Vatticherukuru Village Panchayat

Vs

Nori Venkatarama Deekshithulu and Others

Nori Madhusudan and Others

V. Vatticherukuru Village Panchayat

Civil Appeal Nos. 931 of 1977 and 200 of 1978

(K. Ramaswamy, N. M. Kasliwal JJ)

26.04.1991

JUDGMENT

K. RAMASWAMY, J. -

1. Civil Appeal Nos. 931 of 1977 and 200 of 1978 relate to the same dispute though they arose from two suits and separate judgments. The bench that heard Civil Appeal No. 931 of 1977 directed on January 24, 1991 to list Civil Appeal No. 200 of 1978 for common disposal. Civil Appeal No. 200 of 1978 arose out of O.S. No. 118 of 1968 on the file of the Court of Additional Subordinate Judge, Guntur and Appeal No. 259 of 1972 dated June 19, 1975 of the A.P. High Court. The suit for possession and mesne profits was laid by the descendants of Nori Lakshmipathi Somayajulu of Vatticherukuru, Guntur Taluq and District, for short 'NLS'. The dispute relates to the tank known as 'Nori Lakshmipathi Somayajulu's Western Tank' "Vooracheruva" (village tank). It consists of 100 acres of which roughly 30 acres is covered by water spread area marked 'A' Schedule. 'B' Schedule consists of 70 acres (silted up area). The tank was dug in Fasli 1190 (1700 AD). Zamindar, Raja Manikya Rao made a grant of the land for digging the tank and its preservation, maintenance and repairs. It is the descendants' case that it is a private tank enjoyed by the 'grantee', NLS as owner and thereafter the descendants and perfected the title by prescription. It was found as a fact by the High Court and the descendants are unable to persuade us from the evidence to differ from the findings that the tank is a "public tank" dug by the villagers and ever since and as of right they have been drawing the water from the tank for their use and for the cattle of the village. The descendants' plea and evidence adduced in support thereof that it is their private tank, was negated by both the courts. The trial court found that the tank is a 'public trust', the appellants would be hereditary trustees and could be removed only by taking action under Section 77 of the A.P. Hindu Charitable and Religious Institutions and Endowments Act, 1966 for short 'the Endowments Act'. It also held that the descendants acquired title by adverse possession. Accordingly the suit for possession was decreed relegating to file a separate application for mesne profits. On appeal the High Court reversed the decree and held that the tank is a public tank and the tank and the lands stood vested in the Gram Panchayat under A.P. Gram Panchayat Act, 1964 (2 of 1964) for short 'the Act'. Since the Gram Panchayat was in possession from July 7, 1965, though dispossessed the descendants forcibly and as the suit is not under Section 6 of the Specific Relief Act, 1963 but one based on title, it called for no interference. It dismissed the suit. This Court granted leave to appeal under Article 136.

2. Civil Appeal No. 931 of 1977 arose out of the suit for possession in O.S. No. 57 of 1966 on the

file of the Court of Subordinate Judge at Guntur filed by the Gram Panchayat against the descendants. The suit was dismissed by the trial court and was confirmed by the High Court in A.S. No. 71 of 1973 and the High Court granted leave under Article 133 on December 10, 1976. The pleadings are the same as in the other suit. In addition the descendants further pleaded in the written statement that the Gram Panchayat unlawfully took possession of the tank on July 7, 1965. They also acquired title by grant of ryotwari patta under Section 3 of the A.P. Inams (Abolition and Conversion into Ryotwari) Act (Act 37 of 1956), for short 'the Inams Act'. The Gram Panchayat had no manner of right to interfere with their possession and enjoyment. They also pleaded and adduced evidence that they were leasing out the fishery rights and grass and trees grown on the land. The income was being utilized for the repairs of tank. The trial court and the High Court found that the lands were endowed to NLS for the maintenance of the tank and the descendants obtained ryotwari patta under Inams Act and are entitled to remain in possession and enjoyment as owners subject to maintaining the tank. Accordingly the suit was dismissed. On appeal in A.S. No. 71 of 1973 by judgment dated April 1, 1966 the High Court confirmed the decree on further finding that by operation of Section 14 of the Inam Act, civil suit was barred. Thus both the appeals are before this Court.

3. In Civil Appeal No. 200 of 1978, Shri Sitaramiah, learned senior counsel for the descendants concerned that the descendants of NLS have no exclusive personal right, title or interest in the tank and the appurtenant total land of 100 acres. In view of the entries of the Inams Fair Register for short 'IFR', it is a public trust and not a public tank. Unless recourse is had to remove them from trusteeship under Section 77 of the Endowments Act, the appellants cannot be dispossessed. Since admittedly NLS and the descendants were enjoying the property till date of dispossession, presumption of the continuance of the enjoyment anterior thereto as owners could be drawn. The High Court thereby committed error of law in holding that the lands stood vested in the Gram Panchayat under the Act and that it is a public tank. In Civil Appeal No. 931 of 1977, it was further contended that since the grant of ryotwari patta under the Inams Act had become final, Section 14 thereof bars the jurisdiction of the civil court to entertain the suit. Shri B. Kanta Rao, learned counsel for the Gram Panchayat contended that the finding of the High Court that the tank and the appurtenant land, namely, the plaint schedule property, as 'public tank', is based on evidence that the tank was dug by the villagers and that they have been using it for their drinking purposes and for the cattle is a finding of fact. By operation of Sections 85 and 64 of the Act, the land and the tank stood vested in the Gram Panchayat. Entries in the IFR establishes that the grant of the land was for preservation, maintenance and repairs of the tank. Therefore, the grant should be in favour of the institution, namely, the tank. The pattas obtained by the descendants should be for the benefit of the tank, though granted in individual names. By operation of Section 85 of the Act, the descendants acquired no personal title to the property. Ryotwari patta is only for the purpose of land revenue. The Gram Panchayat acquired absolute right, title and interest in the land. The civil suit is not barred on the facts in this case.

