title, possession and enjoyment of the suit schedule lands. The lands of the present suit are described as "A" schedule lands in the partition suit. The judgment in O.S. No. 254 of 1984 dated 16-7-1991 was marked as Ex. B-14. It is interesting to note the contentions of the defendants in the plaint and the written statements filed by them in the said suit, which were extracted by the learned Subordinate Judge in the judgment covered by Ex.B-14.

44. The averments of the plaint in partition suit as extracted by the Subordinate Judge are briefly as follows:

The family of Tallapaka consists of Venkata Seshacharyulu, the plaintiff and the defendants were having Mirasi rights in T.T.D. for performing Divyanama Sankeerthanam in the temple of Tirumala. Several properties owned by the joint family and the properties described in "A" schedule hereunder are covered by a grant under Title Deed Nos. 2920 and 2921 comprising an extent of Ac.28.58 cents and the plaint "B" schedule property covered by Title Deed No. 2426 comprising an extent of Ac.188.32 cents situated at Tirupati were granted in the names of ancestors of Tallapaka family. Ever since the date of respective grants the ancestors, the plaintiff and the defendants have been in exclusive possession and enjoyment of those properties and also performing Divyanama Sankeerthanam in Tirumala Temple. The Mirasi rights of performing Divyanama Sankeerthanam being inalienable, the members of the family agreed to perform

the service in turns each year commencing from November, 1972 with the first defendant's turn being the first turn. The plaintiff and the defendants and their father divided the house property under a registered partition deed dated 14-9-1967. In the said division the lands described in A and B schedules were not divided since the land covered by "A" schedule was un-reclaimed and only the produce from the trees was being enjoyed and a portion of which was also converted as grave yard of Tallapaka family members, but no material placed to prove that the grave yard situated in this property was that of Tallapaka family members. Tallapaka Venkata Seshacharyulu executed a registered will dated 1-10-1972 in a sound and disposing state of mind. He died on 1-11-1972 and the Will came into effect. As per the terms of the Will, the plaintiff and the defendants are each entitled to 1/6th share not only in Divyanama Sankeerthanam but also the emoluments attached to the service and also in the properties described in the A & B schedule properties. The defendants by misrepresentation, fraud and collusion brought about an order from the Inam Deputy Tahasildar in Inam Title Deed No. 2 of 1983 dated 17-7-1984 excluding the name of the plaintiff. The defendants having succeeded in the collusive and fraudulent attempt of obtaining favourable orders from the Inam Deputy Tahasildar have been attempting to alienate the "A" schedule properties. They have also made an announcement in the newspaper inviting the purchasers for the "A" schedule properties.

45. Venkata Srinivasa Charyulu, who was the husband of the first defendant herein, filed written statement as defendant No. 3 in the partition suit and it was adopted by the defendant Nos. 1, 2, 4 to 10. The relevant portions of the written statement of the third defendant therein are briefly as follows.

46. Tallapaka family consisting Venkata Seshacharyulu, the plaintiff and the defendants were having Mirasi Rights in T.T.D. for performing Divyanama Sankeerthanam in the temple at Tirumala. The patta for the lands described in the plaint-A schedule was granted in favour of T.T.D. in 1962. The Inam Deputy Tahasildar in his proceedings in Inam Title Deed No. 2 of 1983 dated 17-7-1984 after due enquiry under the Inams Abolition Act, 1956 granted patta in favour of the defendants. The defendants took possession of the plaint-A schedule lands after the grant of patta in their favour and they are in possession of the same. The plaint-A schedule is a garden and Divyanama Sankeerthanam Mirasi service has nothing to do with the same. A separate service is attached to the plaint-A schedule property. Late Tallapaka Venkata Seshacharyulu was enjoying the Mirasi rights. The lands described in plaint A and B schedule were not divided in the partition of 1967 because the family was not in possession of the same. The T.T.D. has taken the possession of the plaint-A schedule lands and applied for the resumption of the lands in 1962. Until the defendants took possession the family was not in possession of "A" schedule lands. Tallapaka Venkata Seshacharyulu was not in possession of plaint-A schedule lands at the time of his death. Therefore, the allegation of the plaintiff that after the death of his father, he and the defendants continued to be in possession is coined only for the purpose of

paying the Court fee. The defendant No. 3 fought the litigation with the aid of the other defendants and obtained possession of the land for himself and the other defendants by getting patta. Late Venkata Seshacharyulu executed a registered Will on 1-10-1972 and it came into effect from 1-11-1972 the date on which he died. In the said Will, late Seshacharyulu specifically mentioned that his sons should claim the properties attached to the Mirasis. The Will of Venkata Seshacharyulu is silent about the plaint A & B schedule properties. The T.T.D. applied for the resumption of plaint-A schedule lands and applied for grant of patta in its favour. Defendant No. 3 who got the turn of Mirasi service in 1975-76 started the litigation and ultimately got an order from the Inam Deputy Tahasildar.

47. The plaintiff in the said suit as P.W.1 deposed that "A" schedule lands are situated at Tirumala. The lands were granted to their ancestors as service Inam during the regime of Krishna Devaraya. The Commissioner of Inams confirmed the lands and issued title deeds covered by T.D. Nos. 2920 and 2921 in 1882 for an extent of Ac.28.58 cents. Their forefathers have been enjoying the suit lands and rendering the service in the temple. "A" schedule lands could not be partitioned as they are service inam lands and his father who was managing the family was alive. He alone is entitled to render the service. After the death of their father only, they became entitled to render the service and enjoy the suit lands. "A" schedule land was a garden bearing trees and bamboo bushes, tamarind trees etc. His father was in possession and enjoyment of "A" schedule lands during his life time. After his death, himself and defendants 1 to 5 have been in possession and enjoyment thereof. Just before the filing of this suit, the Inam Deputy Tahasildar granted patta for "A" schedule lands in favour of defendants 1 to 5 excluding him.

