Pushpagiri Math

Vs

Kopparaju Veerabhadra Rao

Civil Appeal No. 8994 of 1996

(K. Ramaswamy, Faizanuddin, G. B. Pattanaik JJ)

07.05.1996

ORDER

1.Leave granted. Substitution allowed.

2. Though the dasti notice had been served on the L.R., he refused to accept as per the statement made in the affidavit filed in support of the dasti service. Accordingly, we have heard the counsel for the appellant.

3. The case of the respondent set up in the plaint was that originally the property belonged to the appellant Shri Pushpagiri Math. Subsequently, the property was granted in favour of one K. Narasingaiah, the great grand-father of the plaintiff as Bhatavarthi Inam by Sankaracharya who was Peetadhipathi of the math. He was in possession and enjoyment as a grantee. Subsequently, he acquired title by prescription. The trial Court decreed the suit in O.S. No.66 / 68 dated September 30, 1974. On appeal, the Additional Subordinate Judge, Narasaraopet in his judgment and decree dated December 29, 1979 in A.S. No. 218/78 held that Ex. A-1 to Ex. A-10 positively show that the suit land is a Bhatavarthi Inam land and was in possession of the ancestors of the respondent-plaintiff since 1950 under Ex. A-1. The land, therefore, is a Bhatavarthi Inam Land as evidenced by Ex. A-1 to A-10 granted originally by Bhatavarthi in or around the year 1900 for rendering service that was being rendered by the plaintiff-math to the appellant. Math is the real owner of the land granted as an inam to the respondent-plaintiff. It was also found that Exs. B-1 to B-14 and B-17 would prove conclusive evidence that the appellant is the absolute owner of the land and the respondent-plaintiff and his ancestors were permitted to continue in possession and enjoyment of the land as inamdars of service rendered and to be rendered by them to the institution. The appellate Court accordingly held that the decree for declaration of title and injunction cannot be granted against the real owner. In S.A. No. 191/80, the High Court of A.P. by judgment and decree dated March 8, 1983 reversed the judgment of the appellate Court and confirmed that of the trial Court. Thus this appeal by special leave.

4. When it is an admitted case that the land originally belonged to the math and when the appellate Court had recorded by finding of fact on the basis of the documentary evidence that the Math is the owner of the property and that the respondent admittedly came in possession as an Inamdar to render service to the math, he cannot claim any possessory title or title in his own right. Under A.P. Inam Abolition and Conversion and Ryotwari Act, Act 37/56, after the Act had come into force, the pre-existing right, title and interest stood extinguished and the new rights were sought to be conferred under Section 3 read with Section 7 thereof either in a suo motu enquiry under Section 3

or on an application under Section 7. A new grant of ryotwari patta is to be made by the Tehsildar by way of an order after enquiry to the extent of entitlement as per law. It would be subject to an appeal to the Revenue Divisional Officer which becomes final. In Peddinti Venkata Murali Ranganatha Deslka Iyengar v. Govt. of A.P., (1996) 1 JT (SC) 234 : (1996 AIR SCW 408), a Bench of two Judges of this Court (in which one of us K. Ramaswamy, J. was a member and considered the scope and operation of the Act. While considering the constitutional validity of Section 76 of the A.P. Charitable and Hindu Religious Institution and Endowments Act, 1987, the Court held that a person or institution or the tenant in occupation is entitled to ryotwari patta in respect of the land. The institution is entitled to the extent of 2/3 and the tenant or person is entitled to ryotwari patta to an extent of 1/3 share. The grant of ryotwari patta under Section 7 becomes conclusive overriding the effect given by Section 15 over any other law. It would, therefore, be clear that after the Inam stood abolished, the pre-existing rights extinguished and the obligation to render service burdened with the land was relieved. The holder of the land became entitled to free-hold ryotwari patta. Thus the pre-existing right, title and interest stood extinguished.

5. It would thus be clear that by statutory operation of the provisions of the Act, the pre-existing right or interest held by the inamdar or the institution stood extinguished and conferment of ryotwari patta under Section 7 read with Section 3 becomes conclusive between the parties. Therefore, the jurisdiction of the Civil Court to declare title to the Inam land by necessary implication stood excluded. Under those circumstances, the respondent cannot claim any exclusive title to the property as an owner and lay claim for declaration of title on that basis. Unfortunately, the High Court blissfully became ignorant to the statutory operation of law and the legal evidence and the effect and proceeded on the premises that the grant has been lost and the respondent has become owner of the property by prescription. Though the plea of adverse possession was raised, no issue has been framed in that behalf nor any finding was recorded by the trial Court or the appellate Court. Under these circumstances, the High Court was wholly wrong in its conclusion that the respondent has established his title to the property.

6. The appeal is accordingly allowed and the suit of the respondent stands dismissed. But in the circumstances without costs. Appeal allowed.