4. Before appreciating the diverse contentions, the facts emerged from the findings in both the appeals could be gathered thus. Admittedly the zamindar, Raja Manikya Rao granted 100 acres of land in inam village to dig the tank and the grant was for its preservation and maintenance. The grant was in favour of NLS. In 1700 AD i.e. 1190 Fasli, the tank was dug by the villagers and ever since the villagers have been using the fresh water tank for their drinking purposes and of the cattle and perfected their right by prescription. In course of time the tank was silted up and in and around 30 acres of the water spread area, fresh water is existing. No repairs were effected by the descendants. The rest of the land was silted up. Grass and trees have been grow thereon and was being enjoyed. On July 7, 1965, the Gam Panchayat took unilateral possession of the tank and ever

since was exercising possession, supervisions and control over it. After expiry of three years from the date of dispossession, the descendants filed O.S. No. 57 of 1966 for possession based on title. Earlier thereto the Gram Panchayat filed the suit for possession. Under the Inams Act, ryotwari patta under Section 3 was granted to the descendants in individual capacity and on appeal the Revenue Divisional Officer, Guntur confirmed the same. It became final as it was not challenged by filing any writ petition. Both the suits now stood dismissed. The counsel on other side have taken us through the evidence and we have carefully scanned the evidence.

5. From the facts the first question emerges is whether the tank and the appurtenant land stood vested in Gram Panchayat.

6. Section 64 of the Act reads thus :

> "64. Vesting of communal property or income in Gram Panchayat. - Any property or income which by custom belongs to or has been administered for the benefit of the villagers in common, or the holders in common of village land generally of land of a particular description or of lands under a particular sources of irrigation, shall vest in the Gram Panchayat and be administered by it for the benefit of the villagers or holders aforesaid."

7. Section 85 reads thus :

> "85. Vesting of water works in Gram Panchayat. - (1) All public water courses, springs, reservoirs, tanks, cisterns, fountains wells, stand-pipes and other water works (including those used by the public to such an extent as to give a prescriptive right to their use) whether existing at the commencement of this Act or afterwards made, laid or erected and whether made, laid or erected at the cost of the Gram Panchayat or otherwise for the use or benefit of the public, and also any adjacent land, not being private property, appertaining thereto shall vest in the Gram Panchayat and be subject to its control :
>
> Provided that nothing in this sub-section shall apply to any work which is, or connected with, a work of irrigation or to any adjacent land appertaining to any such work.
>
> (2) Subject to such restrictions and control as may be prescribed, the Gram Panchayat shall have the fishery rights in any water work vested in its under sub-section (1), the right to supply water from any such work for raising seed beds on payment of the prescribed fee, and the right to use the adjacent land appertaining thereto for planting of trees and enjoying the usufruct thereof or for like purpose.
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> (3) The government may, be notification in the Andhra Pradesh Gazette, define or limit such control or may assume the administration of any public source of water supply and public land adjacent and appertaining thereto after consulting the Gram Panchayat and giving due regard to its objections, if any."

8. A bird's eye view of the provisions brings out vividly that any property or income which belongs to or has been administrated for the benefit of the villagers in common or the holders in any of the village land generally or of land of a particular description or of lands under particular source of irrigation shall vest in the Gram Panchayat and be administered by it for the benefit of the villagers or holders aforesaid. The lands or income used for communal purpose shall either belong to the

Gram Panchayat or has been administered by the Gram Panchayat. It is not the case of the Gram Panchayat nor any finding recorded by the courts below to that effect. So Section 64 is not attracted, though the villagers acquired prescriptive right to use the water from the tank for their use and of their cattle.

9. All public water course, springs, reservoirs, tanks, cisterns, etc. and other water works either existing on the date of the Act or made thereafter by the Gram Panchayat, or otherwise inclined those used by the public ripened into prescriptive right for the use and benefit of the public and also adjacent or any appurtenant land not being private property shall vest in the Gram Panchayat under Section 85(1) and be subject to its control. The proviso is not relevant for the purpose of this case. Under sub-section (2), the Gram Panchayat shall have fishery right therein subject to any restriction or control prescribed by the government by rules. The Gram Panchayat also shall have the right to use the adjacent land appertaining thereto for planting trees and enjoying the usufruct thereof or for like purposes. Sub-section (3) gives overriding power to the government, by a notification published in the A.P. Gazette to define or limit the control or supervision by the Gram Panchayat or the government may assume administration of any public source of water supply and public land adjacent and appertaining thereto. The only condition precedent thereto is prior consultation of the Gram Panchayat and to have due regard to any objections, if raised, by the Gram Panchayat and issue notification published in the gazette resuming the water sources or the land etc.

10. The word 'vest' clothes varied colours from the context and situation in which the word came to be used in a statute or rule. Chamber's Mid-Century Dictionary at p. 1230 defines 'vesting' in the legal sense "to settle, secure, or put in fixed right of possession; to endow, to descend, devolve or to take effect, as a right". In Black's Law Dictionary, (5th edn. at p. 1401) the meaning of the word 'vest' is given as : "to give an immediate, fixed right of present or future enjoyment; to accrue to; to be fixed; to take effect; to clothe with possession; to deliver full possession of land or of an estate; to give seisin; to enfeoff". In Stroud's Judicial Dictionary, (4th edn., Vol. 5 at p. 2938), the word 'vested' was defined in several sense. At p. 2940 in item 12 it is stated thus "at to the interest acquired by public bodies, created for a particular purpose, in works such as embankments which are 'vested' in them by statute", see Port of London Authority v. Canvey Island Commissioners [(1932) 1 Ch 446] in which it was held that the statutory vesting was to construct the sea wall against inundation or damages etc. and did not acquire fee simple. Item 4 at p. 2939, the word 'vest', in the absence of a context, is usually taken to mean "vest in interest rather than vest in possession". In item 8 to 'vest', "generally means to give the property in". Thus the word 'vest' bears variable colour taking its content from the context in which it came to be used. Take for instance the land acquired under the Land Acquisition Act. By operation of Sections 16 and 17 thereof the property so acquired shall vest absolutely in the government free from all encumbrances. Thereby, absolute right, title and interest is vested in the government without any limitation divesting the pre-existing rights of its owner. Similarly, under Section 56 of the Provincial Insolvency Act, 1920, the estate of the insolvent vests in the receiver only for the purpose of its administration and to pay off the debts to the creditors. The receiver acquired no personal interest of his own in the property. The receiver appointed by the court takes possession of the properties in the suit on behalf of the court and administers the property on behalf of the ultimate successful party as an officer of the court and he has no personal interest in the property vested thereunder. In Fruit and Vegetable Merchants Union v. Delhi Improvement Trust [1957 SCR 1 : AIR 1957 SC 344], the question was whether the Delhi Improvement Trust was vested of the Nazul land belonging to the government with absolute right, when the property was entrusted under the scheme for construction of the markets etc. It was held by this Court that placing the property at the disposal of the trust did not signify that the government has divested itself of the title to the property and transferred the same to the trust. The clauses in the

agreement show that the government had created the trust as its agent not on permanent basis but as a convenient mode of having the scheme of improvement implemented by the Trust subject to the control of the government.

