
(1970) 10 MAD CK 0013

In the Madras High Court

Case No : Writ Petns. No's. 595 of 1966, 3823 and 3824 of 1968 and 1551 of 1969

Vidyanandaswamiar and others

APPELLANT

Vs

State of Madras and another

RESPONDENT

Date of Decision : 22-10-1970

Acts Referred:

Citation : AIR 1971 Mad 355

Hon'ble Judges : K. Veeraswami, C.J.;Gokulakrishnan, J

Bench : Division Bench

Advocate : V. Vedantachari for K. Parasaran, P. Narasimhan and S. Rajaram, for the Appellant; The Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K. Veeraswami, C.J.—These are petitions raising a common question and have been heard together. The petitioners, each of whom is an Inamdar have asked for a direction restraining the State from enforcing the provisions of the Madras Inams (Assessment) Act, 1956 as amended in 1968. To consider the common question, it will suffice to notice the facts in W. P. 595 of 1966. The petitioner in this case is a trustee of Koodaliammal Madam at Parthipanoor. The Madam is the Inamdar of M. Nedungulam village in Paramakudi Taluk. It is a post-1936 Inam village. The Revenue Divisional Officer, Sivaganga, issued a preliminary notification on 31-8-1962, u/s 3(2)(a) of the Inam (Assessment) Act, 1956, inviting objections before 22-10-1962. The notification was published on 13-9-1962 in the prescribed manner. The petitioner filed his objections after a delay of seven months or there about, but they were rejected on the ground of belatedness in view of Rule 9 of the Rules framed under the Inam (Assessment) Act. which is to the effect that any objection received after the due date fixed in the preliminary notification, were liable to be rejected summarily on that ground. Subsequently, the Revenue Divisional Officer, Sivaganga published the final notification as contemplated by S. 3(2)(a) of the Act. Clause (b) of subsection

(2) of Section 3 gives any person deeming himself aggrieved by a decision of the Collector under clause (a) a right of appeal to the District Collector within the prescribed period who after giving an opportunity to the appellant of being heard should pass such orders on the appeal as he thought fit. Admittedly no appeal was filed by this petitioner, or any of the other petitioners so far though Rule 12 of the Rules prescribed a period of 30 days commencing from the date of receipt of the order of the Revenue Divisional Officer, exclusive of the time taken for obtaining certified copies of the decision, for filing of appeal. The effect of the final notification u/s 3(2)(a) is that the petitioners as Inamdars would be liable to pay assessment for the back period of five faslis from 1-7-1956.

2. The petitioners contend that the preliminary notification was not duly published, that they had no personal notice of the proceedings by which the preliminary notification was issued, that the Inam (Assessment) Act itself stood repealed, and that in any case retrospective levy was unreasonable and void. We think there is no substance in any of these objections. Madras Inams (Assessment) Act, 1956 provides for levy of full assessment on certain inam lands in the State of Tamil Nadu. Section 3(1) says that notwithstanding anything contained in any engagement, contract, grant or any law for the time being in force, it shall be lawful for the State Government to levy on any inam land in a ryotwari village, the full assessment at the rate of assessment set out in the settlement notification for lands of a similar description etc. and if there were no such lands, in the nearest ryotwari village where such similar lands exist, and on any other inam land, the full assessment at the rate of assessment set out in the settlement notification for lands of a similar description and with similar advantages in the nearest ryotwari village. But as regards inam granted on service tenure, no assessment is to be levied, and the inamdar would be liable to pay only the quitrent, jodi, katiubadi or other amount, if any, which he had been paying before the commencement of the Act. The assessment so levied shall be in addition to any quit-rent, jodi, kattubadi or other amount of a like nature. This applies to any inam which became an estate by virtue of the Madras Estates Land (Third Amendment) Act, 1936. Sub-section (2) of Section 3 provides for the procedure and by clause (a) before making the assessment the Collector shall publish in the District Gazette and in such other manner as may be prescribed, a draft notification specifying the inam lands in respect of which the assessment is proposed to be levied under sub-section (1), and the rates of such assessment together with a notice specifying a date not being less than one month from the date of such publication at or after which such draft shall be taken into consideration, and shall confirm or modify the assessment or pass such orders as he deems fit after consideration of any objections which may be made in respect of the draft by the Inamdar or other person interested before the specified date and after making such inquiry, if any, as he deems fit. Clause (b) provides for an appeal within the time prescribed by the Rules, which we adverted to earlier. The decision of the Collector shall be final, and shall not be liable to be questioned in any court of law. The inam lands and rates of assessment leviable thereon, as

