

(1971) 04 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 553 of 1968

Yedireswarapu Veeramma and Another	APPELLANT
Vs	
Reddipalli Surudamma and Others	RESPONDENT

Date of Decision : 14-04-1971

Acts Referred:

Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 — Section 11, 12, 15, 4

Citation : AIR 1972 AP 161

Hon'ble Judges : Vaidya, J;Parthasarathi, J;Narasimham, J

Bench : Full Bench

Advocate : G. Balaparameswari Rao and C.N. Babu, for the Appellant; Y. Suryanarayana and P. Balakrishna Murthi, for Govt. Pleader, for the Respondent

Judgement

Vaidya, J.—This writ appeal arises out of a decision rendered by our brother. Obdul Reddi, J, in Writ Petn. No. 806 of 1967 (Andh Pra). The appeal has been referred to the Full Bench by an order of the Division Bench consisting of Gopal Rao Ekbote and Ramachandra Rao, JJ., D/- 13-8-1970. The order of reference reads:

"This appeal raises some important questions in regard to the Inams Abolition Act and is likely to affect a large number of cases. We therefore feel it necessary to refer it to a Full Bench for an authoritative pronouncement on this important matter."

2. By the order of reference, the whole of the appeal has been referred to us.

3. Two questions arise in this appeal and they are: (1) Whether the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act (Act No. 37 of 1956), hereinafter referred to as the "Inams Abolition Act" effect the effacement of the inam tenure on the date of the passing of the act, or merely enables the conversion of the tenure under the procedure prescribed in the Act; and (2) whether the Act repeals the Madras Hereditary Villages Officers Act, (Act

No . III of 1895), hereinafter referred to as "Act III of 1895" in regard to Class IV service.

4. The facts giving rise to this appeal are that the appellants. Yedireswarapu Veeramma and Mortha Manikyamba, respondents 3 and 4 in the Writ petition. filed Summary Suit No. 3 of 1960, on the file of the Court of the Deputy Collector. Kakinada, u/s 13 of Act III of 1895. against Reddipalli Surudamma (Respondent No. 1), Kothem Buchinna husband of respondent No. 2. Kothem Mahalakshamma, and another Reddem Venkataratnamma for recovery of possession of the suit schedule lands alleging that they were the daughters of one Gannavarampu Veeracharyulu who was the original list holder of the carpenter service inam of Pithapuram having succeeded to the service and enjoyment thereof after the death of their mother Venkataratnamma. Respondents 1 and 2 denied the claim of the appellants and contended that the appellants were not residing and rendering service in Pithapuram village. that late Venkataratnamma had executed a registered Kandagutta cowle on 25th January, 1951 in favour of the 2nd respondents" husband in respect of all the items of the schedule lands and that the Ist respondent, who is the daughter of the 2nd respondent, had purchased ac. 3-50 cents in S. No. 647 (Item 2 of the schedule land) under a registered sale deed for Rupees 4,600/- from the said Venkataratnamma. It is also pleaded that the Revenue Court had no jurisdiction to adjudicate in the matter by reason of the inam being resumed by the Government and full assessment levied under the Inams Assessment. Act 1955, and also for the reason that the inam was abolished under the Inams abolition Act, and that the authorities constituted under the Inams Abolition Act alone had jurisdiction o decide the question falling for determination within the purview of that act. The deputy Collector decreed the appellants" suit on 25th November 1960 holding that the Inams Abolition Act did not effect any change in the tenure of the lands and that Act III of 1895 continued to apply to the said lanes. He also held that the cowle and the sale deed executed by the appellants; mother are not valid in law. The Deputy Collector, therefore, directed respondents 1 and 2 restore possession of the lands to the appellants. Aggrieved by the decision of the Deputy Collector Kakinada, the Ist respondent preferred an appeal (S. A. No. 9 of 1961) to the Joint Collector. East Godavari Kakinada under act III of 1895 and the Joint Collector, by a judgment dated 25th October, 1961 allowed the appeal on the short ground that the Supreme Court in the case of Gazula Dasaratha Rama Rao Vs. The State of Andhra Pradesh and Others, has held that after the passing of the Constitution there can be no hereditary succession to the village offices. It is the case of the appellants that Buchinna. the 2nd respondent"s husband, died during the pendency of the appeal and his legal representatives were not brought on record. The appellants thereafter filed E. P. 1/63 in Summary Suit No. 3 of 1960 on the file of the Deputy Collector for delivery of items 1, 3 and 4 of the schedule lands and obtained delivery behind the back of the 2nd respondent and without any notice to her. The 2nd respondent, therefore, filed E. P. No. 5/63 in the said court for redelivery of the