11. The word 'vesting' in Section 85 would signify that the water courses and tanks, lands etc. used by the public to such an extent as to give a prescriptive right to their use, are vested in the Gram Panchayat, and placed them under the control and supervision of the Gram Panchayat. It confers no absolute or full title. It was open of the government, ever after vesting, to place restrictions upon the Gram Panchayat in the matter of enjoyment and use of such tanks, and appurtenant lands etc. Sub-section (3) of Section 85 expressly makes the matter clear. It empowers the government to assume the administration of any such tank or lands or to define or limit the control which is vested in the Gram Panchayat. Gram Panchayat being a statutory body is bound by the restrictions imposed by sub-section (3) of Section 85. The assumption of management by the government would be subject to the prescriptive right of the villagers, if any. The Division Bench in Gram Panchayat, Mandapaka v. Distt. Collector, Eluru [AIR 1982 AP 15 : (1981) 2 Andh WR 468 : (1981) 2 Andh LT 377], considered the meaning of the word 'vesting' and correctly laid the law in its interpreting Section 85 of the Act. Anna Narasimha Rao v. Kurra Venkata Narasayya [(1981) 1 Andh WR 325 : AIR 1981 AP 386] relied on by Shri Kanta Rao, though supports his contention that the vesting of the tanks etc. in the Gram Panchayat was with absolute rights and the village community rights would override the rights of the government, in our view the laws was not correctly laid down. Under A.P. Land Encroachment Act, 1905; Telengana Area Land Revenue Act, relevant Abolition Acts like A.P. Estate (Abolition and Conversion into Ryotwari) Act, 1948, Inams Abolition Act etc. give absolute rights of vesting in the State over the forest land, tanks, rivers, mines, poramboke, land, etc. free from all encumbrances and the pre-existing rights in the other land stood abolished and will be subject to the grant of ryotwari patta etc. It is also settled law that grant of ryotwari patta is not a title but a right coupled with possession to remain in occupation and enjoyment subject to payment of the land revenue to the State. Therefore, we agree with the High Court that the tank is a public tank and not a public trust and that under Section 85(1) and Section 64, the vesting of the tanks, the appurtenant land and the common land is only for the purpose of possession, supervision, control and use thereof for the villagers for common use subject to the overriding title by the government and its assumption of management should be in terms of sub-section (3) of Section 85 of the Act and subject to the prescriptive right in the water, water spread tank for common use.

12. Admittedly, NSL or the descendants used the plaint schedule property till July 7, 1965. The question then is what rights the descendants acquired therein. Admittedly within six months from the date of dispossession no suit under Section 6 of the Specific Relief Act was laid. Therefore, though the Gram Panchayat was not justified to take law into its own hands to take unilateral possession without due course of law, since the suit filed by the descendants was based on title the descendants in Civil Appeal No. 200 of 1978 have to establish their better title. Their claim was based on the ryotwari patta granted under Section 7 of the Inams Act. Therefore, entries in IFR bear great evidenciary value to ascertain their rights. In A.R.R.M.V. Arunachallam Chetty v. Venkatachalapathi Guruswamigal [AIR 1919 PC 62, 65 : 46 IA 204 : 43 Mad 253], the Judicial Committee of the Privy Council considered the effect of the columns in the IFR and held thus : (AIR p. 65)

> "It is true that the making of this Register was for the ultimate purpose of determining whether or not the lands were tax free. But it must not be forgotten that the preparation of this Register was a great act of State, and its preparation and contents were the subject of much consideration under elaborately detailed reports

> and minutes. It is to be remembered that the Inam Commissioners through their officials made enquiry on the spot, heard evidence and examined documents, and with regard to each individual property, the government was put in possession not only of the conclusion come to as to whether the land was tax free, but of statement of the history and tenure of the property itself. While their Lordships do not doubt that such a report would not displace actual and authentic evidence in individual cases, yet the Board when such is not available, cannot fail to attach the utmost importance, as part of the history of the property, to the information set forth in the Inam Register."

13. Construction of the relevant entries in the IFR is a question of law. Column 2, the general class to which the land belongs described as 'Dharmadayam' endowment for a charitable "institution", column 7, description of tenure for the "preservation and repairs" of Nori Lakshmipathi Somayajulu Western Tanks at Vatticherukuru, column 9 tax free, column 10, nature of the tenure, permanent, column 11, guarantor of the land Raja Manikya Rao in 1190 Fasli (1700 AD), column 13, name of the original grantee 'Nori Lakshmipathi Somayajulu', colomn 21 to be confirmed under usual conditions of service and column 22, confirmed. In the survey and settlement record of the year 1906 the same columns have been repeated. The lands in the tank were classified as village 'poramboke' and the tank as 'village tank'. In the village map also the same remarks were reiterated. Therefore, the entries in the IFR are great acts of the State and coupled with the entires in the survey and settlement record furnish unimpeachable evidence. On construction of these documents, it would clearly emerge that the original grant was made for the preservation and maintenance of the tank and tax fee inam land was granted for the purpose though it was in the name of the individual grantee. We are of the view that the grant was for the preservation and maintenance of the tank. In K.V. Krishna Rao v. Sub-Collector, Ongole [(1969) 1 SCR 624 : AIR 1969 SC 563], this Court held under the Inam Act that the tank is a charitable institute. Thereby we conclude that the grant was for the institution. Under Section 3 of the Inams Act, the enquiry should be whether (1) a particular land is inam land; (2) inam land is in a ryotwari, zamindar or inam village; and (3) is held by any institution. In view of the finding that the grant was for the preservation and maintenance of tank, the inam land in an inam village was held by the institution, namely, the tank. Ryotwari patta shall, therefore, be in favour of the institution. Undoubtedly the ryotwari patta was grated in favour of the descendants. In Nori Venkatarama Dikshitulu v. Ravi Venkatappayya [(1959) 2 Andh WR 357 : AIR 1959 AP 568], in respect of the tope dedicated to the public benefits in the same village, namely Vatticherukuru, one of the questions that arose was whether the patta granted in the individuals' names, would be their individual property or for the endowment. The Division Bench held that though the pattas were obtained in the individuals' name, the trustees of an institution cannot derive personal advantage from the administration of the trust property. It was held that the grant to patta was for the maintenance of the trust. We approve that the law was correctly laid down.

