SUPREME COURT OF INDIA

Devadoss (Dead) By Lrs.

Vs.

Veera Makali Amman Koil Athalur

(S Majmudar and M J Rao JJ.)

09.12.1997

JUDGMENT

M. JAGANNADHA RAO, J.

1. Leave granted.

2. This appeal has been preferred by the legal representative of one Dr Devadoss against the judgment of a Division Bench of the Madras High Court in Special Tribunal Appeal No. 4 of 1993 dated 21-1-1997 dismissing the appeal of the said Dr Devadoss's legal representative. That was an appeal preferred against the order of the Inam Abolition Tribunal (Sub-Court), Thanjavur, in CMA No. 23 of 1985, by which the said Tribunal had confirmed the order of the Asstt. Settlement Officer (Asstt. Law Tax Officer) dated 4-5-1985 in T.8.5/EO/PKT/84 (on remand) granting ryotwari patta to the respondent-temple as a landholder under Section 9 of the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) (hereinafter called the 1963 Act).

3. The dispute relates to the 0.84 cents in S. No. 10/2 and 0.79 cents in S. No. 75, Athaloor Village, Peravoorani Taluk, Thanjavur District. The decision of the Tribunals

4. Before the primary tribunal, the respondent-temple claimed patta under Section 9 as the landholder. Dr Devadoss (hereinafter called the appellant for convenience) claimed ryotwari patta on the basis that he was having the kudikani or kudivaram rights. He examined himself as PW 1 and five other witnesses as PWs 2 to 6. The temple examined its accountant as RW 1. The appellant claimed that he cultivated the land under orders of the Collector under the Grow More Food Scheme, spent Rs 5000 and brought the rocky and wasteland under cultivation from 1944 onwards. In his evidence, he stated that he did not know that the Record of Rights showed that the land belonged to the temple. He had not filed any document to show that he came into possession through proceedings of the Collector under the Grow More Food Campaign. Except to say he was cultivating the land, he admitted he had no document to prove kudikani rights nor were there any muchilakas executed by the temple in his favour. He expressed ignorance of the fact that the Revenue Divisional Record described him as a "tenant". He denied the suggestion that the land belonged to the temple. He admitted that in a case filed by the temple against him, the temple claimed it had iruvaram rights. He admitted that Exs. 9 and 10 ad angels for 1960, 1961 showed the temple as pattadar and himself as tenant. PWs 2 to 6 supported his case. PW 4, the village accountant from 1946 to 1980 admitted that column 8 of Record of Rights showed the temple as pattadar, the land was inam and that column 8 would record who has got kudikani rights. Column 9 of Record of Rights only indicates the melwaram rights. RW 1, the present temple accountant stated that in the Record of Rights, the temple's name was recorded in column 8. In Column 9 -- relating to melwaram right --nobody's name is mentioned. He stated that the appellant was only a cultivating tenant and it was so recorded in DCP accounts of temple from 1959 to 1984, the rent being 10 kuiams of paddy per year. From 1973, no rent was paid till date and demand notices were issued. The appellant even filed petitions for fixation of fair rent under the Tamil Nadu Fair Rent Act during 1965 and 1981 but he withdrew the same and suddenly started claiming kudikani rights. The appellant was not a cultivating tenant under the Grow More Food Campaign.

5. On this material, the primary authority held that it was clearly established that the temple was having iruvaram rights and the appellant was only a tenant. It then referred to the "exemption" in favour of the temple from proving self-cultivation in T.N. Act 27 of 1966 and said:

"Under the Act 27 of 1966, religious institutions have been exempted from proving personal cultivation. Enjoyment of the petitioner shows enjoyment and possession of the temple."

The primary authority finally held that the temple was entitled to patta under Section 9.