lands and the Deputy Collector, Kakinada rejected the said E. P. Against the order dismissing E. P. 5/63 the 2nd respondent filed S. A. No. 1/63. The District Collector, East Godavari, allowed the appeal by his judgment dated 31st July, 1963 following the decision in Gazula Dasaratha Rama Rao Vs. The State of Andhra Pradesh and Others, . The Appellants also filed 1. A NO. 1/63 in the Court of the Deputy Collector in Summary Suit No. 3 of 60 for determination of mesne profits in respect of Item 1, 3 and 4 and the Deputy Collector determined the mesne profits. The appellants filed E. P. No. (. . . .) of the Deputy Collector for recovery of the mesne profits and proceedings were stayed and E. P. No. 7/63 was dismissed. The appellants, herein, aggrieved by the order of the Joint Collector, filed two writ petitions in this Court (1) W. P. No. 833/63 for quashing the decision of the Joint Collector in S. A. No. 9/61 and (2) W. P. No. 933/63 for quashing the decision of the District Collector in S. A. No. 1/63. Both the writ petitions were heard together and this Court held that the decision of the Supreme Court does not in any manner affect the carpenter blacksmith service under Madras Act III of 1895 and therefore allowed W. P. No. 833 of 1963 and set aside the order of the Joint Collector directing him to hear the appeal on merits and decide the same. W. P. No. 933/63, was also allowed and the orders of the District Collector in S. a. No. 1/63 was quashed. There is some dispute as to whether S.A. No. 1/63 was remanded by this Court to the Joint Collector.

5. After remand, the District Collector confirmed the order of the Deputy Collector and dismissed the appeal. It is against this order of the District Collector that W. P. No. 806/67 was filed by respondents 3 and 4.

6. It was contended before our learned brother by the learned counsel for respondents 1 and 2 that the Revenue Court had no jurisdiction to decide the question of tenure of the schedule lands, that with the commencement of the Inams Abolition Act, the inams were abolished and were converted into ryotwari lands. and that therefore it is the Tribunals named under the Inams Abolition Act that have jurisdiction to determine the that have jurisdiction to determine the rights of the contesting parties. It was also contended that Section 15 of the Inams Abolition Act has an overriding effect and to that extent the provisions of act III of 1895 do not prevail. The learned counsel for the appellants before us contended before the learned Judge that the 2nd respondent did not have the locus standi to file the writ petition along with the Ist respondent as she was not a party to the proceedings before the Collector. Her also contended that the Inams abolition Act did not bring about a conversion of the service tenure from the commencement of the Act and therefore the provisions of Act III of 1895 continued to apply to the said tenure until a ryotwari patta is granted under the provisions of the Inams Abolition Act. He also contended that respondents 1 and 2 having subjected themselves to the jurisdiction of the Revenue Divisional Officer and the Collector, the decision given by them cannot be questioned in the Writ Petition. The learned Judge framed the question for consideration as follows.

"Therefore, the main question that arises for decision in this writ petition s

whether the Andhra Pradesh (Andhra Area) Inams (Abolition and conversion into Ryotwari) Act (Act 37 of 1956) takes away the jurisdiction of the Revenue Courts constituted under the Madras Hereditary Village Offices act and converts the inams into ryotwari land". The contentions raised by respondents I and 2 found favour with our learned brother and he held that from the date of the commencement of the Inams Abolition Act the conversion of the inam tenures to which the said Act is applicable took place and the inams were converted into ryotwari patta. That being so, Act III of 1895 ceased to apply to the service inam tenure. The learned Judge also held that by virtue of the Inams Abolition Act, the said Act prevailed over the provisions of Act III of 1895. It was further held that when the inams are governed by the provisions of the Inams Abolition Act, the parties have necessarily to approach the forums provided under the Inams Abolition Act for determination of their rights and not the forums provided under Act III of 1895. As regards the contention of the appellants about the locus standi of the 2nd respondent, the learned Judge held that as the 2nd respondent is admittedly an interested party she has a right to file the writ petition. In the result, the writ petition was allowed.

7. Before us, the learned counsel for the appellants and the respondents have raised the same contentions as were raised before the learned Judge. The learned counsel for the appellants argued that the Inams Abolition Act does not, in specific terms say that the inam tenures to which the said Act is applicable shall stand abolished and will be converted into a ryotwari tenure from the date of the Act or for the matter of that from any particular date. Section 4 of the Inams Abolition Act provides for grant of ryotwari pattas to the inamdars in certain cases and to the inamdar and the tenant in certain other cases; and does not lay down that the Inam tenure should be converted into a ryotwari tenure from the date of the commencement of the act though it says that the inamdar or the tenant who is in possession on a particular date viz., the date of commencement of the Act or the 7th January 1948, as the case may be, should be entitled to a ryotwari patta. According to the learned counsel for the appellants. Sections 121 and 12 of the Inams Abolition Act clearly indicate that the conversion of the inam tenure into a ryotwari tenure and consequent abolition of the inam tenure takes effect on the grant of the ryotwari patta. Under Section, 11, the provisions of the Andhra Tenure Act have been made applicable to the tenancies in respect of inam lands governed by the said Act. This is a clear indication, according to the learned counsel for the appellants, that the relationship of landlord and tenant between the inamdar and the tenant, which would otherwise cease if the inamdar was to cease to be an inamdar from the date of the commencement of the act and the tenant was to become the owner of the land because of the grant of the ryotwari patta in his favour and the inam tenure being converted into a ryotwari tenure ceases only on the grant of patta. Similarly u/s 12 of the Inams Abolition Act, ryotwari assessment becomes payable only after the grant of the patta and not prior to that. This is also, according to him, a clear indication that the conversion of the tenure takes place

from the date of the grant of the ryotwari patta.