14. In Krishan Nair Boppudi Punniah v. Lakshmi Narasimhaswamy Varu [(1963) 1 Andh WR 214], relied on by Shri Sitaramiah, on the basis of the entries in IFR, the finding was that the grant was in favour of the individual burdened with service and not to an institution. Therefore, the ratio therein does not assist us to the facts in this case. Moreover, in view of the stand taken by Shri Sitaramiah that the lands are not the private property of NLS or his descendants but held by them as trustees, the grant of ryotwari patta to the individuals by necessary implication, as a corollary, is of no consequence. The question then is whether the enjoyment of the usufruct by the descendants would clothe them with any right as owners of the land. In view of the concurrent finding that descendants did not acquire title by prescription, the passage in Tagore Law Lecture, "Hindu Religious Endowments and Institution" at p. 6 relied on by Shri Sitaramiah to the effect 'dedication of tanks

and trees' as private property also renders no assistance to the descendants. Undoubtedly, a presumption of an origin in lawful title could be drawn, as held in Syed Md. Mazaffaralmusavi v. Bibi Jabeda Khatun [AIR 1930 PC 103 : 57 IA 125 : 1930 ALJ 377], that the court has so often readily made presumption in order to support possessory rights, long and quietly enjoyed, where no actual proof of title is forthcoming. It is not a mere branch of the law of evidence. It was resorted to because of the failure of actual evidence. The matter is one of presumption based upon the policy of law. It was also further held that it is not a presumption to be capriciously made nor is it one which a certain class of possessor is entitled to, de jure. In a case such as the one in question where it was necessary to indicate what particular kind of lawful title was being presumed, the court must be satisfied that such a title was in its nature practicable and reasonably capable of being presumed without doing violence to the probabilities of the case. It is the completion of a right to which circumstances clearly point where time had obliterated any record of the original commencement. The longer the period within which and the remoter the time when first a grant might be reasonable supposed to have occurred the less force there is in an objection that the grant could not have been lawful. In Bhojraj v. Sita Ram [AIR 1936 PC 60 : 38 BLR 344 : 1936 ALJ 755], it was further held that the presumption, not to supplement but to contradict the evidence would be out of place. A presumption should be allowed to fill in gaps disclosed in the evidence. But the documentary evidence in the IFR and the survey and settlement records furnish the unerring evidence. Though the original grant was not produced, the grant was for the institution and not to the individuals. Therefore, the colour of title though enabled them to enjoy the usufruct for personal use, once the tank and the appurtenant land was found to be public tank, the descendants acquired no personal right over it. The decision in Bhupathiraju Venkatapathiraju v. President, Taluq Board, Narsapur [(1913) 19 IC 727 (Mad) (DB) : 13 MLT 419], relied by Shri Sitaramiah the finding was that the grant was to the plaintiffs' family subject to conditions of service. Their right to take the usufruct of the trees therein was held to be for the benefit of the grantee. In that view its ratio cannot be applied to the facts in this case. In M. Srinivasacharyulu v. Dinavahi Pratyanga Rao [AIR 1921 Mad 467 : 30 MLT 101 : 64 IC 816], one of the contentions raised was that since the produce was being enjoyed by the trustees for over many years for personal use, it must be construed that the trust was for personal benefit of archakas. It was repelled holding that it would be a dangerous proposition to lay down that if the trustees of the religious trusts have for many years been applying the income to their own personal use, the trust deed must be construed in the light of such conduct. The decree of the trial court that the enjoyment was for the institution was upheld. The finding in Civil Appeal No. 931 of 1977, that since the endowment was the dashabandam the descendants are entitled to the ryotwari patta cannot be upheld. Dashabandam grant of land burdened with the service of a public nature was made at a time when maintenance of water sources and water courses to the benefits of the villagers was left to the villagers. In Ravipati Kotayya v. Ramasami Subbaraydu [(1956) 2 Andh WR 739 : AIR 1957 AP 182], it was held that in the case of dashabandam inams situated in ryotwari villages, the government has the right of resumption on default of service. The lands burdened with dashabandam service which is a service of public nature, are inalienable as being against public policy, we, therefore, hold that the descendants, though enjoyed the income from the properties, did not effect the repairs and neglected the maintenance and upkeep of the tank. They rendered the tank disused and abandoned. By operation of Section 85 of the Act the lands and tank stood vested in the Gram Panchayat for control, management and supervision.

15. Undoubtedly, a hereditary trustee is entitled to be the Chairman of a Board of Trustees, if any, constituted under the Endowment Act or else be in exclusive possession and management of the public trust registered thereunder until he is removed as per the procedure provided therein. Since the tank always remained a public tank and not being a public trust, the Endowment Act does not

apply. Therefore, the question of initiating action under Section 77 of the Endowment Act for removal of the descendants as trustees does not arise.

16. In the suit of the descendants the High Court did not consider the effect of grant of ryotwari patta under Inams Act and in the suit of the Gram (Village) Panchayat the effect of vesting under Section 85 of the Act on the grant of ryotwari patta was not considered. Only Section 14 i.e. the bar of civil suit was focused. Consequently both the suits were dismissed by different Division Benches. The question is whether the suits in maintainable.