48. The evidence given by the first defendant by name Tallapaka Anantha Charyulu as D.W.1 is briefly as follows:

Tallapaka Venkata Seshacharyulu is his father. His father executed a Will and he died in 1971. He mentioned about the temple mirasi service of Tirumala in the Will. There is no reference in the Will to Title Deed Nos. 2920 and 2921 as they were not in their possession by that date. They attempted to take possession of the lands covered by the above title deeds. They tried to take possession by filing petition before the Inam Commissioner for Survey, Settlement and Land Records. The Inam Commissioner referred the matter to Inam Deputy Tahasildar concerned. They started proceeding to take the possession of the lands covered by title deed Nos. 2920 and 2921 in the year 1974. The matters relating to taking over the possession of the lands covered by title deed Nos. 2920 and 2921 are now pending in High Court of Andhra Pradesh in the Writ Appeals, which were filed by them, when T.T.D. succeeded in the writ petitions. In the writ appeals, status quo was ordered.

49. The relevant portions of the evidence given by D.W.1 in the cross-examination are as follows:

His father died in the month of November, 1971. One month prior to the death of his father executed the last Will in favour of all his sons bequeathing his shares. His father had no properties. Except the shares given in the temple, his father had no other property. The suit property is situated in Tirumala Hills. The suit property was acquired by his forefathers. By the time of the death of his father, they did not know that the suit properties belonged to their family. During his life time, his father did not inform them about their family possessing the suit properties. After the death of his father, they learnt that the suit properties belong to their family. They asked T.T.D. authorities to handover the possession of the suit properties to them. T.T.D. people refused to deliver the possession of the suit properties. So one of his brothers by name Sreenivasachari filed a revision petition before the Commissioner of Survey, Settlement and Land Records, Hyderabad.

50. The pleadings and the evidence of the present defendants in the partition suit disclose that the members of Tallapaka family are the Mirasidars of Tirumala Temple for rendering Divyanama Sankeerthanam at the temple. As per their version in the said suit, the lands were not granted to their family for rendering mirasi service. They were granted for a different purpose. The plaintiff therein stated that it was granted as a service Inam. Whereas, the defendants therein did not say the purpose for which the grant was made. The plaintiff and the defendants in the said suit pleaded that their family was granted A schedule lands which are the present suit lands under Inam Title Deed Nos. 2920 and 2921. They are not disputing the authenticity and the genuineness of Inam Title Deed Nos. 2920 and 2921. They are claiming that they were granted the present suit lands under those title deeds. Therefore, the contents of those title deeds assumed so much importance regarding the person to whom and the purpose for which those lands were granted under the title deeds. When the defendants are not disputing the above title deeds and whey they are not questioning the authenticity of those documents, there is nothing wrong in relying on the contents of those documents on verification of the certified copy or the Xerox copy of those title deeds. The contents of those documents cannot be relied on only when the defendants dispute the genuineness of those documents. The T.T.D. is claiming that in pursuance of the above and several other title deeds, an enquiry was conducted by the Inam Deputy Tahasildar and granted pattas to the suit lands in its favour which was reiterated by the Revenue Divisional Officer, Chandragiri, through the order dated 30-6-1964 in M.P. No. 4 of 1962 filed by T.T.D.

51. It is further disclosing from the evidence given by them in the partition suit that Tallapaka family was never in effective possession of the lands. That is why the defendants in the said suit pleaded that by the date of death of late Venkata Seshacharyulu, they did not know that their family was granted patta through Inam title deeds and there was no mention in the Will executed by late Seshacharyulu about the title or possession of suit lands and the defendants kept quiet for a period of 18 years afterthe death of Venkata Seshachryulu and on

account of the innovative idea entertained by late Srinivasa Charyulu, the defendants started asserting that the suit lands were granted to their ancestors and they are in possession and enjoyment of the property. The laying of the road to Papanasanam, the construction of Gogarbam Water Dam, Gosala, Office of T.T.D. (mention the correct name) and Parveti Mantapam by T.T.D. is an indication that the defendants never asserted either title or possession over the property at any time prior to the filing of the revision petition before the Commissioner of Survey, Settlement and Land Records in the year 1982.

52. The defendants used a trump card, which is an entry in the Inams Fair Register covered by Ex.B-16 to assert that since the names of "Bhoja, Srinivasa Murthy, Anantha Charyulu, Raghava Charyulu as surviving heirs of the original grantee" were mentioned in Column No. 19 of the Register, they are entitled for patta in their favour. The defendants asserted that item Nos. 1 and 2 are being used as grave yard Tallapaka people, therefore, it is an indication that they are in possession and enjoyment of the property. But, curiously in column No. 8 of the Inams Fair Register, the following was written:

This is a garden with a grave yard wherein the remains of Hati Ramji, the original founder of the Matam are....

This is a clear indication that the grave yard said to be present in Item No. 1 of the plaint schedule is not the grave yard of Tallapaka people and it was the grave yard of Hati Ramji, who was managing the affairs of the temple for a considerable period. This fact was not brought to the notice of the concerned authorities or the Courts-by the plaintiffs. Therefore the Court was made to believe the version of the defendants that item No. 1 of the plaint schedule is being used as a burial ground of Tallapaka people. In Ex. B-16 there is a further mention in Column No. 12 that the defendants failed to produce the written instruments in support of their claim or any other miscellaneous documents and other proofs of long possession or to know whether the Inam is held with or without grant. It was further mentioned that the defendants did not mention whether they produced the original grant or whether it was lost and the specification of terms of all documents. Since the defendants failed to produce any documents in support of their claim, the Inam Commissioner in the remarks column mentioned that he wants further information I before confirming the terms in those cases. In the remarks column, the Commissioner further mentioned as follows:

These inams appear to be gardens on the Tirupati Hills. Is the Hill considered to be Government property and are any lands cultivated and any assessment collected on them by Government. Are all these topes more than 50 years old. If there are any topes planted recently, they must be charged with half assessment. The Tahasildar will also enter in Column No. 7 the assessment of the land according to the rates borne by similar Government lands.