8. On behalf of the respondents, the learned counsel contends that the provisions of the Inams abolition act have to be understood in the light of the earlier legislation on land tenure. The Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948, hereinafter referred to as "the Estates Abolition act" abolish all Zamindari under-tenure or inam estates as defined in the Madras Estates Land act from the date of the notification to be issued under the provisions of the said act. The Inams Abolition Act is intended to apply to all other inams which are not covered by the provisions of the Estates Abolition Act. That being the intent of the legislature, it is clear that the abolition of an inam tenure takes place on the date of the commencement of the act. He further contended that Section 4 clearly lays down that the inamdar and the tenant will be entitled to the ryotwari patta in terms of that section and the relevant date for the determination of the rights of the inamdar and the tenant is the date of the commencement of the Act. This according to him, clearly shows that the abolition of the inams has taken place from the date of the commencement of the act. Section 11 of the Inams Abolition Act applies the provisions of the Andhra Tenancy Act to the tenancies in regard to inam lands. According to the provisions of section 4 of the Inams Abolition Act, the inamdar gets ryotwari patta for one-third of the land and the tenant for two thirds. The relationship between the inamdar and the tenant in regard to one third of the inam land continues even after the abolition of the inam tenured and to such a relationship the provisions of the Andhra Tenancy Act have been applied. The provisions of section 11 have nothing to do with the continuance of the inam tenure till the grant of a ryotwari patta in favour of the inamdar and the tenant. Section 12 of the Inams Abolition act clearly specifies that the ryotwari assessment shall be paid from the date of the grant of the ryotwari patta. This only fixes, according to him, a date from which the ryotwari assessment becomes payable. Payment of full ryotwari assessment is not a criteria for determination as to whether the conversion of the inam tenure into a ryotwari tenure has taken place because even during the continuance of the inam tenure full ryotwari assessment had become payable in view of the Andhra Pradesh (Andhra Area) Inams Assessment act (Act 17 of 1955), hereinafter referred to as the Inams Assessment act. The learned counsel for the respondents conceded that there is no specific provisions in the inams Abolition Act stating that the abolition of an inam tenure and its conversion into a ryotwari tenure takes place from the date of the commencement of the Act. but laid stress on the fact that there is no provision also that the abolition and conversion of the inam tenure will take place from the date of the grant of the ryotwari patta. He contended that if it is held that the abolition and conversion of an inam tenure takes place from the date of the grant of the patta, there will be different dates in regard to different inam tenures. The act being for abolition and conversion of the inam tenures, the legislature cannot be said to have intended to fix different dates in regard to the conversion and abolition of different inam tenures. We will now proceed to consider the arguments advanced by the learned

counsel for both sides in detail.

9. The Estates Abolition Act was passed by the legislature of the then Madras State in the year 1948. That act was made applicable to all the estates as defined in section 3, Cl. (2) of the Madras Estates Land act. Section 3, Cl. (2) of the Madras Estates Land act defines on "estate" to mean any permanently settled estate or temporarily settled zamindari; any portion of such permanently settled zamindari; any portion of such permanently settled estate or temporarily settled zamindari which is separately registered in the office of the Collector; any unsettled palaiyam or jagir; any inam village or any hamlet or Khandaiga in an inam village of which the grant as an inam has been made. confirmed or recognised by the Government; and any portion consisting of one or more villages of any of the estates specified above which is held on a permanent under-tenure. By Section 1 (4) of the Estates Abolition Act, sections 2, 4, 5, 7, 8,. 9, 58-A. 62, and 68 came into (. . . .) provided that the rest of the act shall come into force in regard to taking over of any zamindari under-tenure or inam estate on such date as the Government may by notification appoint. The definitions of "estate:" and "zamindari estate" have been given in the Estates Abolition act. section 3 of the Estates Abolition Act enacts the consequences of notification of an estate. It specifies that from the notified date the entire estate including all communal lands and porambokes and other non-ryoti lands. waste lands, pasture lands etc. shall stand transferred to the Government and vest in them free of all encumbrances; and all rights and interests created in or over the estate before the notified date by the principal or any other land holder, shall as against the Government cease and determine. In short, S. 3 of the Estate Abolition Act makes a specific provisions that after the notified date, certain consequences will follow. One of the most important consequences is the vesting of an estate in the Government from the notified date. The "notified date" in relation to an estate is defined to mean the date appointed by a notification issued Section 1 sub-section (4) as the date on which the provisions of the Estates Abolition Act(other than Sections 2, 4, 5, 7, 8, 9, 58-A. 62. 67 and 68) shall come into force in an Estate. It may be noted at this stage, that, according, to the terms of the definition of the words "notified date" and also the terms of Section 1 (4) the notified date in regard to the estate can be different dates and Section 3 will apply to those estates from the notified dates.

10. After the passing of the Estates Abolition Act, another important legislation in regard to the land tenures is the passing of the Inams Assessment Act in the year 1955. By Section 3 of this act, it shall be lawful for the State Government to levy on every inam land, with effect from the fasli year commencing on the 1st July, 1955, an assessment at the rates provided for in the said section. Here again it is pertinent to note that this Act though applicable from the 8th December 55 empowered the Government to levy assessment in accordance with the provisions of section 3 from the 1st July, 1955. This Act also specifies a particular date from which the powers conferred under the Act can be exercised by the State Government.