17. All communal lands, porambokes, tanks, etc., in inam villages shall vest in the government under Section 2-A of Inams Act free from all encumbrances. Section 3 determines the inam lands whether held by the individual or the institution, provides procedure for determination and Section 3(4) gives right of appeal. Section 4 converts those lands into ryotwari lands and accords entitled to grant of ryotwari patta. Section 5 gives power to restitute the lands to the tenants in occupation though they were ejected between specified dates. Section 7 gives power to grant ryotwari patta to the tenants to the extent of two-thirds share in the land and one-third to the landholder. If it was held by the institution, two-third share would be to the institution and one-third to the tenants. Section 8 grants right of permanent occupancy to the tenants in inam lands held by institutions. Section 9 prescribes procedure for evidence of the tenants having right of permanent occupancy. Section 10-A provides right to ryotwari patta to tenants in a ryotwari or zamindari village with the right of permanent occupancy, even in the lands, held under customary right etc. Section 12 fastens liability on the ryotwari pattadars to pay land assessment. Section 13 given exclusive power of jurisdiction to Tehsildar, the Revenue Court and the Collector to try the suit as per the procedure as a of a civil court under the Code of Civil Procedure. Section 14 of the Inams Act reds thus :

> "14. Bar of jurisdiction of civil courts. - No suit or other proceedings shall be instituted in any civil courts to set aside or modify any decision of the Tahsildar, the Revenue Court, or the Collector under this Act, except where such decision is obtained by misrepresentation, fraud or collusion of parties."

Section 14-A and Section 15 provides that :

> "14-A Revision. - (1) Notwithstanding anything contained in this Act, the Board of Revenue may, at any time either suo motu or an application made to it, call for and examine the records relating to, any proceedings taken by the Tahsildar, the Revenue Court or the Collector under this Act for the purpose of satisfying itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision made or order passed therein; and if, in any case, it appears to the Board of Revenue that any such decision or order would be modified, annulled, reversed or remitted for consideration, it may pass orders, accordingly.
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> (2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.
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> 15. Act to override other laws. - 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."

18. The Constitution intends to herald an egalitarian social order by implementing the goals of socio-economic justice set down in the preamble of the Constitution. In that regard the Constitution created positive duties on the State in Part IV towards individuals. The Parliament and the State legislatures made diverse laws to restructure the social order; created rights in favour of the citizens; conferred power and jurisdiction on the hierarchy of tribunals or the authorities constituted thereunder and gave finality to their orders or decisions and divested the jurisdiction of the established civil courts expressly or by necessary implication. The Inam Act is a step in that direction as part of Estate Abolition Act. Therefore, departure in the allocation of the judicial functions would not be viewed with disfavour for creating the new forums and entrusting the duties under the statutes to implement socio-economic and fiscal laws. We have to consider, when questioned, why the legislature made this departure. The reason is obvious. The tradition bound civil courts gripped with rules of pleading and strict rules of evidence and tardy trial, four tier appeals, endless revisions and reviews under CPC are not suited to the needed expeditious dispensation. The adjudicatory system provided in the new forums is cheap and rapid. The procedure before the tribunal is simple and not hide-bound by the intricate procedure of pleadings, trial, admissibility of the evidence and proof of facts according to law. Therefore, there is abundant flexibility in the discharge of the functions with greater expedition and inexpensiveness.

19. In order to find out the purpose in creating the tribunals under the statutes and the meaning of particular provisions in social legislation, the court would adopt the purposive approach to ascertain the social ends envisaged in the Act, to consider scheme of the Act as an integrated whole and practical means by which it was sought to be effectuated to achieve them. Meticulous lexicographic analysis of words and phrases and sentences should be subordinate to this purposive approach. The dynamics of the interpretative functioning of the court is to reflect the contemporary needs and the prevailing values consistent with the constitutional and legislative declaration of the policy envisaged in the statute under consideration.

20. In Deena v. Union of India [(1983) 4 SCC 645 : 1983 SCC (Cri) 879 : (1984) 1 SCR 1], this Court held that (SCC p. 653, para 4) "[L]aw is a dynamic science, the social utility of which consists in its ability to keep abreast of the emerging trends in social and scientific advance and its willingness to readjust its postulates in order to accommodate those trends. Law is not static. The purpose of law is to serve the needs of like." The law should, therefore, respond to the clarion call of social imperatives (sic and) evolve in that process functional approach as means to subserve "social promises" set out in the Preamble, Directive Principles and the Fundamental Rights of the Constitution.

21. It is seen that the Inam's Act is an integral part of the scheme of the Andhra Pradesh Estates (Abolition and Conversion into Ryotwari) Act, 26 of 1984 for short 'Estate Abolition Act' to cover the left over minor inams. It determined the pre-existing rights of the inamdars and the religious institutions; envisaged grant of ryotwari patta afresh to the concerned and seeks to confer permanent occupancy rights on the tenants. It also regulates the relationship between institutions and its tenants. It created appellate and revisional forums and declared finality to the orders passed by the tribunals and expressly excluded the jurisdiction of the civil court, notwithstanding anything contained in any other law or inconsistent therewith the Inams Act shall prevail. The exception engrafted was that a suit would lie to challenge the decision obtained by fraud, misrepresentation and collusion by parties.

22. Section 9 of the Civil procedure Code, 1908 provides that whenever a question arises before the civil court whether its jurisdiction is excluded expressly or by necessary implication, the court

naturally feels inclined to consider whether remedy afforded by an alternative provision prescribed by special statute is sufficient or adequate. In cases where exclusion of the civil court's jurisdiction is expressly provided for, the consideration as to the scheme of the statute in question and the adequacy or sufficiency of the remedy provided for by it may be relevant, but cannot be decisive. Where exclusion is pleaded as a matter of necessary implication such consideration would be very important and in conceivable circumstances might become even decisive.

23. The jurisdiction of a tribunal created under statute may depend upon the fulfilment of some condition precedent or upon existence of some particular fact. Such a fact is collateral to the actual matter which the tribunal has to try and the determination whether it existed or not is logically temporary prior to the determination of the actual question which the tribunal has to consider. At the inception of an enquiry by a tribunal of limited jurisdiction, when a challenge is made to its jurisdiction, the tribunal has to consider as the collateral fact whether it would act or not and for that purpose to arrive at some decision as to whether it has jurisdiction or not. There may be tribunal which by virtue of the law constituting it has the power to determine finally, even the preliminary facts on which the further exercise of its jurisdiction depends; but subject to that, the tribunal cannot by a wrong decision with regard to collateral fact, give itself a jurisdiction which it would not otherwise have had. Except such tribunals of limited jurisdiction, when the statute not only empowers to enquire into jurisdictional facts but also the right and controversy finally it is entitled to enter on the enquiry and reach a decision rightly or wrongly. If it has jurisdiction to do right, it has jurisdiction to do wrong. It may be irregular or illegal which could be corrected in appeal or revision subject to that the order would become final. The questions to be asked, therefore, are whether the tribunal has jurisdiction under Inam Act to decide for itself finally; whether the institution or the inamdar or the tenant is entitled to ryotwari patta under Section 3, 4 and 7 and whether the tribunal is of a limited jurisdiction and its decision on the issue of patta is a collateral fact.