6. On appeal by the appellant, the Appellate Tribunal (Sub-Court) dismissed the appeal. During the hearing, it allowed an application by the appellant for adducing additional evidence consisting of an order dated 1-7-1972 in Petition No. 23 of 1972 filed by the temple before the Record Officer, Pattugottai. In the counter thereto (a copy of which was placed before us by the appellant's counsel), the appellant admitted: "No doubt, the applicant (temple) was the landholder" but pleaded that once

Act 26 of 1963 came into force, the land vested in the State and he therefore denied that the temple was the landlord or that the appellant was only a tenant. Application No. 23 of 1972 of the temple above stated "was allowed" and it was held that the appellant was only a tenant. That order has become final. The other document produced as additional evidence was the Tenancy Register which again showed the appellant only as a tenant. The Appellate Tribunal thus relied on the additional evidence produced by the appellant to hold against the appellant. The appellant relied upon the statutory presumption in Section 65 of the 1963 Act to say that the land must be presumed to be ryoti. The Appellate Tribunal said that in the present case, "it has been proved clearly that the entire properties mentioned in the appeal are the private properties, belonging to the respondent. Further, it has been proved by the respondent through documentary evidence, that the appellant has been cultivating the entire properties mentioned in the appeal, in the capacity as a tenant only". The Appellate Tribunal also relied on the amendment by T.N. Act 27 of 1966 relating to "exemption" in favour of the temple from proving self-cultivation and observed:

"We could grant exemption to the respondent, being a Hindu temple, in respect of the lands for which patta is requested as per the Amendment Act 27 of 1966, even though the entire properties are not in the enjoyment of respondent directly."

The decision of the High Court

7. The appellant appealed to the High Court, which again held that the appellant had no evidence to prove kudikani rights in himself or his predecessors-in-interest except the kist receipts, that on the other hand, the records produced would belie the claim of the appellant and the so-called kudikani rights and that this was an indication that the appellant was only a cultivating tenant and not a ryot holding kudivaram interest in the lands in question. The High Court further held that the "very tenancy records produced and marked in the proceedings, militate against such a claim and it only would go to show that, if at all, possession of the lands by the appellant was only as a cultivating tenant and not as a holder of kudivaram interest or as a ryot lawfully admitted into any ryoti land by conferring kudikani rights".

8. As regards the plea of the appellant that the temple had no personal cultivation, the High Court too referred to the "exemption" by T.N. Act 27 of 1966 as follows:

"The tribunal below has rightly placed reliance upon the provisions of the Tamil Nadu Act 27 of 1966 under which, the religious institutions recognised and as defined within the meaning of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, are exempted from proving personal cultivation as a condition precedent for getting patta in respect of ireuaram pannai lands belonging to it."

The High Court, in that respect stated that it had elaborately considered this question in Shanmugham v. Thiruvavaduthurai Adheenam Madam, (1997) 1 LW 287 and following the same, the High Court dismissed the appellant's appeal. The contentions in this Court

9. In this appeal, learned Senior Counsel for the appellant, Shri R. Sundaravaradan, contended that the High Court had not noticed that the claim of the temple was not under Section 2(13)(ii)(a) but was one under Section 2(13)(17)(b) and that the proviso added in Section 9(2)(a) of Act 26 of 1963 by T.N. Act 27 of 1966 applied only to Section 2(13)(ii)(a) and not to Section 2(13)(ii)(b) and would not help the temple. It was also contended that the legislative intention behind Act 27 of 1966 was not to grant any exemption in favour of religious institutions and they had to prove personal cultivation for 3 years before 1-4-1960. It was also contended that the temple must prove "self-cultivation" as required by the decisions of this Court in Pollisetti Pullamma v. Kalluri Kameswaramma, , Chidambaram Chettiar v. Santanaramaswami Odayar, and P. Venkataswami v. D.S. Ramireddy, . The counsel also relied upon the presumption in Section 65 of Act 26 of 1963 to the effect that land in an estate was ryoti land, unless the contrary was proved and also relied upon Sub- clause (2) of Section 65 which states that certain expressions to the effect that a tenant had no occupancy right etc. in leases executed before 19-4-1949 would be inadmissible. The counsel also referred to Sub- clause (3) of Section 65 to the effect that such expressions in leases executed after 19-4-1949 would not by themselves be sufficient to prove that the land was private land at the commencement of tenancy.