Therefore, the remarks of the Commissioner in the Inams Fair Register and the

non-production of any documents by the defendants at the time of enquiry for preparation of Inams Fair Register indicate that though entries were made on the information given by the defendants, it cannot be treated as the correct information, in the absence of any supporting material either in the form of title deeds, pattas, grants. The plaintiff filed Inam "B" Register covered by Ex. A-13, which is described as "Permanent Register showing the details of Inam lands in Tirupati Mandal, Chittoor District."

53. It is the specific contention of the plaintiff that T.T.D. is the owner of the suit schedule lands. The plaintiff contended that the Inams Commissioner in recognition of the title of the temple issued title deeds Nos. 2920 and 2921, dated 9-8-1982. They also placed reliance on several other documents to prove that it is a land meant for Nandanavanam Kainkaryam and they are in continuous possession and enjoyment of the same. The plaintiff also contended that Gogarbham dam was constructed in the land and there is also a store, a temple office, goshala constructed in the land and a road leading to Papavinasanam was also laid through the land. There is also a Parveti Mandapam in existence since times immemorial and once in a year the Deity Venkateswaraswamy is taken to that place and an annual festival to be performed on behalf of Devasthanams. The defendants did not come with the true version regarding the assertion of the title over the property and they misrepresented before all the authorities and Courts and gave a distorted version misleading the Courts that they were granted pattas in their favour and that the title deeds were also issued in their favour, therefore, the list of circumstances indicating the fraud played by the defendants on the Court and the revenue officials. The pleas taken by them and the material placed in support of such pleas will be analyzed in the following paras.

54. The defendants claimed that the temple was not granted title deeds at any time and the title deeds were not granted in favour of an institution and it is only an individual that was granted the Inam, therefore, the temple cannot claim any title or possession over the property. The suit lands are three items. The land covered by T.D. No. 2920 is an extent of 0.46 cents situated in S. No. 686 and another extent of 0.97 cents situated in S. No. 645. The land covered by T.D. No. 2921 is an extent of 27.15 cents situated in S. No. 679 of Tim mala Village, Chandragiri Taluk, Chittoor District. The plaintiff was able to produce T.D. No. 2920, wherein the recitals of the title deed are as follows:

The defendants contended that these lands and some other lands were granted by Srikirshnadevaraya in favour of Tallapaka Annamacharya, the ancestor of the defendants. But they have not placed any scrap of paper to show that the land was granted or given to Tallapaka Annamacharya or any of his descendants. They filed some inscriptions published by TTD covered by Exs.D-1 and A-2, Annamacharya Charitham, which do not disclose about the granting of any land in favour of Annamacharya. They did not produce any document to show that either Annamacharya or his descendants were granted any patta in respect of

the suit schedule land, therefore the contention of the defendants that their family was granted pattas remained only as a contention and it is not substantiated with any proof. D.W.1 in his evidence contended that the inam was granted in favour of defendants in the year 1883 under two inam title deed bearing Nos. 2920 and 2921. He further contended that the entire suit property is covered under two title deeds. He further contended that in Ex. A-6 in remarked column there is a mention that temporary manager of TTD is Tallapaka Venkata Srinivasacharyulu and others and Executive Officer, Tirupati. He conceded that the title deed bearing No. 2921 is also similar with that of title deed No. 2920, but in respect of different extent of land. He did not dispute the existence of the two title deeds. He further stated that the RDO mostly relied on the entries in the Inam Fair Register covered by Ex. A-19 and he did not peruse the entries in the Permanent B-register relating to the property in dispute. He also conceded the existence of permanent B-register which is available with the concerned revenue authorities regarding Tirupati village. The recitals in Ex. A-13 Inam B-register reveals that the land covered by TD Nos. 2920 and 2921 belong to TTD and shown as "Devadayam". But he contends that it is not "devadayam" and it is only "dharmadayam". He further stated that Parveti Mandapam was constructed on the suit land during the period of first two generations of Tallapaka people. He further stated that Parveti Mandapam was constructed on the suit land during the period of first two generations of Tallapaka people. He further conceded that D-17 T. Satyanarayana Charyulu filed O.S. No. 17 of 1983, subsequently numbered as O.S. No. 254 of 1984, (verify) for partition and the Judgment and decree of that suit was marked as Ex.B-14. He further conceded that Parveti Uthsavam will be conducted by the plaintiff, but the defendants are Ubayadars for the said festival. He also conceded that they are the mirasidars for "narnasamkeerthanam". They also conceded that Gogarbham was constructed by the plaintiff about 50 years back in the suit land. He also conceded that the plaintiff laid road leading to Tirumala from Papanasanam through part of item No. 3 of the plaint schedule land. The water channels which reach the Gogarbham dam are also part of the suit land. He also conceded that goshala was constructed in part of the suit property and departmental public works stores were constructed by the plaintiff in the suit property. He also conceded that all the above constructions were made long prior to 1960. He also conceded that a survey was conducted and completed during the years 1970 to 1980 and it includes the suit property. He also conceded that they have not objected for the said survey.

55. D.W. 2, the 10th defendant in the suit conceded in the cross-examination that he is aware of the title deeds bearing Nos. 2920 and 2921 in existence and they relate to suit property.