24. The consideration as to exclusion of the jurisdiction of civil court is no longer res integra. This Court in bead-roll of decisions considered this question in diverse situations. In Kamala Mills Ltd. v. State of Bombay [(1966) 1 SCR 64 : AIR 1965 SC 1942 : 57 ITR 643 : (1965) 16 STC 613], the questions which arose were whether an assessment made in violation of the Bombay Sales Tax Act could claim the status of an assessment made under that Act, and whether the nature of the transactions was a decision of collateral fact. A bench of seven Judges of this Court held that if it appears that a statute creates a special right or liability and provides for the determination of the right or liability to be dealt with by tribunals specially constituted in that behalf and it further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, it becomes pertinent to enquire whether remedies normally associated with actions in civil courts are prescribed by the said statute or not. It was held that the Court was satisfied that the Act provided all the remedies associated with actions in civil courts and the remedy for refund of the tax illegally collated was provided and it was not collateral. Section 20 prohibits such a claim being made before an ordinary civil court and held that the civil suit was not maintainable. The leading decisions of the Privy Council in Secretary of State v. Mask & Co. [LR (1940) 67 IA 222 : AIR 1940 PC 105 : (1940) 2 MLJ 140], Raleigh Investment Co. Ltd. v. Governor-General in Council [LR 74 IA 50 : AIR 1947 PC 78 : (1947) 15 ITR 332], and the ratio in Firm and Illuri Subbayya Chetty & Sons v. State of A.P. [(1964) 1 SCR 752 : AIR 1964 SC 322 : (1963) 50 ITR 93] were approved. In A.T.T. Desika Charyulu v. State of A.P. [AIR 1964 SC 807], a Constitution Bench was to consider whether the jurisdiction of the Settlement Officer and the tribunal created under the Estates Abolition Act to determine whether Shotrium village was an inam estate was exclusive and the civil court's jurisdiction to try the dispute was barred. Despite the fact that no

express exclusion of the civil court's jurisdiction was made under the Act it was held that very provision setting up an hierarchy of judicial tribunals for the determination of the questions on which the applicability of the Act depends was sufficient in most cases to infer that the jurisdiction of the civil courts to try the same was barred. Accordingly it was held that the jurisdiction of the Settlement Officer and the Tribunal by necessary implication was exclusive and that the civil courts are barred from trying or retrying the question once over. The decisions of the settlement Officer and of the tribunal were held final and conclusive.

25. In Dhulabhai v. State of M.P. [(1968) 3 SCR 662 : AIR 1969 SC 78 : (1968) 22 STC 416] another Constitution Bench reviewed the entire case law on the question of maintainability of civil suit and laid down seven propositions. Propositions 1 and 2 and are relevant, which read thus : (SCR p. 682)

> "(1) Whether the statute gives a finality to the orders of the special tribunals the civil court's jurisdiction must be held to be excluded if there is adequate remedy to do what the civil courts normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.
>
> (2) Whether there is an express bar of the jurisdiction of the court, and examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court.
>
> Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not."

It was held therein that the civil suit was not maintainable to call in question of assessment made under the Madhya Bharat Sales Tax Act. In Hatti v. Sunder Singh [(1970) 2 SCC 841 : (1971) 2 SCR 163] the tenant had a declaratory relied before the authorities under Delhi Land Reforms Act that he was Bhoomidar. When it was challenged in the civil suit as not being binding, this Court held that the civil suit was not maintainable.

26. In Muddada Chayana v. Karnam Narayana [(1979) 3 SCC 42 : (1979) 3 SCR 201] a case under Section 56(1)(c) of the Andhra Pradesh (Andhra Area) (Abolition and Conversion into Ryotwari) Act, 1948, it was held that the dispute as to who the lawful ryot in respect of any holding is, shall be decided by the Settlement Officer. Whether it is liable to be questioned in the civil court, Chinnappa Reddy, J., who has intimate knowledge as an advocate and the judge on the subject, reviewed the law and held that the Act is a self-contained code in which provision was also made for the adjudication of various types of disputes arising, after an estate was notified, by specially constituted tribunals. On the general principles it was held that the special tribunals constituted by the Act must necessarily be held to have exclusive jurisdiction to decide dispute entrusted by the statute to them for their adjudication. Dealing with the object of the Act it was held at p. 207 C - D

that the Act intended to protect ryots and not to leave them in wilderness. When the Act provides machinery in Section 56(1)(c) discover who the lawful ryot of a holding was, it was not for the court to denude the Act of all meaning and by confining the provision to the bounds of Sections 55 and 56(1)(a) and (b) on the ground of contextual interpretation. Interpretation of a statute, contextual or otherwise must further and not frustrate the object of the statute. It was held that the civil suit was not maintainable and approved the Full Bench judgment of five Judges of the High Court of Andhra Pradesh in T. Munuswami Naidu v. R. Venkata Reddy [AIR 1978 AP 200 (FB)]. The same view was reiterated in O. Chenchulakshmamma v. D. Subrahmanya Reddy [(1980) 3 SCC 130 : (1980) 1 SCR 1006] and held that the order of the Additional Settlement Officer was final insofar as the dispute between the rival claimants to the ryotwari patta was concerned and not liable to be questioned in any court of law. In A. Bodayya v. L. Ramaswamy [(1984) Supp SCC 391], while reiterating the ratio in both the judgments, Desai, J. speaking for a bench of three Judges held that under Estate Abolition Act, who the lawful ryot was decided. Self-same question directly and substantially raised in the suit cannot be decided by the civil court as it has no jurisdiction to decide and deal with the same but Settlement Officer had the exclusive jurisdiction to decide and deal with it. In Deo v. Bridges [(1831) 1 B & Ad 847, 859] the oft-quoted dictum of Lord Tenerden, C.J. reads that :

> "where an act creates an obligation and enforces the performance in a specified manner, we take it to be a general rule that performance cannot be enforced in any other manner."

In Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke [(1976) 1 SCC 496 : 1976 SCC (L & S) 445 : (1976) 1 SCR 427], a bench of three Judges after reviewing the case law held that if a dispute was not industrial dispute, nor does it relate to enforcement of any right under the Industrial Disputes Act, the remedy lies only in the civil court. If the dispute arises out of the right or liability under the general common law and not under the Act, the jurisdiction of the civil court is always alternative, leaving it to the election of the suitor to choose his remedy for the relief which is competent to be granted in a particular remedy. If the dispute relates to the enforcement of a right or obligation of the Act, the only remedy available to the suitor is to get an application adjudicated under the Act. In that view, it was held that the civil suit was not maintainable.

27. In State of T.N. v. Ramalinga Samigal Madam [(1985) 4 SCC 10], strongly relied on by Shri Kanta Rao, the question therein was whether the jurisdiction of the civil court was ousted to redetermine the nature of the land rendered by the Settlement Officer under Section 11 of the Estate Abolition Act, Tulzapurkar, J. speaking for the Division Bench proceeded on three fundamental postulates namely that the decision of the Settlement Authorities under Section 11 of the Act was for (I) 'revenue purposes', (SCC p. 22, para 12) "that is to say for fastening the liability on him to pay the assessment or other dues and to facilitate the recovery of such revenue from him by the government; and therefore any decision impliedly rendered on the aspect of nature or character of the land on that occasion will have to be regarded as incidental to and merely for the purpose of passing the order or granting or refusing to grant the patta and for no other purpose", (II) only revision against the order and not an appeal; and (III) that by Madras Amendment, Section 64-C was deleted. It was unfortunate that it was not brought to the notice of the court that the purpose of Estate Abolition Act was not solely for the purpose of collecting the revenue to the State. The Act has its birth from a long drawn struggle carried on by the ryots in Madras Presidency for permanent ryotwari settlement of tenures and grant of permanent occupancy rights and the Indian National Congress espoused their rights and passed resolution at Avadi Session to make a legislation in that regard. The recovery of revenue as only secondary. In Syamla Rao v. Radhakanthaswami Varu

[(1984) 1 APLJ 113 : 1984 Andh LJ 286], a Division Bench of the Andhra Pradesh High Court to which one of us (K. Ramaswamy, J.) was a member considered the historical background, the purpose of the Act and the scheme envisaged therein in extenso and held that the preamble of the Estate Abolition Act was to repeal the permanent settlements, the acquisition of the rights of the landholders in the estates and interdiction of the ryotwari settlement therein; under Section 1(4) by issuance of the notification the pre-existing rights shall cease and determine; shall vest in the State free from all encumbrances and declared that all rights and interests created in particular over the State 'shall cease and determine as against the government' protected only dispossession of a person in possession of the ryoti land who was considered prima facie entitled to a ryotwari patta. Section 11 envisaged enquiry into "the nature of the land" and whether "ryotwari land immediately before the notified dates" be property included or ought to have been properly included in the holding of the ryot. The enquiry under the Act was entrusted to the revenue authorities who have intimate knowledge of the nature of the lands and the entires in the revenue records of the holders, etc. Act created hierarchy of the tribunals, namely Assistant Settlement Officer; Settlement Officer; Director of Settlements and Board of Revenue; provided revision powers to those authorities and ultimately the order is subject to the decision of the High Court under Article 226. In that view it was held that by necessary implication the jurisdiction of the civil court was ousted, the decision of Settlement Authorities under Section 11 was made final and no civil suit was maintainable. The legislature having made the Act to render economic justice to the ryots and excluded the dispute between landholders and the ryots covered under Sections 12 to 15 and the ryots inter se under Section 56(1)(c), from the jurisdiction of the civil court, it would not be the legislature intention to expose the ryots to costly unequal civil litigation with the State of the dispute under Section 11. It is not necessary in this case to broach further but suffice to state that unfortunately this historical perspective and the real purpose and proper scope and operation of Estate Abolition Act was not focused to the notice of the Court. In Jyotish Thakur v. Tarakant Jha [1963 Supp 1 SCR 13 : AIR 1963 SC 605], Section 27 of Regulation III of 1872 provides that in respect of transfer of ryoti interest in contravention of the regulation revenue courts shall not take cognizance of such a transfer. It was contended that by necessary implication the civil suit was not maintainable. In that context this Court held that provisions therein were not intended to be exhaustive to bar the relief in a civil court. In Athmanathaswami Devasthanam v. K. Gopalaswami Aiyangar [(1964) 3 SCR 763 : AIR 1965 SC 338] the question was whether the civil suit to recover damages and for ejectment of the ryoti lands belonging to the temple was barred. The findings were that the lands were ryoti lands and that the tenant acquired the occupancy rights, but the lease was granted in excess of 5 years. It was contended that it was a transfer without permission of the Endowment Department. While upholding that the lands were ryoti lands and the tenant acquired occupancy right, this court disagreeing with the High Court, held that there was no transfer and that the tenant is liable to pay the arrears of rent and the suit was maintainable. In Sri Vedagiri Lakshmi Narasimha Swami Temple v. Induru Pattabhirami Reddy [(1967) 1 SCR 280 : AIR 1967 SC 781], the contention raised was that Section 93 of the Madras Hindu Religious and Charitable Endowments Ac, 1951 was a bar to maintain suit for rendition of accounts and recovery thereof against the ex-trustees. This Court repelled the contention and held that the suit for rendition of accounts was not expressly or by necessary implication barred the jurisdiction of the civil court under section 93. In Raja Kandregula Srinivasa Jagannadha Rao Panthulu Bahadur Garu v. State of A.P. [(1969) 3 SCC 71 : (1970) 2 SCR 714], it was conceded that the question whether Kalipatnam village is an inam estate was to be adjudicated before the tribunals appointed under the Rent Reduction Act. It was contended that the tribunals have no jurisdiction to decide the validity of the notification reducing the rent by operation of Section 8(1) thereof. It was held that there was no statutory prohibition to determine the nature of the land contemplated by the Rent Reduction Act. Accordingly the suit was held to be maintainable.