finally decided shall be published in the District Gazette and in such other manner as may be prescribed. The main Act was amended by Madras Act 15 of 1968 which by S. 2 added a new sub-section (4) to Section 3, to the effect that the rates of assessment as published under subsection (3) shall take effect on and from 1-7-1956 and accordingly assessment under the section should be leviable with effect from that date. The question as to the validity of retrospective levy, and its unreasonableness is raised with reference to this new sub-section. The amendment adds a new sub-section to the existing S. 3-A and according to the amended provision, the revised rates of assessment as published under sub-sec. (3) shall take effect from the commencement of the fasli year in which such rates of assessment are published in the District Gazette, and accordingly assessment under the Section shall be leviable with effect from the commencement of such fasli year. We have then in the Amending Act provision for validation of levy and collection of assessment. Section 5 of the Amending Act repealed the Madras Inams (Assessment) (Amendment) Ordinance, 1968. The rules framed under the Act called the Madras Inams (Assessment) Rules 1957, provide for the procedure to be followed by the Revenue Divisional Officer in giving effect to S. 3. Rule 6 directs that the draft notification u/s 3(2)(a) of the Act should be in the form appended to the rules and the rule also provides for the mode of notification. It includes, by beat of tom-tom in the village, by affixture in the village Chavadi, or if there is no village chavadi, in some other conspicuous place in the village, and by affixture on the notice board of the Taluk office and the Office of the Revenue Divisional Officer, and in the case of an inam village of inam land belonging to a religious institution, by sending a copy of the notification by registered post to the Commissioner for Hindu Religious and Charitable Endowments. Rule 7 prescribes how the objections to the proposed assessment should be filed. The objections ought to reach the Revenue Divisional Officer on or before the date fixed in the notification. The objector should state fully the grounds of his objection and also specify the items in the draft notification to which his objection related and the nature and extent of his interest in them. Rule 9 says that objections received after the date fixed in the draft notification shall be liable to be rejected summarily on that ground. On receipt of an objection petition, the Revenue Divisional Officer shall, under Rule 10 examine the grounds raised in it and cause such inquiries and inspections to be made as he considers necessary, after due notice to the objector, and consider the result of any such inquiries or inspections. The Revenue Divisional Officer shall then record his decision confirming, modifying or cancelling the assessment as specified in the draft notification, briefly setting out the grounds for his decision. A copy of the decision shall also be communicated to the objector.

3. We are of the view that S. 3(2)(a) and the rules aforementioned do provide for sufficient notice and opportunity to the petitioners to file objections to the proposed assessment. The District Revenue Officer concerned has sworn to an affidavit in which he observes that the preliminary notification was published in

the District Gazette dated 13-9-1962 and also in the village by beat of tom-tom and by affixture in a conspicuous place in the village on 2-9-1962 on the notice board of the Taluk Office on 7-9-1962 and on the notice board of the Revenue Divisional Office on 4-9-1962. Nevertheless, the petitioners took no steps to file objections within the time, and when they filed belatedly, they were rejected as the Revenue Divisional Officer was entitled to reject, as out of time. Therefore, there is no substance in the contention of the petitioners that no notice was given to them and no opportunity was presented to them to make their objections. Though it was suggested that the charging section was vague, we do not think that there is any merit in it nor do we think that absence of a provision for service of personal notice invalidates the procedure prescribed by S. 3(2)(a) read with the relative rules. It was contended for the petitioners that there was no Judicial Tribunal set up and no ultimate resort to court was provided against the Revenue decisions fixing the rates. But as we pointed out, an appeal is provided against the final notification of the Revenue Divisional Officer to the District Collector, who decides the appeal after giving the appellant an opportunity of being heard. We do not think that the test of the validity of fixation of assessment rates should necessarily depend on whether there is ultimate resort to a civil court provided for in the Act. We do not also think that the ratio in Kunnathat Thathunni Moopil Nair Vs. The State of Kerala and Another, is of any assistance to the petitioners in the context of the provisions of the Madras Inams (Assessment) Act. In that case the provisions of the Travancore-Cochin Land Tax Act, 1955 was held to offend Art. 14, because it was silent as to the machinery and procedure to be followed in making the assessment and because it also left to the executive to evolve the machinery and procedure. But that is not the case with the Madras Inams (Assessment) Act. In State of Andhra Pradesh and Another Vs. Nalla Raja Reddy and Others, , the Andhra Pradesh Land Revenue (Additional Assessment) and Cess Revision Act. as amended in 1962, was struck down as offending Art. 14 since the court was of the view that the classification based on ayacut was unreasonable and that no machinery was provided for assessment. The Act and the rules relating to Inam Assessment in Madras, as we have noticed at the outset of this judgment, have provided for a machinery for assessment of rates after giving sufficient opportunity to the persons concerned, with provision for an appeal, and a further opportunity to represent to Appellate Authority who is also obliged to give a hearing to him. The form of the draft notification which has been prescribed in the schedule to the rules gives an idea as to the details which would be gone into, investigated and borne in mind in fixing rates.

4. As to the contention based on the invalidity of retrospective levy, the amendment Act came to be made in order to remove the defects in the original Act of 1956. So long as the Legislature has the power to make a law levying a particular tax the power includes to make such a law with retrospective effect. Its unreasonableness will not be assumed readily only from the fact of retrospective levy. The reason for authorising levy retrospectively is to cover the

period between the commencement of the original Act and the Amending Act. and to regularise assessments which had already been made but invalidated because of the defect in the principal Act. It is true that in view of S. 56 of Act 26 of 1963 and S. 41 of Madras Act 30 of 1963 the landlord would not be entitled to the benefit of the collection of arrears in respect of lands taken over, in excess of the rent due for the three fasli years prior to the date of notification of the estate under the respective Acts. But the assessment under the provisions of the Madras Inams (Assessment) Act does not appear in any way to be dependent on the quantum of arrears of rent allowed to the land-holder prior to the notification of the estate.

5. Section 3(a) of Madras Act 26 of 1963 reads:--

The Madras Estates Land (Reduction of Rent) Act 1947 (Madras Act XXX of 1947) in so far as it relates to matters other than reduction of rents and the collection of arrears of rent, the Madras Estates Land Act 1908 (Madras Act I of 1908) the Pudukottai (Settlement of Inams) Act, 1955 (Madras Act XXIII of 1955) and all other enactments applicable to the inam estate as such shall be deemed to have been repealed in their application to the inam estate.

On the basis of this provision it is contended that by reason of it the Madras Inam (Assessment) Act, 1956, has been repealed. We are unable to accept this contention. The language "all other enactments applicable to the Inam estate" in Section 3(a) has reference to enactments relating to tenure law, and not an Act imposing tax. The intention of S. 3(a) is not therefore, to repeal the Madras Inams (Assessment) Act, 1956. The petitions are dismissed with costs in each of them. Counsel's fee Rs. 50 in each.