56. The plaintiffs filed Ex. A-3 copy of the Judgment in O.S. No. 51 of 1937 on the file of the Subordinate Judge, Chittoor. In the said Judgment, the suit was filed by TTD against Mahant of the Hathiramji Mutt, Tirupati for recovery of possession of ten items of immovable properties covered by the title deeds. The

Judgment was rendered on 15-6-1942, therefore, it assumes much importance regarding the events that happened even though the defendants were not parties to the said suit. In the said Judgment, it is mentioned that at the time of inam settlement, the Government issued inam title deeds in respect of the items mentioned in the plaint to the manager for the time being of the said Nandanavanams for the use of the pagoda of Sri Venkateswaraswamy. It is further mentioned in the Judgment that till the close of 18th century Tirumala Tirupati Devasthanams were being managed by the then rulers of the country. When the British Government was established, the management of the TTD was taken over by the East India company. The Devasthanams were then placed under the direct control of the Board of Revenue through the Collector of the North Arcot District. But on account of dispatch of the Court of Directors that the Government should not have anything to do with temples and the places of religious resort of the Hindus the management of the temple was made over to Sri Mahant Sevadosh, the then Mahant of the Hathiramji Mutt. Mahanth Sevadas executed a Vicharaka to the Government. The Government also granted a sannad to Sri Mahant Sevadoshji transferring the management of the Tirumala Tirupati Devasthanams to the Sri Mahant of the Hathiramji Mutt, who was to be called as the "vicharanakarth" (Dharmakarth) of the temple. Afterwards, the Mahant of Hathiramji Mutt succeeded sevadoshji about the year 1870. The village Tirumala was being surveyed and settled. In the year 1803, inams regulations were introduced after permanent settlement was made in 1802. In pursuance of the proclamation of Victoria in 1839, a Commissioner was appointed in 1859 to go through the rights of inamdars and between 1851 to 1864 the Inams Fair Register was prepared looking into the antiquity and sanctity of the Tirumala temple. The Government considered that the case of the temple said to be liberally and there is objection to grant the whole area to the temple. A new settlement register was also prepared by making necessary corrections. The Inam Fair Register contains particulars of all the inams covered by the title deeds. It is clear that all the properties covered by the title deeds were included in it and the Government treated it as inam properties of Tirumla Tirupati Devasthanams. They cannot belong to any private individual. It therefore follows that there cannot be any private individual and they shall be under the management of the TTD for the time being. There is a mention in the judgment about the contents of Inam Fair Register. After referring the Inam Fair Register, the Court observed the following in column 22:

I want some further information before confirming the inam in these cases. These inams appear to be inams on the Tirupati Hill.

57. In column No. 21 also, the following entry was observed:

Although the late Collector Mr. Bourdillon had decided that these orchards should be allowed free without being registered, yet the acting Tahsildar of Chandragiri has brought the circumstances to the notice of the Collector and obtained his permission to register the same under Nandanavanam topes in poramboke land

under the recent instructions from the I nam Commissioner and these cases are therefore investigated and they are herewith submitted with the recommendation that they are to be confirmed free so long as the charity topes are dedicated for charitable purposes. To be confirmed in one title deed on the above conditions.

All these entries are dated in April and May 1870 long before Mr. Willkinson's report. It is also observed that the trees must have been planted by the manager for the time being of the TTD and the nanadavanam annexed to TTD during the time of the Government's management prior to 1843.

58. In the light of the above observations, the defendants must establish that at any time Tallapaka people were appointed as manager of the Temple or Nandanavanams. But they could not place any material to that effect.

59. The property cannot also be regarded as having been lost by adverse possession because the possession of the defendants could not be adverse. The Inam Commissioner's final order is that the inam is confirmed to the pagoda so long as the Nandavanams are kept up. It was further observed that the Inam Title Deed must be in accordance with the order passed by the Inam Commissioner just as a decree in Inams Fair Register. If anything not found in the judgment is introduced into the decree, the Judgment must prevail and not the decree. The order of the Inam Commissioner is that the inam is confirmed to the pagoda and nobody else. When that is the case, we cannot understand why contrary to the Inams Commissioner's order the name of the Vicharanakarthas was included in the Inam Fair Register. It is further observed that he was inclined to think that this is only one of the frauds played by Mahant. Prior to the inam grants they were Government poramboke lands. They could not have been the lands of the Mutt. As already stated, the Inam Fair Register speaks of the properties covered by the inam title deeds as TTD Nandavanams.

60. From the above observations, it can be concluded that the Inam Fair Register was prepared on 12-5-1870 and the entries in column Nos. 16, 17 and 19 are fraudulently introduced for the purpose of showing that their rights were recognized by the concerned authorities. This is one of the circumstances of the defendants playing fraud on the Court by misleading that their names were entered in the Inams Fair Register.

61. The proceedings before the revenue authorities and the Courts were proceeded on the assumption that the names of the defendants are finding place in the Inams Fair Register. As the entry in the Inams Fair Register is equivalent to a title, the revenue authorities and the Courts proceeded with the same assumption that the defendants were recognized as pattadars of the suit property. The Division Bench in W.A. No. 4 of 1993 and W.A. No. 1752 of 1987 was also misled and on the false representation made by the defendants, the following observation was made by the Division Bench of the High Court:

The recitals of the Inam Fair Register clearly establish the fact that the ancestors of the appellants were the real Inamdars and that the grant was a personal Inam

unburdened with any requirement as to service of any nature. The original grant was by Srikrishna Devaraya in favour of Tallapaka Annamacharyulu, who was known as Chinna Ayyavarlu, therefore, it would be unrealistic to contend that the inam was granted for the purpose of maintaining Nandanavanam.

62. The defendants also misrepresented before the Division Bench that the expression "Nandanavanm" is not flower garden and it has a different context i.e., the name of the land and it was belonging to Tallapaka family.

63. The Division Bench was further made to observe that "as per the entries in I.T.D. No. 2920 (title deed), the land was used as graveyard by Tallapaka people". But there was no reference in the said title deed about the existence of the graveyard or the use of the land as graveyard by Tallapaka people, therefore, it is legitimate to infer that the inam title deed No. 2920 filed before the RDO is different one placed before the High Court. The defendants went to the extent of saying that the Inam Title Deeds were in favour of Tallapakam Venkata Seshacharyulu and not in favour of the plaintiff temple. In the written statement filed in the partition suit, the defendants conceded that they were having Mirasi right for "Divyanamasamkeerthana" in the temple. The plaint A-Schedule, which was covered by the present schedule, was granted in favour of TTD in 1962. The TTD has taken possession of the plaint A-Schedule lands and applied for the resumption of the lands in 1962 and till the defendant took possession, the family was not in possession of A-Schedule lands. Tallapaka Venkata Seshacharyulu was not in possession of A-Schedule lands at the time of his death on 1-11-1972.