11. The Inams Abolition Act became law on the 14th December, 1956 the date on which it was published in the Andhra Pradesh Gazette. By Section 1, sub-section (2) this Act has been made applicable to the inam lands described in clause (c) of Section 2. Clause (c) of Section 2 defines an "inam land" any land in respect of which the grant in inam has been made confirmed or recognized by the Government, but does not include an inam constituting an estate under the "Madras Estates Land Act". In short, the definition of an "inam land" covers every inam land except an inam constituting an estate which is governed by the provisions of the Estates Land Act. Section 3 of the Abolition Act empowers the Tahsildar suo motu and enjoins upon him on an application to enquire and determine whether a particular land in his jurisdiction is an inam land; whether such inam land is in a ryotwari, zamindari or inam village; and whether such inam land is held by any institution. The decision of the Tahsildar in regard to the aforesaid matters has been made appealable to the Revenue Court and the decision of the Revenue Court is made final and has to be published in the District Gazette. The decision of the Revenue Court or if there is no appeal from the decision of the Tahsildar, every decision of the Tahsildar shall be binding on all persons and institutions claiming any interest in any such inam land, notwithstanding that such persons or institutions have not filed any application or statement, or adduced any evidence or appeared or participated in the proceedings before the Tahsildar or the Revenue Court, as the case may be. The marginal heading of section 4 is "conversion of inam land into ryotwari lands". By sub-section (1) of this section, it is provided that in the case of an inam land in a ryotwari or zamindari village the person or institution holding such land as inamdar on the date of commencement of that Act shall be entitled to a ryotwari patta respect thereof. Sub-section (2) of this section provides for three cases in regard to an inam land in an inam village. In the first case, if such a land is held by any institution on the date of commencement of the said act, such institution shall be entitled to a ryotwari patta in respect of that land. In the second case, if such a land is held by an inamdar other than an institution on the date of the commencement of the Act and is in his actual occupation on that date, the tenant who is declared to be in occupation of that land on the 7th January 1948, by the Revenue Court under the provisions of section 5 of the act shall be entitled to a ryotwari patta for two thirds share of that land and the inamdar shall be entitled to a ryotwari patta for the remaining one-third share thereof. If no tenant has filed an application before the Revenue Court as provided, the inamdar shall be entitled to a ryotwari patta in respect of that land. In the third case, if such land is held by an inamdar other than an institution on the date of the commencement of the act, but is in the (. . . .) the tenant who is declared to be in occupation of that land on the 7th January 1948 u/s 5 of the Act shall be entitled to a ryotwari patta to two-thirds share of that land and the inamdar shall be entitled to a ryotwari patta for the remaining one-third share; and if no such tenant has filed any application u/s 5, the tenant in possession of the land on the date of the commencement of the Act shall be entitled to a ryotwari patta for two-thirds share of that land and the inamdar shall be entitled to a ryotwari patta for

the remaining one-third share thereof. Sub-section (3) of S. 4 of the Inams Abolition Act provides that the one-third share of the inam land in occupation of the tenant in respect of which the inamdar is entitled to a ryotwari patta shall be deemed to be the compensation payable to the inamdar in lieu of the extinguishment of his rights. Section 5 provides for an application to be made by a tenant who was in possession on 7th January 1948 but who is not in possession on the date of the commencement of the Act having been evicted from such land by or at the instance of the inamdar. Section 6 of the Inams abolition Act provides for determination of the one-third share of the inamdar and two-thirds share of the tenant in the inam land. Under sub-section (1), if there is an agreement between an tenant and the inamdar in regard to the division of the land that agreement will be given effect to; and in case where there is no such agreement, the Tahsildar, on an application made by the tenant or the inamdar shall determine the portion of the inam land in the occupation of the tenant to be given to the inamdar towards his one-third share. Then follows the provision in Section 7 for the grant of ryotwari pattas. Under this section, the Tahsildar is empowered to act suo motu and is enjoined to, on an application by a person or an institution determine the persons or institutions entitled to ryotwari pattas in accordance with the provisions of section 4 and the grant them ryotwari patta in the prescribed form. Section 8 of the Inams Abolition Act gives right of permanent tenancy in respect of an inam land held by an institution in an inam village the tenant of the which is declared to be in occupation of the land on 7th January, 1948 and if there is no such tenant, the tenant in occupation of the land from the date of the commencement of the Act. Section 9 provides the procedure for evicting tenants having right of permanent occupancy under S. 8 of the act. Sub-section (1) of S. 11 applies the provisions of the Andhra Tenancy Act, 1956 to the tenancies in respect of inam lands governed by the (.) tion (2) of S. 11 and sections 8 and 9 of the act. Sub-section (2) of this section provides that if the Tahsildar or the Revenue Divisional Officer as the case may be considers that the person in occupation of an inam land or part of an inam land is prima facie entitled to a ryotwari patta in respect thereof u/s 4. no order for his eviction from such land or part thereof shall be passed under the Andhra Tenancy act, until it is finally decided that he is not entitled to a ryotwari patta thereto u/s 4. Section 12 of the Inams Abolition Act makes every person or institution receiving a ryotwari patta under the act liable to pay the Government the ryotwari assessment as provided in the section. By virtue of section 15 of the Inams Abolition Act, the provisions of that Act have been given effect to notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

