

The State of Mysore

Vs

Sri P. T. Muniswamy Gowda and Others

Civil Appeal No. 1163 of 1967

(V. Bhargava, I. D. Dua JJ)

24.03.1971

JUDGMENT

DUA, J. -

1. The State of Mysore appeals to this Court with a certificate under Article 133(1)(a) of Constitution from the judgment and decree of the High Court of Mysore dated November 3, 1966. The respondents in this Court are Jodidars (or inamdars) of Janadada Obenahalli village (a personal inam village) in the District of Kolar in Mysore State. In the controversy in this Court we are mainly concerned with the provisions of the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act 1 of 1955). We may, therefore, at the outset notice the broad features of the relevant provision of this Act and the rules made thereunder. This Act was enacted with the object of providing for the abolition of personal inams and certain miscellaneous inams in the State of Mysore except in Bellary District. This Act received the assent of the President of India on March 15, 1955 and it was first published in the Mysore Gazette on March 19, 1955. Section 1, 2, 27, 38 and 40 came into force immediately and the rest of the Act was to "come into force in all minor inams in unalienated villages on such date as the Government may by notification appoint and in any Inam village on such date as the Government may, by notification specify in respect of such Inam village" : vide Section 1(4). By virtue of Section 2(1)(b) the date of vesting in relation to an inam means the date appointed by notification issued under Section 1(4) to be the date on which the provisions of the Act (other than Sections 1, 2, 27, 38 and 40) are to come into force in such inam. Section 2(1)(e) defines "Inam" to include an inam village and minor inam. It is not disputed that in respect of the village Janadada Obenahalli the requisite notification dated January 13, 1959 was duly published and the date of vesting in the State as specified therein was February 1, 1959. Consequences from vesting of an inam in the State are contained in Section 3 of the Act. But we are not concerned with all the details contained in this section. It is sufficient for our purposes to point out that, broadly speaking, under clause (b) of sub-section (1) of this section all rights, title and interest vesting in the inamdar cease and become absolutely vested in the State of Mysore free from all encumbrances; under clause (e) the inamdar ceases to have any interest in the inam other than the interest expressly saved by or under the provisions of this Act, and under clause (h) the Inamdar and any other person whose rights have vested in the State of Mysore under clause (b) are to be entitled only to compensation from the Government as provided in this Act. Compensation payable in respect of an inam is required to be determined in accordance with the provisions of Chapter III of the Act and by reason of Section 16 it is to be determined for the inam as a whole and not separately for each of the interests therein. The amount of compensation payable in respect of inams is provided by Section 17. The present case is admittedly governed by clause (v) of sub-section (1). We, therefore, need not concern ourselves with the other clauses. Clause (v) provides :

"17. Amount of compensation payable. - (1) Save as otherwise provided in Section 26, the total compensation payable in respect of any inam shall be the aggregate of the sums specified below :

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(v) a sum equal to ten times the average net annual income derived by the inamdar during a period of five years immediately preceding the date of vesting"

At this stage it would be relevant to point out that under Rule 8(2) of the Rules framed by the Government of Mysore under Section 38 of the Act, where the particulars necessary to compute the average net income under clause (v) of sub-section (1) of Section 17 are not available for the full period of five years, the average net annual income derived by the inamdar during such lesser period immediately preceding the date of vesting, for which the particulars are available, shall be the average net annual income : where the particulars are not available, or where the particulars appear in material respects to be incorrect, the computation of the average net annual income under clause (v) of sub-section (1) of Section 17 is required to be made after local enquiry and on the basis of the annual income derived from similar lands situated in the same locality. Section 18 provides for the mode of payment of compensation. It reads :

"18. Payment of compensation. - (1) The compensation shall be due as from the date of vesting and shall carry interest at the rate of two and three-fourths per cent per annum from the date of vesting to the date of payment.

(2) The compensation payable under this Act may, in accordance with rules made in this behalf, be paid in one or more of the following modes, namely -

(i) in cash in full or in annual installments not exceeding ten;

(ii) in bonds either negotiable or not negotiable carrying interest at the rate specified in sub-section (1) and of guaranteed face value maturing within a specified period not exceeding ten years."

The Deputy Commissioner is required by Section 19 to determine in accordance with the provisions of the Act the total compensation payable in respect of the inam. Section 21 enjoins the Deputy Commissioner, soon after the date of vesting, to publish copies of the notification under Section 1(4) of the Act at a convenient place in or in the vicinity of, the inam and to cause public notice to be given, requiring the claims of all persons interested in the compensation or in any portion thereof including the inamdar, the members of his family claiming any such portion and certain categories of creditors, to be made to him. Such notice is also required to be published in the Mysore Gazette. The Deputy Commissioner, after giving notice to all claimants and also to other persons whom he considers to be interested, is to enquire under Section 22 into the validity of the claims and determine the persons entitled to compensation and the amount to which each of them is entitled. The decision of the Deputy Commissioner under Section 22 is appealable under Section 30 to the Special Tribunal constituted under Section 27. The decision of the Tribunal is appealable to the High Court and the High Court is empowered on appeal to make such order as it thinks fit. This is the scheme of the Act which governs the present controversy.