64. D.W.1 Tallapaka Ananthacharyulu deposed in the partition suit that there is no reference in the Will executed by his father about the title deeds Nos. 2920 and 2921 and the lands were not in their possession by that date. His father died in the month of November, 1971. One month prior to the death of his father executed the last Will in favour of all his sons bequeathing his shares. His father had no properties. Except the shares given in the temple, his father had no other property. The suit property is situated in Tirumala Hills. The suit property was acquired by his fore-fathers. By the time of the death of his father, they did not know that the suit properties belonged to their family. During his life time, his father did not inform them about their family possessing the suit properties. After the death of his father, they learnt that the suit properties belong to their family. They asked T.T.D. authorities to handover the possession of the suit properties to them. T.T.D. people refused to deliver the possession of the suit properties. So one of his brothers by name Sreenivasachari filed a revision petition before the Commissioner of Survey, Settlement and Land Records, Hyderabad. The contention of Sreenivasachari in that revision is that the suit properties belonged to their family and therefore, the patta for those lands should have been given in favour of their father. They filed the certified copies of the revenue records pertaining to the suit properties and also one document received from the plaintiff before the Inam Deputy Tahasildar during enquiry.

65. The pleadings and the evidence of the present defendants in the partition suit disclose that the members of Tallapaka family are the Mirasidars of Tirumala temple for rendering Divyanamasamkeerthanam at the temple. As per their version in the said suit, the lands were not granted to their family for rendering mirasi service. They were granted for a different purpose. The plaintiff therein stated that it was granted as a service inam, whereas, the defendants therein did not say the purpose for which the grant was made. The plaintiff and the defendants in the said suit pleaded that their family was granted A Schedule lands which are the present suit lands under Inam Title Deed Nos. 2920 and 2921. They are not disputing the authenticity and the genuineness of Inam Title Deed Nos. 2920 and 2921. They are claiming that they were granted the present suit lands under those title deeds. Therefore, the contents of those title deeds assumed so much importance regarding the person to whom and the purpose for which those lands were granted under the title deeds. When the defendants did not dispute the above title deeds and when they are not questioning the authenticity of those documents, there is nothing wrong in relying on the contents of those documents on verification of the certified copy or the xerox copy of those title deeds. The contents of those documents cannot be relied on only when the defendants dispute the genuineness of those documents. The T.T.D. is claiming that in pursuance of the above and several othertitle deeds, an enquiry was conducted by the Inam Deputy Tahasildar and granted pattas to the suit lands in its favour which was reiterated by the Revenue Divisional Officer, Chandragiri, through the order dated 30-6-1964 in M.P. No. 4 of 1962 filed by T.T.D.

66. It is further disclosing from the evidence given by them in the partition suit that Tallapaka family was never in effective possession of the lands. That is why the defendants in the said suit pleaded that by the date of death of late Venkata Seshacharyulu, they do not know that their family was granted patta through Inam Title Deeds and there was no mention in the Will executed by late Seshacharyulu about the title or possession of suit lands and the defendants kept quiet for a period of 18 years after the death of Venkata Seshacharyulu and on account of the innovative idea entertained by late Srinivasa Charyulu, the defendants started asserting that the suit lands were granted to their ancestors and they are in possession and enjoyment of the property. The laying of the road to Papanasanam, the construction of Gogarbam Water Dam, Gosala, Office of T.T.D. and Parveti Mantapam by T.T.D. is an indication that the defendants never asserted either title or possession over the property at any time prior to the filling of the revision petition before the Commissioner of Survey, Settlement and Land Records in the year 1982.

67. The defendants contended that they have been in possession of the land since 1933, but they have not filed any scrap of paper to show that they were in possession of the land at any time. In the Inam Title Deed No. 2920, there is no mention about the individuals and it is only described TTD"s. temporary manayer, for the time being, of the Nandanavanams. The defendants also did not

adduce any evidence as to when Tallpaka family kept in management of the temple and who was the first manager of the family to manage the affairs of the temple. They did not produce any documents to show that they were in possession of the property at any time. They simply relied on Ex. A-41 legal notice dated 8-8-1959, wherein the Executive Officer of the plaintiff mentioned that Tallapakam Venkateseshacharlu was in possession of an extent of Ac.27.04 cents covered by title deed No. 2921 issued by the Inam Commissioner. He further mentioned that the Nandanavanam was granted and confirmed for the support of the pagoda of Sri Venakteswaraswamy temple. The fruits, flowers and other produce have to be supplied for the support of the said pagoda. But he has not been discharging the trust imposed on him as a manger for the time being of the Nandanavanams. Unless he accounts for the rents and profits of the Nandanavanam from the date he has been performing the conditions of the grant and pay to the Devasthanams such rents and profits he received, within a week after receipt thereof. Otherwise he will be constrained to initiate appropriate proceedings for not only the recovery for the said rents and profits, but also for the resumption of the inam.

68. It is the contention that the Tallapaka Venakata Seshacharyulu was the manager for the time being of the Nandanavanam. He cannot get personal right over the property when he is representing the temple as a temporary manager. He was also the servant of the temple for the purpose of "Divyanamasamkeerthana", therefore, there is a master and servant relationship between the plaintiff and the defendants and when the defendants are in permissive possession, the question of claiming adverse possession to the land does not arise. The silence of the defendants for a period of 18 years after passing Ex. A-4 order dated 30-6-1994 also lending support to the plaintiffs version that the defendants have no interest in the property till they filed a revision before the Commissioner of Survey and Settlements.

69. When there is fraud and misrepresentation made by the defendants and the Revenue Authorities without proper verification of the record made certain observations, it is a clear indication that the defendants obtained orders from the concerned authorities by misleading them and playing fraud and when such fraud is established, the orders and the earlier Judgments are nullity and non-est in the eye of law. The following is the case law in support of the contention that when orders were obtained by playing fraud, they are nonexistent in the eye of law.