12. The resume of the sections given above shows that the Inams abolition act applies to all the inams other than an inam constituting an estate to which the Estate Abolition Act applies. It is not disputed a before us, though a faint attempt was made by the learned counsel for the appellants that the Inams Abolition Act is not applicable at all to the service inams; but on a re-consideration of the

definition of "inamland" given in Section 2 (c), this attempt was given up. The definition of "inam lands" in Section 2 (c) of the Inams Abolition act is wide enough to cover all the lands which are given as inam or emoluments to rendering of services by the village officers. It cannot, therefore, be stated that the Inams Abolition act is not applicable to the lands in dispute before us so far as conversion into ryotwari tenure is concerned. It has also to be seen that there is no provision in the Inams Abolition Act whereby it can be specifically stated that on the date of the commencement of that act, the inam tenures to which the Act applies stood abolished and converted into ryotwari tenures. The learned counsel for the respondents is right when he states that there is no specific provision which says that the inams will stand abolished or converted into a ryotwari patta. This position being conceded, the question whether the inam tenure stood abolished and was converted into a ryotwari tenure on the date of the commencement of the act will have to be determined from the intendment of the act. It is an accepted principle of interpretation that such a conclusion can only be drawn if the provisions of the act lead to there said result and no other result. If two conclusions can be reached from the provisions of the act. it cannot be held that the inam tenure stood abolished or converted into a ryotwari tenure on the date of the commencement of the Act.

13. The learned counsel for the respondents has laid great stress on the provisions of Section 4 of the Inams Abolition Act. His argument is that the date of entitlement for a ryotwari patta either by the inamdar or by the tenant is the date of the commencement of the Act. The rights of the parties have to be determined with the reference to the date of the commencement of the Act. The argument is that the entitlement to a ryotwari patta is as on the date of the commencement of the act. It necessarily implies that the inam tenures stood abolished and converted into ryotwari tenures from the date of the commencement of the Act. On the contrary, the learned counsel for the appellants argues that Section 4 merely indicates the date on which the rights of either parties I. e., the inamdar and the tenant have to be determined. Section 4 nowhere says that the ryotwari patta. When granted will be effective from the date of the commencement of the act. In this view of the matter it cannot be said that, by virtue of section 4 of the Inams Abolition Act, the inam tenure stood abolished on the date of the commencement of the Act. We find considerable force in the contention of the learned counsel for the appellants. section 4 by itself, in our opinion, does not determine the date of the abolition of the inam tenure. That section merely indicates the date on which the rights of the rival parties have to be determined. That section not only refers to the date of the commencement of the act, but also a very much earlier date i. e., 7th January, 1948 on which date if the tenant was in possession and was evicted later on he has to be granted a ryotwari patta in respect of two-thirds of the inam land. That is a clear indication that the dates mentioned in Sec. 4 have nothing to do with the date of the abolition of the inam tenure. But the dates mentioned therein are only determinative of the date with reference to which the rights of the parties

have to ascertained and determined. If the legislature wanted to say that the inams stood abolished from the date of the commencement of the act. nothing precluded it from enacting to that effect as it had done in the Estates Abolition Act. At this stage it may be noted that whenever the legislature has been careful enough to say so. Reference in this context may be made to the provisions of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. In Section 3 of this Act, it has been provided that all inams to which this Act is made applicable shall be deemed to have been abolished and shall vest in the State from the date of vesting. We are aware that the Andhra Pradesh (Telangana Area) Abolition of Inams Act has been passed by a legislature different from the Andhra Pradesh legislature. But we have only pointed it out to show that when a legislature intended that a particular consequence should ensue from a particular date. they have been careful enough to say so in the provisions of the Act itself.

14. The learned counsel for the respondents argues that the provisions of the Inams Abolition act cannot be compared with the provisions of the Estates Abolition Act. and it cannot be held that because the Inams Abolition Act does not say that the inams stood abolished from a particular date as is said in the Estates Abolition Act the inams did not stand abolished from the date of the commencement of the Inams Abolition Act. His contention is that in the very nature of the Inams Abolition Act, it was not necessary to say so whereas under the Estates Abolition Act, the estates under the Estates Abolition act, there estates were to vest in the Government and therefore the date of vesting in the Government had to be specifically stated in the Estates Abolition Act. There distinction which the learned counsel is seeking to draw is not at all material. Whether the estates were to vest in the Government under the Estates Abolition Act or whether the inam tenure was to be abolished and converted into a ryotwari tenure under the Inams Abolition Act does ;not make any difference for determination of the question as to whether a particular result would ensue on the passing of the Act.

15. The learned counsel for the appellants argued that not only Section 4 of the Inams abolition Act does not provide for the abolition of the inam tenure from the date of the commencement of the Act but there are also indications in the other provisions of the Act which go to show that the inam tenure stood abolished by the grant of the ryotwari patta and not earlier. In this context he relied specifically on two sections I. e., Sections 11 and 12 of the Inams, Abolition Act. In regard to the provisions of Section 11, the argument is that if the inam tenure stood abolished on the date of the commencement of the act and was converted into a ryotwari tenure, the tenant became the owner of two-thirds of the land from the date of the commencement of the Act and the relationship of landlord and tenant between him and the inamdar ceased from the date of the commencement of the Act. In this view of the matter, the provisions of sub-section (1) of Section 11 which say that the provisions of the Andhra Tenancy Act shall apply to the tenancies in respect of the inam lands has no meaning. He further relied upon the provisions of sub-section (2) wherein a