2. We now turn to the facts of this case. The Special Deputy Commissioner for Inam Abolition, Kolar Circle, determined the compensation under Section 20 of the Act read with Rule 20, sub-rule (1) on October 28, 1963 describing the determination as draft proposal compensation. The Special

Tehsildar had been directed to inspect the village and enquiry from people the income from the inam. We are informed that the result of his enquiry was embodied in what is described as Mahazar. This draft compensation roll was served on the inamdars in November, 1963 and objections were preferred in December, 1963 by P. T. Muniswamy Gowda on behalf of himself and his brother (respondents in this Court) against the draft data of compensation. Thereafter the inamdars made statements of their claim to compensation which were recorded under Section 23 on January 10, 1964. The Special Deputy Commissioner by his award dated January 13, 1964 determined the income which was lower than the Mahazar estimate and also than that contained in the draft of the Special Tahsildar. The following table would give us the picture of the itemwise claim made by the inamdars, the Mahazar estimate, the proposal of the Special Tahsildar and the amount finally determined by the Special Deputy Commissioner :

#-----	Items Claim	Mahazar	Proposal	Award by
estimate of the Deputy of income	Special Commis-	Tahsildar	sioner-----	
-----	1	2	3	4
-----	5	-----	-----	-----
	1. Income from Rs.			
Rs. Rs. Rs. Bande (6 place)	4,500	3,000	2,300	2,000
2. Sale of jungle	3,000	1,000	500	500
3. Sale of black	2,000	1,000	200	200
4. white jalli	420	350	240	240
5. Tamarind trees	420	350	240	240
6. Hullugavalu	700	300	300	200
7. Tandadi and Rali	500	400	250	250
8. Honge and Alemane	400	200	200	200
9. Surugu	400	200	200	200
10. Red Gravel	400	200	200	200
11. Beedi leaves	300	100	250	250
12. Fishery	200	100	100	100
13. Sand in Halla	100	100	50	50
-----	Total	12,520	6,850	4,015
-----		3,240	-----	-----

3. The inamdars, feeling dissatisfied with the final award, preferred an appeal to the High Court. The High Court came to the conclusion that there was no cogent ground for reducing the amount claimed by the inamdars and by the impugned judgment enhanced the compensation from Rs. 31,400 to Rs. 1,25,000. It may be recalled that under Section 17(1)(v) the compensation to be awarded is to be equal to ten times the average net annual income determined according to the provisions of the Act.

4. In this appeal the only serious criticism which had been pressed by Shri Dholakia, the learned counsel for the appellant, against the judgment of the High Court was that the High Court had not taken into consideration the Mahazar report. This submission appears to be misconceived. The High Court was fully alive to the Mahazar report as is clear from the following observation in its judgment :

"The Deputy Commissioner actually visited the village for a local enquiry in addition to furnishing himself with information in the shape of Mahazars prepared in the locality as well as a report by the local Tahsildar. He found that the quarry was a huge one and was being worked in four or five places even during his visit. He was also quite satisfied about the fact that the jodidars were deriving a reasonably substantial income from the other items like fuel, jalli, tamarind trees and grazing ground."

5. The counsel then faintly contended that the various vouchers referred to by the High Court in support of the annual income of the inamdars were not proved according to the law of evidence and, therefore, the judgment must be held to be vitiated on account of an error of law. This contention is equally devoid of merit. Not only was this contention not raised in the High Court, there being no reference to it in the judgment under appeal, there is also ample proof of the vouchers on the record. We find from the record that P. T. Muniswamy Gowda, the objecting inamdar, had actually appeared

before the Deputy Commissioner, himself on January 10, 1964 and stated on oath as follows :

"The compensation now awarded to our village is very low. The average annual income of this village was Rs. 12,520. In this behalf we have produced vouchers at the time of enquiry by the Tahsildar."

6. He deposed that the compensation actually awarded was only 1/4th of their claim and this, according to the inamdar, was unjust. We further find that P. T. Muniswami Gowda had also appeared and made a statement on oath on March 11, 1963 before the Special Tahsildar when that officer held the enquiry for preparing the Mahazar statement. In those proceedings all the vouchers on which reliance was placed in support of their claim in respect of the income from the inam were actually produced. Now, the enquiry under this Act does not seem to us to be governed by the provisions of the Indian Evidence Act which apply to judicial proceedings in or before a court. The Special Deputy Commissioner or the Special Tahsildar holding enquiries under the Inam Abolition Act can by no means be described judicial proceedings in or before a court and indeed Shri Dholakia rightly did not contend to the contrary. Now, if the technical provisions of the mode of proof as provided by the Indian Evidence Act are inapplicable then the criticism levelled by the appellant cannot possibly have any merit. Needless to add that no objection to the mode of proof of the vouchers was ever before raised in these proceedings. This contention must, therefore, be repelled.

7. The High Court, after referring to the visit of the Deputy Commissioner to the village in question for local enquiry and to the fact that the Deputy Commissioner had taken into consideration the Tahsildar's report expressed its conclusion in these words :

"The appellant had produced eleven vouchers in support of their estimate of the annual income from these various items. If the vouchers are good and genuine, they fully support their case and that is also the opinion of the Deputy Commissioner. He did not find any reason to disbelieve or even to suspect any one of the vouchers. Nevertheless he not only reduced the estimate of the average annual income in respect of the first five items to Rs. 3,140 but also totally rejected the claim in respect of the remaining items Numbers 6 to 11.

For the reduction there is no reason whatever except a different estimate made by the Tahsildar and then by the Deputy Commissioner resulting in progressive reduction of the figures."

This passage discloses the final reasoning on which the High Court allowed the appeal. The appellant's learned counsel was unable to point out any error in this reasoning. From the record to which our attention has been drawn we are satisfied that the High Court was fully justified in enhancing the claim of the inamdars and it is not possible to disagree with its conclusions. The appeal accordingly fails and is dismissed with costs.

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