70. In S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, the Supreme Court held as follows:

A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. A litigant, who approaches the Court, is bound to produce all the documents executed by him, which are relevant to the litigation. If he withholds a vital document in order to

gain advantage on the other side then he would be guilty of playing fraud on the Court as well as on the opposite party.

It is a settled proposition of law that a judgment or decree obtained by playing fraud on the Court is a nullity and nonest in the eyes of law. Such a judgment by the first Court or by the highest Court has to be treated as a nullity by every Court, whether superior or inferior. It can be challenged in any Court even in collateral proceedings.

The High Court reversed the findings of the trial Court on the following reasonings:

Let us assume for the purpose of argument that this document, Ex. B-15, was of the latter category and the plaintiff, the benamidar, had completely divested himself of all rights of every description. Even so, it cannot be held that his failure to disclose the execution of Ex. B-15 would amount to collateral or extrinsic fraud. The utmost that can be said in favour of the defendants is that a plaintiff who had no title (at the time when the suit was filed) to the properties, has falsely asserted title and one of the questions that would arise either expressly or by necessary implication is whether the plaintiff had a subsisting title to the properties. It was up to the defendants, to plead and establish by gathering all the necessary materials, oral and documentary, that the plaintiff had no title to the suit properties. It is their duty to obtain an encumbrance certificate and find out whether the plaintiff had still a subsisting title at the time of the suit. The plaintiff did not prevent the defendants, did not use any contrivance, nor any trick nor any deceit by which the defendants were prevented from raising proper pleas and adducing the necessary evidence. The parties were fighting at arm's length and it is the duty of each to traverse or question the allegations made by the other and to adduce all available evidence regarding the basis of the plaintiff's claim or the defence of the defendants and the truth or falsehood concerning the same. A party litigant cannot be indifferent, and negligent in his duty to place the materials in support of his contention and afterwards seek to show that the case of his opponent was false. The position would be entirely different if a party litigant could establish that in a prior litigation his opponent prevented him by an independent, collateral wrongful act such as keeping his witnesses in wrongful or secret confinement, stealing his documents to prevent him from adducing any evidence, conducting his case by tricks and misrepresentation resulting in his misleading of the Court. Here, nothing of the kind had happened and the contesting defendants could have easily produced a certified registration copy of Ex. B-15 and non-suited the plaintiff; and, it is absurd for them to take advantage of or make a point of their own acts of omission or negligence or carelessness in the conduct of their own defence.

71. In *United India Insurance Co. Ltd. Vs. Rajendra Singh and Others*, , the Supreme Court while dealing with the aspect of fraud on Court observed as follows:

The remedy to move for recalling the order on the basis of the newly-discovered facts amounting to fraud of high degree, cannot be foreclosed in such a situation. No Court or tribunal can be regarded as powerless to recall its own order if it is convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claim.

72. In *Smt. Shrisht Dhawan Vs. M/s. Shaw Brothers*, , the Supreme Court held as follows:

Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct. Mechael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, "wing me into the easy-hearted man and trap him into snares". It has been defined as an act of trickery or deceit. In Webster's Third New International Dictionary fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Black's Legal Dictionary, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Fraud is proved when it is shown that a false representation has been made (1) knowingly, or (2) without belief in its truth, or (3) recklessly, careless whether it be true or false.

73. This aspect of the matter has been considered recently by this Court in *Roshan Deen Vs. Preeti Lal*, , *Anita Vs. R. Rambilas*, , *Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education and Others*, and *Ram Chandra Singh Vs. Savitri Devi and Others*, .

74. In *Gowrishankar and Another Vs. Joshi Amba Shankar Family Trust and Others*, , the Supreme Court held that suppression of a material document would also amount to a fraud on the Court.

75. In *Indian Bank Vs. M/s. Satyam Fibres (India) Pvt. Ltd.*, , the Supreme Court held as follows:

The judiciary in India also possesses inherent power, specially u/s 151 CPC, to recall its judgment or order if it is obtained by fraud on Court. In the case of fraud on a party to the suit or proceedings, the Court may direct the affected party to file a separate suit for setting aside the decree obtained by fraud. Inherent powers are powers which are resident in all Courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the constitution of the tribunals or Courts themselves so as to enable them to maintain their dignity, secure obedience to its process and rules, protect its officers from indignity and wrong and to punish unseemly behaviour. This

power is necessary for the orderly administration of the Court's business. Since fraud affects the solemnity, regularity and orderliness of the proceedings of the Court and also amounts to an abuse of the process of Court, the Courts have been held to have inherent power to set aside an order obtaining by fraud practised upon that Court. Similarly, where the Court is misled by a party or the Court itself commits a mistake which prejudices a party, the Court has the inherent power to recall its order.

76. The following are the instances of fraud played by the defendants against the plaintiff:

1. The defendants suppressed the fact that an extent of Ac.6,241-00 covering an area of 10 1/3 square miles was vested with the plaintiff through G.O.Ms. No. 1784, Revenue (Q) Department, Government of A.P. dated 4-11-1965.
2. The defendants played fraud on the authorities by suppressing the fact that there is a Gosala Quarters, Office of the Department of Public Works and Stores were constructed in 1928 in the suit schedule land and they are in continuous possession of the plaintiff.
3. The defendants played fraud on the authorities by suppressing the fact that the road leading to Papavinsanam was laid and Gogarbham Dam was constructed in 1959-60 in Item No. 3 of plaint-A schedule and that they neither claimed compensation nor asserted the title over the said property.
4. The defendants played fraud on the authorities by suppressing the fact that a structure was constructed by the plaintiff as "Parvetimandapam" in Item No. 3 of plaint-A schedule long ago and it was renovated in the year 1960.
5. The defendants played fraud on the authorities by suppressing the fact that the Inams Commissioner issued title deed Nos. 2920 and 2921 in favour of the plaintiff and disputed the said documents while conceding that they are genuine in the partition suit.
6. The defendants suppressed the fact about the order passed by the Revenue Divisional Officer, Chandragiri in M.P. No. 4 of 1962 that the plaintiff was already granted Ryotwari patta in respect of the disputed lands through the order dated 24-1-1960.
7. The defendants played fraud on the Court and Revenue Authorities by representing that the entry in the Inam Fair Register is the final entry and they failed to draw the attention of the concerned authorities and Court about the remarks in column No. 22 of the Register, which reads as follows:

I want some further information before confirming the Inams in these cases. These Inams appear to be gardens on the Tirupati Hill is the hill considered to be Government property and are any lands cultivated and any assessment collected on them by government are all these topes more than 50 years old. If there are any topes planted recently, they must be changed with half assessment. The

Tahasildar will also enter in column No. 7, the assessment of the land according to the rates borne by Similar Government lands.

8. The defendants also failed to bring to the notice of the Court that the entries in the Inam Fair Register were made on 10-5-1870 and subsequently, an inquiry was conducted and the correct entries were made in Inam B Register and the said Register is known as Inam Permanent B Register covered by Ex.B-13 showing the details of the Inam lands in Tirupati Taluk, Chittoor District.

9. The defendants also failed to draw the attention of the Court that Ex. A-14 notification in Form No. 2 mentioning that it has been finally decided by the Deputy Tahsildar, Inams, Chandragiri that several items including the suit lands are Inam lands situated in a Ryotwari village held by an institution.

10. The defendants also failed to bring to the notice of the Court that the entries in Ex. A-14 were made in the basis of the title deed Nos. 2920 and 2921 issued on 9-8-1882. When the title deeds were issued in favour of the Manager representing the plaintiff temple, the defendants misled the Revenue Authorities and the Court that they were issued in favour of Tallapaka Venkata Seshacharyulu.

11. The defendants played fraud by suppressing the fact that the land was to be held for the support of Venkateswaraswami Pagoda as per the recitals of title deed.

12. The defendants also failed to bring to the notice of the Court that in the Inam Permanent B Register the name of the Inamdar was shown as Tirumala Tirupati Devasthanam, Nandanavanam, Temporary Manager and it is endowments property. The defendants misled the authorities and the Court without placing any record to show that late Venkata Seshacharyulu was the Temporary Manager, Nandanavanam, Tirumala Tirupati Devasthanams.

13. The defendants also suppressed a fact that there were many lands described as Nandanavanams in various survey numbers and they did not explain why they became exclusive owners of the plaint schedule lands without claiming any title over other Nandanavanams as the person in-charge was described as the Manager Nandanavana ms.

14. The defendants also did not bring to the notice of the Court about the entry in column No. 8, with reads as follows:

This is a garden containing mango and other fruit trees as well as sandal trees. The produce is appropriated for the use of the temple. There are also two mantapams in the garden to which the Idol at Tirumala is taken in possession periodically.

15. The defendants did not explain as to how they are entitled to ownership of the land when there were two mandapams in the land in which some festivals of the temple were being performed by taking the Deity to the Garden.

16. The Revenue Divisional Officer, without verifying the records, simply relied on a representation of the counsel for the plaintiff that the Deputy Tahasildar passed an order mentioning that the lands are not held by an institution. The Revenue Divisional Officer also erred in holding that no patta was granted in favour of the plaintiff.

17. The Revenue authorities did not probe how the title deeds were granted in favour of the plaintiff and why they did not place reliance on those documents.

18. The Revenue authorities failed to notice that the defendants claimed that the lands were granted in favour of Tallapaka Annamacharyulu and that they were in possession and enjoyment of the plaint schedule property since times immemorial without filing any scrap of paper and misrepresented the authorities about the right or title over the property.

19. The defendants obtained an order from the Revenue Divisional Officer on the basis of the entries in the Inam Fair Register without reference to any other documents filed by the plaintiffs and the record available with the concerned Revenue Authorities.

20. The defendants also suppressed the fact that a certificate issued by the Conservator of Forests to the Temple Shorishadar indicating that the possession of the entire land was handed over to the plaintiff on 23-2-1879.

21. The defendants also suppressed a fact that there is a separate chapter in Inam B Register relating to personal Inams from page Nos. 29 to 39, wherein the names of the defendants or their predecessors did not find place.

22. The defendants also suppressed the fact that in the Inam permanent B Register at page No. 27, the plaint schedule land was described as Dharmadayaland.

23. The defendants also failed to bring to the notice of the Special Court, Chittoor in O.S. No. 51 of 1937 that the properties covered by Inam title deed Nos. 2885 to 2925 were treated by the Government as Inam properties of the plaintiff temple.

24. The defendants also suppressed a fact that in decree and Judgment in O.S. No. 51 of 1937, there was an observation that merely because somebody else was formally Managers of the garden, the property do not become their personal property.

25. The defendants misled the Revenue authorities and the Court by suppressing the fact that in 10(1) of the Register of the village, the plaintiff was described as owner of the property by virtue of granting of patta in favour of the plaintiff temple.

26. The defendants also suppressed the fact that in the village Adangal for 1396, 1397 and 1398, the name of the plaintiff was shown as Pattadar in respect of the suit land despite a specific direction that the Inam Deputy Tahasildar was played

in the hands of the defendants and passed a non-speaking order dated 29-8-1986 and mechanically granted patta in favour of the defendants.

27. The defendants also suppressed the delay of 22 years in preferring the Revision before the Commissioner of Land Revenue and got the patta granted in favour of the plaintiff cancelled without assigning any reasons.

28. The Revenue Authorities by colluding with the defendants did not notice that the plaint schedule lands are not under the category of personal Inams as they did not show in Inam Permanent B Register and they were Inam lands held by the Institution. The Revenue Authorities willfully failed to observe that the suit schedule land find place in the list of lands granted in favour of institutions which was separately maintained in Inam Permanent B Register.