provision has been made for the stay of eviction of a tenant until a decision is taken under the provisions of Section 4 of the Act whether he is entitled to a ryotwari patta. If the because of he ryotwari patta. If the because o the ryotwari patta from the date of the commencement of the act there was no need for a provision to stay his eviction prior to the determination of the question u/s 4 of the Act. The learned counsel for the respondents contends counsel that looking at the scheme of the act. the provisions of Section 11 (1) will have to be retracted to one-third share of the inam land to which alone the inamdar is entitled to a patta. His contention, is that by the grant of a ryotwari patta, the relationship of landlord and tenant in regard to the one-third is not determined and it continues. According to him. viewed at in this light, the provisions of the whole of section 11 do not at all indicate a contra intention of the legislature to convert the inam from the date of the grant of the ryotwari patta. We find it very difficult to accept this argument of the learned counsel for the respondents. The argument proceeds on the assumption that the inam tenure stood abolished on the date of the commencement of the act and was converted into a ryotwari tenure. The provisions of sub-section (1) of Section 11 do not in any manner suggest limiting its provisions to only one-third of the inam land. The material words of that section are "the provisions of the Andhra Tenancy, Act 1956..... shall apply to the tenancies in respect of inam lands" governed by this Act . The expression : "tenancies in respect of inam lands" clearly indicates that the Tenancy Act is applicable to the whole of the inam land and not only to a part of it as contended by the learned counsel for the respondents. If the inam tenure was converted into a ryotwari tenure on the date of the commencements of the act. The relationship of landlord and tenant between the inamdar and the tenant in any case up to the extent of two-thirds of the land. In such an event, there is no question of applying the provisions of the Andhra Tenancy Act in regard to the whole of the inam land. The legislature, if it intended that sub-section (1) of Section 11 should apply only to one-third portion of the inam land for which a ryotwari patta may be granted in favour of the inamdar would have stated so in that section. The absence of this provision indicates that the said sub-section in ;its application cannot be restricted as urged on behalf of the respondents.

16. To our mind, a clear indication as to the date from which the inam tenure is converted into a ryotwari tenure is found in Section 12 of the inams Abolition Act. The relevant portion of this section reads:

12 (1)"Every person or institution receiving a ryotwari patta under this act in respect of an inam land shall. with effect on and from the date of the grant of the ryotwari patta, be liable to pay to the Government the ryotwari assessment as hereinafter provided.

XX XX XX"

According to this section, the liability to pay ryotwari assessment starts from the date of the grant of the ryotwari patta. The words "ryotwari assessment" have

great significance in this section and they have to be compared and contrasted with the expression "inam assessment." Ryotwari assessment". becomes payable only on the conversion of the inam tenure into a ryotwari tenure and not earlier. It is not the quantum of assessment that is material but it is the nature of the assessment that is material for determining the date of conversion. In this context it has to be remembered that prior to the passing of the Inams Abolition Act, provision was made in the Inams Assessment Act for levy of assessment at the rates for similar lands in the neighbouring ryotwari villages. It also provided for levy at the rates of assessment set out in the notifications in force in the village in which the inam lands were situated. But such an assessment though comparable to the assessment in a ryotwari village was still termed as an "inam assessment" because by virtue of such assessment alone, the inam tenure was not converted into a ryotwari tenure. Therefore, when Section 12 of the Inams Abolition Act says that the ryotwari assessment will become payable from a particular date i. e., the date of grant of ryotwari patta, means that the inam assessment will be payable upto the grant of the ryotwari patta. Constitution of the inam assessment up to the grant of the ryotwari patta clearly indicates the intention of the legislature to continue the inam tenure till the grant of the ryotwari patta. The learned counsel for the respondent, brought to our notice the relevant provisions of section 3 of the Inams Assessment Act and argued that those provisions are in pari materia with the provisions of section 12 of the Inams Abolition Act. He contended that even under the Inams Assessment Act, in certain cases full assessment was levied on the inam lands and therefore mere levy of full assessment is not conclusive for the determination of the conversion of the inam tenure. This argument lays stress on the quantum of the assessment and ignores the nature of the assessment. As stated by us earlier, it is the nature of the assessment which has to be considered and not the quantum of assessment.

17. It is also argued that Section 12 of the Inams Abolition Act only determines the date from which the ryotwari assessment has to be paid. If the conversion of the inam tenure is effected from the date of the commencement of the act, ryotwari assessment should have become payable from the date of the act and not from the date of the grant of the ryotwari patta. In our opinion, therefore, this section very clearly brings out the intention of the legislature that the conversion will take place from the date of grant of the ryotwari patta.

18. It was strenuously argued by the learned counsel for the respondents that our decision will lead to a very peculiar and incongruous situation inasmuch as the conversion into a ryotwari tenure will be on different dates. We do not think there is anything peculiar or incongruous. According to the provisions of the Estates Abolition Act, the date of vesting of the estates is on a notified date and such a notified date varies from estate to estate. There is nothing incongruous in the legislature providing for certain consequences following from different dates on the happening of certain specific events. The mere fact that the conversion consequences following from different dates on the happening of certain specific

events. The mere fact that the conversion may take effect from different dates does not lead us to the inescapable conclusion that the conversion of the inam tenure into a ryotwari tenure takes effect on the date of the commencement of the Act. On a consideration of the relevant provisions of the Act, we have to conclude that the inam tenure is abolished and is converted into a ryotwari tenure by the grant of the ryotwari patta.

