

(1956) 09 AP CK 0002

In the Andhra Pradesh High Court

Case No : W. A. No's. 13 and 14 of 1956

Veluri Sivaramasastry and Another

APPELLANT

Vs

State of Andhra and Others

RESPONDENT

Date of Decision : 11-09-1956

Acts Referred:

Estates Abolition Act — Section 2(7)

Citation : (1956) 09 AP CK 0002

Hon'ble Judges : Subba Rao, C.J;Bumasankaram, J

Bench : Division Bench

Judgement

Subba Rao, C.J.—These two appeals arise out of the judgment of our learned Brother Satyanarayanaraju J. in two connected writ Petitions Nos. 553a?d 571 of 1954.

2. The admitted facts are simple and may be Stated Gorantla Agraharam was admittedly a grant of a whole village made by the Vaddera King in the year 1133 A. D. in favour of one Malladi Somanadha Somayajulu. Subsequent to the grant, there was a partition between the grantee and his younger brother Singarajupriyulu, and hi that partition the village was divided into southern part and northern part. These two parts were shown in the subsequent documents as southern division and northern division the southorn division fell to the share of Somanadha Somayajulu and the northern division to Singarajupriyulu. As Singarajupriyulu died without issue, the northern division was resumed by the grantor. But it was re-granted in the year 1449-50 by one Rajah Venkatadri Naidu in favour of Veluri Narayana Somayajulu. But the southern division remained in the family of the original grantee. At the time of the inam commission, the two grants were confirmed and two title-deeds were issued, one for the northern division "Sid the other for the southern division.

3. After the Estates Abolition Act came into force, the Inam Settlement Officer initiated enquiry and declared that the Agraharam was not an estate within the moaning of Section 2 (7) of that Act. On appeal, the Tribunal held that the Agra.

haram was an Inam estate within the meaning of the Act. Satyanarayana Rajn J, before whom the writ petitions came up, held that it was not established that there was a patent error on the face of the judgment of the Appellate Tribunal, and on that ground dismissed the petitions. The owner of the northern division hold writ Appeal No. 13 of 1956, and the owner of the southern division filed writ Appeal No. 14 of 1950 against the order of the learned Judge dismissing then applications.

4. Mr. Vedantachari, the learned Counsel appearing for the present inamdar of the nor. them division, contends that as the said division was resumed and re-granted to Veluri Narayana Somayajulu by Rajah Venkatadri Naidu 1.1 in the year 1449-50, the grant was not of a whole village, and, therefore, was not an estate within the meaning of Section 2 (7) of the Estates Abolition Act. Section 2 (7) of the Estates Abolition Act defines an "Inam Estate" to mean "an estate within the meaning of Section 3, Clause (2)(d) of the Estates Land Act, but does not include an Inam village which became an estate by virtue of the Madras Estates Land (Third Amendment) Act, 1936. The material portions of the definition of an estate in Section 3 (2) (d) of the Madras Estates Land Act before it was amended by the Madras Estates Land (Third Amendment) Act 18 of 1936 runs thus:

Estate means:

(d) any village of which the land revenue alone has been granted In inam to a person not owning the kudivaram thereof, provided that the grant has been made, confirmed or recognised by the British Government, or any separated part of such village.

The following two explanations were added by the Act 18 of 1936.

Explanation (1): Where an inam village is resumed by the Government, it shall cease to be an estate; but, if any village so resumed is subsequently regranted by the Government as an inam, it shall, from the date of such regnant, be regarded as an estate.

Explanation (2): Where a portion of an Inam village is resumed by the Government, such portion shall cease to be part of the estate, but the rest of the village shall be deemed to be an inam village for the purposes of this sub-clause. If the portion so resumed or any part thereof is subsequently re-granted by the Government as an inam, such portion or part shall, from the date of such regrant, be regarded as forming part of the inam village for the purposes of this sub-clause,"

Under this section, any village of which the land revenue alone has been granted in inam to a person not owning the kudivaram thereof will be an estate under the Act provided that the grant has been made, confirmed or recognised by the British Government. Explanations (1) and (2) provide for the case of a village resumed in part or in whole by the Government and subsequently granted.

Learned Counsel for the Appellant contends that Explns. (1) and (2) apply only to a resumption and re-grant by the British Government subsequent to the coming into force of the Act while the Respondent's Counsel argues that there cannot be a distinction in principle between resumption and regrant by Governments other than the British Government and those made by the British Government either before or prior to the Act, and that the terms of the two explanations are comprehensive enough to take in resumptions and regrants by any Government. The learned Counsel also relies upon the use of the words "British Government" in the main Section and only the word "Government" in the explanations.