29. The defendants with the collusion of the officers of the TTD misrepresented the facts before the concerned authorities that they were enjoying the properties since times immemorial without producing a scrap of paper in proof of their title or possession.

30. The Revenue Authorities were misled by producing all documents pertaining to the period after first round of litigation.

31. Though the learned Single Judge in his order in W.P. Nos. 11895 and 11437 of 1986 made many observations touching upon the facts, the Revenue Authorities by colluding with the defendants failed to cover those aspects to find out the truth whether they were factors to be considered while passing the impugned order.

32. The Division Bench in W.A. No. 1752 of 1987 was misled by the defendants by contending that the lands were granted by Krishnadevaraya in favour of Tallapaka Annamacharyulu. The Division Bench was also misled by the defendants that the Nandanavanam is not a flower garden and the expression Nandanavanam was used on a different context and the defendants also misrepresented before the Division Bench that the expression Nandanavanam is the name of the land belonging to Tallapaka family.

33. The defendants also misrepresented before all the Forums that when the lands were granted in favour of the institution, burdening the institution with service does not arise. The Government granted title deed on certain conditions. It was a Government land. The defendants did not bring to the notice of the Revenue Authorities and the Court that it was granted in favour of the temple for using the land as Nandanavanam for providing flowers and fruits to the Deity for daily performance of Poojas, therefore, the institution itself was burdened with obligation that the land should be used for flower garden and if it is not used for that purpose, the Government can resume the land.

34. The defendants fraudulently mentioned in the partition suit covered by O.S. No. 254 of 1984 that title deed Nos. 2920 and 2921 were granted in favour of the ancestors of their family. But they did not place any link document to

establish the said title.

35. The defendants suppressed the fact that their family was performing Divyanama Sankeerthanam in the temple as mentioned in the partition suit and they have right of performing Divyanama Sankeerthanam only. In the partition suit, they mentioned that the suit schedule lands were not divided as those lands were unclaimed and only the produce from the trees was being enjoyed.

36. The defendants also suppressed the fact that in the will executed by Taliapaka Venkata Seshacharyulu on 1 -10-1972, there was no mention about the suit properties though the other properties were mentioned as the family properties.

37. The defendants also suppressed the fact which was mentioned in the written statement of the partition suit that they took possession of the disputed land after grant of patta by the Deputy Tahasildar on 17-7-1984. They also suppressed a fact mentioned in the partition suit that the disputed land is a garden land and Divyanama Sankeerthanam and Mirasi service has nothing to do with the same.

38. The defendants also suppressed a fact mentioned in the written statement of the partition suit that the disputed lands are not divided in the partition of 1967 because the family was not in possession of the same and the TTD has taken possession of the said land after applying for resumption in 1962. They also suppressed a fact which was mentioned in the written statement of partition suit that until the defendants took possession, the family was not in possession of plaint-A schedule land i.e., disputed land and that Taliapaka Venkata Seshacharyulu was not in possession of plaint-A schedule land at the time of his death.

39. The defendants also suppressed a fact which was mentioned in the written statement of the partition suit that the will executed by Venkata Seshacharyulu is silent about plaint-A and B schedule properties.

40. The Defendants also suppressed a fact that Taliapaka Annamacharyulu as D.W. 1 in the partition suit mentioned that except the shares given in the temple his father had no other property and that by the time of death of his father, they do not know that the suit property belonged to their family and that during his life time, his father did not inform about their formally possessing the suit properties.

41. The defendants, while taking one stand in the partition suit inter se, whereas a different stand was taken in the present proceedings to mislead the Court regarding the existence of pattas covered by Nos. 2920 and 2921.

42. The defendants, while taking a specific stand in the partition suit that the lands could not be partitioned as they are service inam lands as his father who was managing the family was alive, took a different stand in the present proceedings by contending that they are the owners of the property since times

immemorial.

43. The defendants mislead the Court that there was a graveyards of Taliapaka people in Item No. 1 of the plaint schedule, though it was mentioned in Column No. 8 of the Inam Fair Register that there was graveyard, wherein the mortal remains of Hati Ramji, the original founder of the Math who managed the affairs of the temple, were in existence.

44. The defendants played fraud on the authorities with oral assertion that they are the owners of the property without producing a scrap of paper to show that they have title over the property.

45. The defendants and the revenue authorities suppressed the order of the Inam Commissioner that the Inam is confirmed to the Pagoda of Venkateswara Swami and nobody else.

46. The defendants played fraud on the authorities by representing that late Venkata Seshacharyulu was granted title deeds covered by 2920 and 2921, when there was no mention of the name of the Seshacharyulu in any of those title deeds.

77. In the light of the instances of fraud as indicated above and in the light of the legal position referred above, the earlier Judgments given by the Revenue Authorities and the Courts will not operate as *res judicata* and the plaintiff not estopped from raising all the pleas in the present suit, which were raised earlier in view of the fraud played by the defendants. In view of the above discussion, it is declared that the plaintiff has title to the suit property and the findings of the Inam Tribunal are vitiated by misrepresentation, fraud and collusion between the officials of the plaintiff statutory authorities and the defendants and their predecessors. It is further directed that the defendants shall surrender the land detailed in plaint "B" schedule and there shall be an injunction restraining the defendants and their men from interfering with the possession and enjoyment of plaint "A" schedule property.

78. In the result, the Appeal is allowed by setting aside the decree and Judgment of the lower Court by holding that the earlier Judgments rendered by the Revenue Authorities and Courts do not operate as *res judicata* and they are nullity and non-est in the eye of law. The plaintiffs are not estopped from raising the pleas, which were raised earlier in view of the fraud played by the defendants. The suit covered by O.S. No. 69 of 1995 is decreed by declaring that the plaintiff is the absolute owner of plaint "A" schedule property and directing that the defendants shall surrender the possession of the land covered by "B" schedule and there shall be a perpetual injunction restraining the defendants and their men from interfering with the possession and enjoyment of plaint "A" schedule property with costs throughout.