19. Our learned brothers, Krishna Rao and Parthasarathi JJ., in *M. Mulayya v. K. Appanna* (1969) 2 AnWR 343 on an appeal from a judgment of Gopal Rao Ekbote, J. in *K. Appanna v. M. Mulayya* (1968) 1 An WR 72 had to consider a similar question. The learned Judges after referring to the provisions of Sections 4, 11 and 12 of the Inams Abolition Act, held that the conversion of the inam tenure into a ryotwari tenure takes place not on the date of the commencement of the Act, but on the ground of the ryotwari patta. As regards Section 4, the learned Judges have observed that

"A scrutiny of the provisions of Section 4 leads necessarily to the conclusion that where the section referred to the "commencement of the Act" as a relevant point of time under the scheme of the Act, it is expressly for the purpose of determining the person who is to be the recipient of the benefit.Therefore is none of the alternatives contemplated by Section 4, the time of the commencement of the Act is intended by the Legislature to be the starting point for the conversion of the tenure."

In regard to Section 12, it was observed that

"There can be no clearer indication than the provision of Section 12, that the changed tenure becomes operative only with effect from the date of the grant of ryotwari patta. There is no warrant for the view, that the necessary implication of the scheme of the enactment is that there change of tenure is contemporaneous with the commencement of the Act. Section 12 brings about the conversion of tenure only from the date of grant of ryotwari patta".

It was also held that

"There can be no doubt that sec. II if rightly construed, cannot exclude from its purview the tenancies in respect of inamland in inam villageTherefore the Legislature clearly envisaged the position that the holder of the inam lands in inam villages was to continue to be the landholder in respect of such land till the extinguishment of his interest takes place. The Act does not enable the tenant to obtain a patta except on surrender of a third share of the leasehold property to the inamdar. If it were not so, the tenant can remain in possession of the entire extent of the property indefinitely and the Inamdar will have to pay the assessment to the Government in respect of the entire land. Till the condition is fulfilled, the anterior relationship subsists and it is in this context that the provisions of the act. especially Sections 4, 11 and 12 are to be understood."

The learned counsel for the respondents contended that the two bases on which this decision has been rendered is not correct in law. According to him, the learned Judges supposed that it is only on the levy of full ryotwari assessment that the tenure was converted into a ryotwari tenure. His contention is that there is no warrant for any such assumption. Full ryotwari assessment was being levied even in respect of inam tenures under the Inams Assessment Act. In support of this proposition that mere levy of full assessment does not effect a change in the tenure, he relied upon a Bench decision of this court in *Joga Rao v. The Sub-Collector* (1964) 2 AnWR 320. We have held that it is not the quantum of assessment but the nature of the assessment that brings about a change in the tenure. The learned Judges, when they laid stress upon full ryotwari assessment, meant to refer to the nature of the assessment and not to the quantum of assessment. The second objection is that there is no warrant for the assumption that without surrendering a one third share of the land by the tenant, ryotwari patta cannot be granted to him. In order to appreciate this contention, it is necessary to refer to the provisions of Sections 4 and 6 of the Inams Abolition act. It has already been pointed out that in cases covered by sub-section (2) of section 4, the inamdar is entitled to a ryotwari patta in respect of one-third of the land and the tenant to the remaining two-thirds. Sub-section (3) of Section 4 states that the one-third share of the inam land in occupation of the tenant in respect of which the inamdar is entitled to a ryotwari patta under clause (b) or clause (c) of sub-section (2) shall be deemed to be the compensation payable to the inamdar in lieu of the extinguishment of his rights in the two-thirds share of such land. Section 6 of the Inams Abolition Act makes provision for the determination of the one-third share of the inam land in the occupation of a tenant. Sub-section (1) of this section provides that

"Where there is agreement between the tenant and the inamdar as to the particular portion of the land to be given to the inamdar towards his one-third share under clause (b) or clause (c) of sub-section (2) of Section 4 they shall file a joint statement before the Tahsildar to that effect furnishing full particulars; where there is no such agreement, the tenant or the inamdar, shall within the prescribed period make an application to the Tahsildar for the determination of the portion of the inam land in the occupation of the tenant to be given to the inamdar towards his one-third share."

Sub-section (2) of Section 6 states that the Tahsildar on receipt of the application and service of notice on the inamdar and the tenant and after giving them reasonable opportunity of being heard shall determine the particular portion of the inam land to be given to the inamdar under clause (b) or clause (c) of sub-section (2) of section 4 towards his one-third share. It is to be noted that in both the sub-sections, the expression used is "portion of the land to be given to the inamdar towards his one-third share". To our mind, this expression very clearly points out that the one-third share of the inamdar has to be given in his possession by the tenant. Otherwise, the expression "land to be given to the inamdar" will have no meaning. The learned counsel for the respondents