5. The Inam grants may be of different kinds. (1) Grants made by the British Government (2) Grant made by "ruling powers other than the British Government (8) Grant of a whole village (4) Grant of a part of a village (5) Resumption before the Act of a whole or part of a village by the British Government or by any other ruling power and regrant of the whole or part of the village (6) Regrant by the British Government subsequent to the Act of the whole or part of a village. The argument that consistency requires that all the aforesaid categories of grants should be covered by the definition of estate read along with the explanations does not appeal to us. There are many inconsistencies and contradictions in the Act, and therefore we must proceed on the basis of the express terms of the provisions. The main definition of an "estate" takes in only grants of whole inam villages. The question therefore in each case is whether originally the grant comprised of the whole village. If it comprised the whole village, the fact that it was subsequently partitioned among the grantees would not make it any the less the grant of a whole village. If the inam was legally resumed wholly or in part, the entire village or the part as the case may be because to be an inam or part of it. Any subsequent grant made by the grantor after resuming it would be a new grant. The regrant might be made either to the original grantee or to a stranger. In either case, the grant is a new one and unless that new grant is covered by the definition of an "estate" it cannot be an estate within the meaning of the Act. If the explanations were not there, it would be obvious that the subsequent grant of a part of the village would not be a grant of the whole village. In 1936, the explanations were added. No material has been placed before us to ascertain the circumstances and the purpose for which the explanations were introduced. It may as well be that between the passing of the Act and the making of the amendment, some whole inam villages were resumed by the British Government, and the explanations were introduced to cover these cases and also similar cases that might arise in the future, "Unless the explanations are very clear, we cannot read the explanations in such a way as to enlarge the scope of the main definition itself. The explanations can be read consistently with the main definition. Under Expln (I), if an inam village is resumed by the Government, it shall cease to be an estate; but if any village so resumed is subsequently re-granted by the Government as an inam, it shall, from the date of such re-grant, be regarded as an estate. The explanation

therefore, presupposes the existence of a village as an estate. The village could not have been an estate before the Estates Land Act came into force. The words "shall cease to be an estate" presuppose that the inam village was an estate before it ceased to be one. If the contention of the Respondent be accepted, no meaning could be given to the words "it shall cease to be an estate" unless new words were added or substituted to that clause. For, the resumption of a village by a ruling power other than the British Government or even by British Government before the Act could not have had the effect of putting an "end to an estate as defined in the Act. That apart, under the terms of Kxpln. (i), if an inam village was resumed by the Government and re-granted by the Government as an inam, it shall, from the date of such regrant, be regarded as an estate. If a ruling power other than the British Government or even the British Government re-granted the village, it could not be an estate from the date of such re-grant, for, the Madras Estates Land Act was not in existence. So too, under Expln. (2), if an inam was resumed in part only, such part resumed ceased to be a part of an estate and the rest of the village shall be deemed to be an inam village for the purposes of the sub-clause. The wording of this clause also indicates that Expln. (2) presupposes the existence of an estate and speaks of the impact of resumption on that estate. The explanations therefore only apply to the varying situations visualised therein after the Act came into force. They were intended to protect the rights of people in an estate in the two contingencies contemplated therein. The fact that the words "The Government" are used in the explanation and not the words "British Government" as in the main sub-clause, does not envisage a distinction between British Government and a government other than the British Government, for the definite article "the" connotes that the Government in the two explanations is the British Government mentioned in Clause (d). Nor the non-mention of the word "estate" in the second part of the EX pln. (2) is of much relevance, for, the second part should be read along with the first part Euxpln. (2). The second part only deals with the part resumed in the first of the explanation. The portion of the village resumed is part of the estate, and therefore, unless the estate is in existence no question of the application of Expln. (2) arises. Nor does the argument that this interpretation makes an invidious distinction between the regrants of resumed villages before the Act and those after the Act appeal to us. So far, under the sub-clause all grants made by the British Government of whole villages would be estates. If the British Government resumed the whole village and regranted it, it would be a grant of a whole village by the British Government and therefore would come under the definition. If the British Government resumed a part of it and regranted it later on, the re-grant of the resumed part would not be a grant of a whole village and therefore, would not be an estate. So too, in the case of any other ruling power. If the grant is of the whole village, it will be an estate. If the re-grant is of a part of a village, it would not be an estate. By adopting the construction suggested by the learned Counsel for the Respondent, we would be adding a new category of estate not comprehended by Sub-clause 3(2)(d) viz, minor inams granted by the Government or the other ruling powers if at some

time in the remote past that minor inam was part of a whole inam grant, whereas the construction we accepted would not enlarge the scope of the definition but only on the foot of it govern the subsequent treatment of villages which came under the definition of "estate"