In Dr Rajendra Prakash Sharma v. Gyan Chandra [(1980) 4 SCC 364 : (1980) 3 SCR 207], it was found that under Section 7 of the Administration of Evacuee Property Act, 1950, no proceedings were taken to declare the suit house as on evacuee property. No notification under sub-section (3) of Section 7 was published in the gazette. Under those circumstances it was held that Section 46 did not bar the civil suit. In Anna Besant National Girls High School v. Dy. Director of Public Instruction [(1983) 1 SCC 200 : 1983 SCC (L & S) 140], this Court held that the civil court has jurisdiction to examine whether action or decision of an administrative authority was ultra vires the relevant rules of Grant-in-Aid Code and Rule 9(vii) was held to be ultra vires. Accordingly the suit was held to be maintainable. In Raja Ram Kumar Bhargava v. Union of India [(1988) 1 SCC 681 : 1988 SCC (Tax) 132 : (1988) 2 SCR 352], two questions were raised, firstly the validity of the assessment and secondly recovery of the tax paid under Excess Profit Tax Act, 1940. On the first question it was held that the suit was not maintainable. On the second question without going into the technicalities of the maintainability of the suit, this Court granted the relief. In Pabbojan Tea Co. Ltd. v. Dy. Commissioner, Lakhmipur [(1968) 1 SCR 260 : AIR 1968 SC 271 : (1967) 2 LLJ 872], the questions were whether the workmen were ordinary unskilled labour or skilled labour; whether the jurisdiction of the authorities under Section 20 of the Minimum Wages Act, 1948 was exclusive and whether the jurisdiction of the civil court was barred. This Court held that the authorities did not hold any inquiry nor received any evidence for determining that issue. No proper hearing was given to the parties to tender evidence. Section 20 is not a complete code as there was no provision for appeal or revision against the orders passed under Section 20(3). There was no further scrutiny by any higher authority against the imposition of penalty. The Act in terms does not bar the employers from instituting a suit. In those circumstances, it was held that the legislature did not intend to exclude the jurisdiction of the civil court. The ratio in K. Chintamani Dora v. G. Annamnaidu [(1974) 1 SCC 567 : (1974) 2 SCR 655], also does not assist Gram Panchayat for the reason that the decree therein originally granted became final. Subsequently it was sought to be reopened in a later suit. Under those circumstances the civil suit was held to be maintainable notwithstanding the provisions contained under the Estate Abolition Act.

28. Thus we have no hesitation to hold that the ratio in all these cases are clearly distinguishable and render little assistance to the Gram Panchayat. The scope, ambit and operation of the Inams Act was considered by P. Jaganmohan Reddy, J. (as he then was) in D.V. Raju v. B.G. Rao [(1961) 2 Andh WR 368 : AIR 1968 AP 220], and held that the paramount object of the legislature was to protect the tenant in occupation and is sought to be achieved by making effective orders of eviction made by the civil court either in execution or otherwise. It further prohibits the institution of any suit or proceeding in a civil court under Section 14 to set aside or modify any decision of the Tehsildar, Collector or Revenue Court except where such decision has been obtained by misrepresentation, fraud or collusion. Section 15 enjoins that the provisions of the Act and orders 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 absolute jurisdiction on the Tehsildar, Revenue Court or the Collector, as the case my be, notwithstanding any provision of law or any suit or decree of a civil court or for that matter even where evictions have taken place in pursuance of such decrees, the evicted tenants can be restored to occupation provided the requirements for the protection of the possession of the tenants are satisfied. In that case the occupant in possession laid proceeding before the Tehsildar for injunction restraining the writ petitioner from ejecting him from the lands. The Tehsildar in exercise of the power under Rule 16 of the Rules granted injunction pending consideration of his right of ryotwari patta. The order of injunction was challenged firstly on the ground of ultra vires of Rule 16 and secondly on the ground of jurisdiction. While upholding the order on both the ground the learned judge held that Tehsildar,

Revenue Court and the Collector have exclusive jurisdiction and the civil suit is barred. We respectfully approve it as correct law. The Inams Act did not intend to leave the decisions of the revenue courts under Section 3 read with Section 7 to retry the issue once over in the civil court. Undoubtedly the decision of the Division Bench in P. Peda Govindayya v. P. Subba Rao [(1969) 2 ALT 336] is in favour of the contention that the civil suit is maintainable. It is not good law.

29. Thus the glimpse of the object of the Inams Act, scheme, scope and operation thereof clearly manifest that Inams Act is a self-contained code, expressly provided rights and liabilities; prescribed procedure; remedies of appeal and revision, excluded the jurisdiction of the civil court, notwithstanding anything contained in any law, given primacy of Inams Act though inconsistent with any law or instrument having force of law. The jurisdictional findings are an integral scheme to grant or refuse ryotwari patta under Section 3, read with Section 7 and not collateral findings. It was subject to appeal and revision and certiorari under Article 226. The decision of the Revenue Tribunal, and final and conclusive between the parties or persons claiming right, title or interest through them. The trick of pleadings and the camouflage of the reliefs are not decisive but the substance or the effect on the order of the tribunal under the Inams Act are decisive. The civil suit except on grounds of fraud, misrepresentation of collusion of the parties is not maintainable. The necessary conclusion would be that the civil suit is not maintainable when the decree directly nullifies the ryotwari patta granted under Section 3 of the Inams Act. Under the Gram Panchayat Act the statutory interposition of vesting the tank and the appurtenant land in the Gram Panchayat made it to retain possession, control and supervision over it, though the Gram Panchayat unlawfully took possession. The need to grant decree for possession in favour of the Gram Panchayat is thus redundant. The suit of the descendants was normally to be decreed on the finding that ryotwari patta under Section 3 of the Inams Act was granted in their favour and that they were unlawfully dispossessed. Since the grant of ryotwari patta, though in the name of individuals, was to maintain the public tank which stood vested under Section 85 of the Act in the Gram Panchayat, the descendants are divested of the right and interest acquired therein. Thus the suit of the descendants also is liable to be dismissed. Accordingly, the decrees of dismissal of both the suits are upheld and the appeals dismissed. But in the circumstances, parties are directed to bear their own costs.

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