interpreted Section 6 to mean that the Tahsildar will determine the one-third portion for which a ryotwari patta has to be given. Such a determination need not necessarily mean that the person to whom the ryotwari patta has been granted I. e., the inamdar, should be put in possession of the one-third share. In our opinion this meaning cannot be ascribed to the provisions of section 6 and Section 4. especially in view of sub-section (3) of Section 4 of the Inams Abolition Act. Sub-section (3) of Section 4 clearly states that the one-third share of the inam land in occupation of the tenant in respect of which the inamdar is entitled to a ryotwari patta shall be deemed to be the compensation payable to the inamdar in lieu of the extinguishment of his rights in the two-thirds share of such land. This expression cannot mean that the mere grant of a patta without possession being given to the inamdar over his one-third share of the land is intended by the legislature to be the compensation payable to the inamdar for extinguishment of his rights in the two-thirds of the land. It has to be remembered that after the ryotwari patta is granted to the tenant in respect of two thirds of the land, he ceases to be a tenant of the inamdar and becomes the owner of two-thirds of the land. The same would of two-thirds of the land. The same would be the result by the grant of a ryotwari patta to the inamdar regarding his one-third share of the land. Mere grant of a patta without possession being handed over to the inamdar cannot be considered as compensation to the inamdar for loss of his ownership rights over the other two-thirds. Even before the provisions of the Inams Abolition Act came into force, the inamdar was getting rent over the two-thirds and after the passing of the said Act he would get rent only on the one-third if respondents" interpretation is accepted. Without getting possession of the land it cannot be considered as compensation for loss of his rights in the two-thirds of the land. This construction also receives support from the objects and reasons for the enactment of the Inams Abolition Act which state that the tenant shall be entitled to a ryotwari patta in respect of two-thirds of the land in his occupation on his surrendering the remaining one-third in favour of the inamdar. It is true that there word "surrender" has not been specifically used by the legislature in Section 6 of the inams Abolition Act but the same idea is conveyed by the words "to be given to the inamdar" used in Section 6 and also the provision in sub-section (3) of Section 4 of the Inams Abolition Act. The second objection of the respondents, in our opinion, has no force.

20. The learned counsel for the respondents relied upon the reasoning given by Gopal Rao Ekobte, J. in (1968) (.) Obdul Reddy I in the decision under appeal R. Surudamma v. District Collector (1969) 2 AP LJ 177. We have very carefully considered these decisions and we express our inability to agree with them. We have already given our reasons for arriving at a contrary conclusions to those arrived at by the learned Judges.

21. Our attention was also drawn to the Division Bench decision of Chandra Reddy. C. J. and Gopalakrishnan Nair, J. in Punnaiah v. Sri Lakshmi Narasimhaswamy Varu (1963) 2 AnLT 365 and it was argued that this decision

also supports the contention of the respondents that the inam tenure was converted into a ryotwari tenure from the date of the commencement of the act. We have very carefully gone through this judgment and we did not find any such decision or observation made by the learned Judges. The question for consideration before the learned Judges was who is an "Inamdar" within the provisions of Section 4 of the Inams Abolition Act. The learned Judges never considered the question as to whether the Act bring about a conversion of the inam tenure into a ryotwari tenure from the date of the commencement of the Act. The main question decided was whether the person entitled to a patta u/s 4 of the Inams Abolition Act is the person who performs the service or the institution to which the said services are performed.

22. We therefore answer the first question posed by us that the Inams Abolition Act does ;not effect the effacement of the Inam tenure from the date of the passing of the Act. but merely enables the conversion of a tenure under the procedure prescribed under the Act.

23. The next question for consideration is the effect of section 15 of the Inams abolition Act. It is argued by the leaned counsel for the appellants that once it is held that the inam tenure is converted into a ryotwari tenure only after the grant of the ryotwari patta. the provisions of Act III of 1895 will continue to govern the rights of the parties till the grant of the ryotwari patta and three is nothing in Sec. 15 of the Inams Abolition Act which provides to the contrary. In reply, it was argued by the learned counsel for the respondents that Section 15 of the Inams Abolition Act has been given an overriding effect; and after the commencement of the said act, the provisions of any other Act will not be applicable to the inam lands governed by the Inams Abolition Act. Section 15 reads:-----

15. "Unless otherwise expressly provided in this Act the provisions of this Act and of any orders and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

According to Section 15 the provisions of the Inams Abolition Act will have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. It is only in the case of an inconsistency the question arises whether the provisions of the Inams Abolition Act will govern or the provisions of any other law for the time being in force that would govern a stated case. In the view we have taken, there is no inconsistency between the provisions of Act III of 1895 and the Inams Abolition Act because the service inam tenure continues until a ryotwari patta is granted. It is only after the grant of a ryotwari patta it could be said that an inconsistency arises between the Inams Abolition Act and Act III of 1895. Till the grant of a ryotwari patta, the provisions of Act III of 1895 will govern the inter se rights of the parties. The provisions of the Inams Abolition Act will govern the proceedings for the grant of a ryotwari patta.

24. It was argued by the learned counsel for the respondents that if such a meaning is given to Section 15 of the Inams Abolition Act, there will be two parallel proceedings which cannot be the intention of the legislature. In the case before us, we are not concerned with parallel proceedings as we are told that there are no proceedings under the Inams Abolition Act for the grant of a ryotwari patta. If such a situation arises it will be for the competent authorities to determine as to which of the proceedings should be given a priority and such a determination can be made by the concerned authorities under the inherent powers. We in this case need not lay down any rule in that respect.

25. In regard to the third question posed by us, the learned counsel for the appellants argued that as the 2nd respondent was not a party to the proceedings before the Collector she is not entitled to file the writ petition. We do not think it necessary to express any opinion in the matter.

26. In the result, the writ appeal is allowed with costs and the order in W. P. No. 806 of 1967 is set aside and the judgment of the Collector is restored. Respondents 1 and 2 will pay the costs of the appellants. Advocate's fee Rs. 200/-. (Rupees two hundred only).

27. Writ appeal allowed.