6. The decision of Rajamannar O. J. and Venkatarama Iyer J, in Nallathambi alias Venkatachalam Chetty and Others Vs. Perumal Chetty and Others, cited by the Appellant does not lend any support to his contention and indeed the observations indicate a contrary view. There, Originally a whole village was granted by the then Palayagar one Ramachandra Naick. In the days of Tippu, one half of the village was resumed. After the British conquest, the Capt. Macleod appeared to have granted to the descendants of the original grantees lands scattered here and there in the ryotwari village of Pannurpatti which yielded a moiety of the income of the three inam villages. Presumably this was in lieu of the moiety of the original village which had remained in the possession of the agraharamdars after the resumption in the days of Tippu. The recommendation of the Inam Commissioner was that the total extent of the lands in the possession of the several agraharamdars might be confirmed in one joint title deed. On these facts, the question was whether the lands were situated within an estate within the definition of the term in Section 3 (2) (d) of the Estate Land Act. The learned Judges held that the identity of the village originally granted disappeared as a result of resumption of a moiety and the grant by the British Government of scattered bits of land was neither confirmed nor recognised by the British Government as a grant of a whole village, and therefore the total extent of such portions could not be deemed to be an inam village within the meaning of Section 3 (2), Clause (d) of the Estates Land Act. The question now raised did not arise for consideration as the resumed portion did not continue to be in possession of the inamdars. But in the course of the judgment, Rajamannar C. J. observed:

Mr. Srirangachariar, the learned Counsel for the Appellants relied upon the fact that originally the grant was of an entire village. He also relied on Expl. 3 to Clause (d) and contended that here was a case of a portion only of an inam being resumed and therefore the rest of the grant shall be deemed to comprise an inam village within the meaning of that explanation. That, would of if out, of a whole village originally granted in inam a portion had been resumed and the remainder allowed to continue to be with the grantees. Then such remaining portion would by virtue of the term of Explanation 3 be deemed to be an Inam village for the purpose of Clause (d). but what happened In this case is quite different.

The observations are only in the nature of obiter. No argument on the scope of the explanations was advanced before the learned Judges and they did not purport to express any considered opinion on the same. We therefore hold that the northern "division is not an estate.

7. Coming to the southern division, the learned Counsel for the Appellant

contends that there is a conflict between the Inam Register wherein the village is shown as given to Somanadha Somayajulu by Vaddora King whereas in the Rams Register of earlier date, it is shown as given to one Eluri Venkataramanayya, and therefore it should be held that there was a new grant of a portion of the village to Eluri Venka aramanayya. The Rams Register does not show that any fresh grant was made to Eluri Venka. taramanayya. It only shows that he was a claimant to the village. That apart, this contention was never raised either before the Settlement Officer or Tribunal or even before the learned Judge. There are no merits in this contention. But, we have held that the northern half was resumed and thereafter the southern part only continued to be the subject-matter of the original grant. Therefore the position is that there were two separate grants of the two moieties. The Inam Commissioner confirmed these two grants and issued two title deeds. It cannot therefore be held that the Inam Commissioner confirmed the original grant of the entire village. Ho must be deemed to have confirmed only the first grant of half the village.

8. A division bench of the Madras High Court of which one of us (Chief Justice) was a member dealt with a similar question in *V. Srinivasa Ayyangar Vs. The State of Madras and Another*, . There, an entire village was granted originally by the then ruler. But, subsequently, 1/16th part of it was resumed by the grantor. Subsequently, the British Government confirmed only 15/16th part of the village. The Court held that the 15/16th part of the village was not an estate within the meaning of Section 3 (2) (d) of the Madras Estates Land Act. In dealing with that question, the following observations were made at page 315:

Under Sub-clause (d) minor inams or grants of parts of a village are excluded from the definition of an "estate". The whole Inam villages granted by the British Government or subsequently confirmed by them are estates. Though a whole inam village was granted by some, ruling power, after the British Government became the ruling power, that grant would not bind the British Government unless confirmed or recognised by them. The grantees would not have any legal title, till it was conferred on them by the British Government. The validity of the grant would necessarily depend upon the continuation. If so, if the sub-clause is read as the Government Pleader asks us to read, it will mean that if the entire village was granted originally by a grantor other than the British Government, confirmation by the British Government of any part thereof would amount to validating grants of whole village, though the entire grant was not recognised by the Government, if the entire village is not confirmed or recognised by the British Government, there cannot legally be an entire inam village, the existence of which is a necessary condition for bringing the grant within the definition.

Applying the same reasoning, we must hold that in the present case, the confirmation by the Inam Commissioner was and could be only in respect of the grant of the southern portion of the village, for the grant in respect of the northern portion after resumption, became ineffective. If so the southern portion

also would not be an estate within the meaning of Section 3 (2) (d) of the Estates Land Act.

9. In the result, both the appeals are allowed with costs. Advocate's fee Rs. 100.