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(1996) 10 MAD CK 0016

In the Madras High Court

V.G. Chinnasamy Gounder and Another — APPELLANT

Vs

The Executive Officer, Sri Ragupathi Narayana Perumal Koil — RESPONDENT

Date of Decision : 21-10-1996

Acts Referred:

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 — Section 3(1)

Citation : (1997) 1 LW 433 : (1997) 2 MLJ 342

Hon'ble Judges : Abdul Hadi, J

Bench : Division Bench

Judgement

Abdul Hadi, J.—This Special Tribunal Appeal No. 2 of 1985 is by two persons who claimed patta u/s 3(1) of the Tamil Nadu Minor Inams

(Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963) on the ground that they are entitled to the Kudivaram in the inam land in

question immediately before the appointed day, namely, 15.2.1965. Though originally, the Settlement Tahsildar granted patta as claimed, the

respondent temple who claimed patta u/s 8(2)(ii) of the said Act on the footing that both the warms vested with it, filed appeal C.M.A. No. 68 of

1977 before the Tribunal which reversed the decision of the Settlement Tahsildar and granted patta in favour of the respondent - temple holding

that both the warms to the land in question were with the said temple. The appellate tribunal came to the said conclusion after referring to the Inam

Fair Register Extract particulars taken from the file of the Settlement Tahsildar. As per the said particulars, under the heading ''Name of Grantee'' in

column No. 13, the name of the respondent temple alone is mentioned, in column No. 8, the description of the inam has been mentioned as

''Devadayam'' in Col. No. 10, it is also mentioned that the said inam shall exist

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till the said temple is maintained properly. Then in another column

regarding persons who are in management and regarding the relationship between the original grantee and the persons in management, name of

seven persons are mentioned as Managers. Yet another column indicates that the inam is permanent so long as the temple is maintained properly.

Though appellate tribunal seem to indicate that among the abovesaid particulars culled out from the abovesaid file that it has been recorded that the

abovesaid lands are on verification, we find there is no such reference actually among the abovesaid particulars found in the file, which are

extracted from the Inam Fair Register.

2. It is settled law that the particulars found in the Inam Fair Register are important evidence and are of great value, Vide : M. E. Muthirula

Mudaliar Vs. M. E. Nataraja Mudaliar and Others, . On going through the abovesaid particulars, we have absolutely no reason for coming to any

different conclusion other than the one reached by the tribunal below, despite vehement arguments advanced by the learned Counsel for the

appellants.

3. One of the arguments of the learned Counsel is that in view of the reference to and in view of the reference to the abovesaid seven persons in

inam cannot be taken as a grant in favour of the temple. With reference to this argument, we reiterate once again that the term is not mentioned'' in

the Inam Fair Register. It is also not clear whether the abovesaid term is No doubt the term according to the Dictionary, means, daily allowance as

to a temple and term only means, step of the stair case Even if the term is taken as first, it must be noted that the said term is not mentioned in the

Inam Fair Register. Further, from all the relevant entries found in the Inam Fair Register, it is quite clear that the Inam is only in favour of the

respondent - temple and so patta can granted only to the temple u/s 8(2)(ii) of the said Act.

4. In this connection, we may also point out Section 44 of the said Act which raised the presumption by saying that in proceedings under this Act

relating to any Inam granted for the benefit of any religious Institution, it shall be presumed unless the contrary is proved that the inam consists of

merely a grant of the melvaram in the land but also the Kudivaram therein. In the light of Section 44 of the said Act, the burden is entirely on the

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appellants to prove that the abovesaid presumption is rebutted by any evidence in their favour. Actually speaking, as already mentioned, the

important piece of evidence, namely Inam Fair Register shows that the Inam is only in favour of the respondent - temple. No doubt, before the

Tribunal, the appellants herein sought to file certain documents, sale deeds and release deeds of 19th Century. But those documents may show that

the inam lands in question had been sold in favour of certain third parties by the Poojari of the respondent - temple or sthanigar of the temple and

there may be reference to the expression in the said deeds. But with reference to these deeds, must be stated that simply because any person in

charge of the temple administration unlawfully alienates the temple lands, those alienation deeds cannot be taken advantage of by the present

appellants. Even where the inam is service inam and not inam in favour of the temple, it has been held in the above referred to decision itself that it

is inalienable. That apart, learned Counsel for the appellants could not point out who actually were the above referred to poojaris or sthanigar

vendors in the abovesaid sale deeds, and whether they have any connection even with the abovesaid seven persons mentioned in the Inam Fair

Register. Further he could also not point out from evidence that the vendees under the above referred to sale deeds were the ancestors of the

present appellants. Further, he could also not so point out whether the present appellants herein are the descendants of the above referred to seven

persons mentioned in the Inam Fair Register. No doubt, learned Counsel for the appellants seeks to rely upon the decision reported in

Venkataraman v. Thangappu (1972) 1 M.L.J. 325 : (1971) 84 L.W. 6, where there is observation that trusteeship and poojariship may vest in one

and the same individuals in small temples with meager income. But, learned Counsel could not point out any specific evidence that the vendors in

the above referred to sale deeds were both poojaris and trustees together of the respondent-temple in question. The said decision has no

application in the present case at all.

5. Therefore, there is absolutely no reason for any interference with the decision arrived at by the tribunal. Accordingly, the Special Tribunal appeal

is dismissed. No costs.

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