10. On the other hand, it was contended by the learned counsel for the respondent, Shri A.T.M. Sampath that, before the lower tribunals and the High Court, the respondent temple relied only upon Section 2(13)(ii)(a) and not upon Section 2(13)(ii)(b) as contended by the appellant's counsel and hence T.N. Act 27 of 1966 squarely applied and on a proper interpretation of the said Act 27 of 1966 temples were "exempt" from proving self-cultivation even for the 3-year period and it was never intended otherwise. Even assuming that the presumption in Section 65 applied, propositions 4, 5, 6 laid down by the Full Bench in Periannan v. Airabadeeswarar Soundaranayagi Amman Kovil, were still applicable not only because of the exemption provided in T.N. Act 27 of 1966 but also because the decisions in Chidambaram Chettiar v. Santanaratnaswami Odayar (Supra), P. Venkataswami v. D.S. Ranrireddy (Supra) and Pollisetti Pullamma v. Kalluri Karneswaramma imported a wrong test. The said decisions had applied the theory of lands attached to the "manors" of English noblemen into Indian Law and this was not the intention of the legislature either in 1908 or thereafter as pointed out by Viswanatha Sastri, J. In Pentakota Naryudu v. Yellapu Venkata Ramanamurthi, (approved by the majority in Periannan Case (Supra)), Viswanatha Sastri, J. had observed:

"It is all very well when talking of the demesne lands of an English duke or marquis to use the term as denoting land appurtenant to the mansion of the lord of the manor. The manorial system was not prevalent in this country. Zamindar lived in cities and forts for reasons of security and their private lands were not confined to vacant spaces surrounding their palaces or residence."

It is also pointed out that Satyanarayana Rao, J. in the Full Bench stated (at p. 329) that in fact, these lands granted to the zamindars were not granted near their houses nor at one place but "were distributed very often to each village to make the supervision effective". Satyanarayana Rao, J. therefore held that the contention on behalf of the ryot that it was necessary for the landholder to prove that at least at some time or other, the lands were under actual personal cultivation of the landholder, could not be accepted. It was also pointed out by the learned counsel for the respondent-temple that the Madras Estates Land Act, 1908 applied to zamindars etc. and even assuming that for proving land as private land they had to prove that the land was appurtenant to manors or castles, such a principle of self-cultivation of lands around manors could not be extended to landholders in whose favour grants of whole villages (which were brought under the definition of estate in 1936 were made nor to parts of main villages which now under Madras Act 26 of 1963 are to be treated as "new inam estates". The legislature must have known that these small landholders had no manOrs. Nor could, it is argued for the respondent, a deity in a temple be equated with an English nobleman having manors and land appurtenant thereto. It was also pointed out that the case decided by the Privy Council in Yerlagadda Mallikarjuna Prasad Nayudu v. Somaya case, ILR (1919) 42 Mad 400 : AIR 1918 PC 183 which affirmed the decision of the Madras High Court in Zamindar Garu of Chellapalli v. Rajalapati Somaya, ILR (1916) 39 Mad 341 : 27 MLJ 718 and which was relied upon by this Court in Chidambaram Chettiar Case (Supra) was a case of conversion of ryoti land into private land for which actual cultivation had to be proved and it was not a case where Section 3(10) fell for interpretation. This aspect was pointed out by Satyanarayana Rao, J. in the Full Bench Case (Supra) (at p. 329). It was also contended that this Court in Chidambaram Chettiar Case (Supra) adopted the law as stated in Jagadeesam Pillai v. Kuppammal, ILR 1946 Mad 687 : AIR 1946 Mad 214 of the Madras High Court (though no express reference was made to that decision) and that that decision related to lands in a village which were in fact part of Tanjore Palace Estate and it might be that the "manorial" concept applied to the lands connected with the Tanjore Palace. It was pointed out for the respondent that the other judgment of the Madras High Court in Parish Priest v. Thiagagaswam (Supra) merely followed Jagadeesam Pillai Case (Supra) relating to Tanjore Palace Estate, and that, even Chidambaram Chettiar Case (Supra) decided by this Court related to lands in Orathur Padugai in Tanjore Palace Estate to which perhaps the "manorial" concept could apply. It was contended for the respondent further that the later decision of this Court in P. Venkataswami v. D.S. Ramireddy (Supra) merely followed Chidambaram Chettiar Case (Supra) and that Pollisetti Case (Supra) which related to an inam estate also wrongly applied the "manorial" concept by following Chidambaram Chettiar Case (Supra) and that it was not the intention of the legislature to import these concepts into the Madras Estates Land Act in 1908 or thereafter.

Contention by respondent-landholder based on Periannan Case (Supra) need not be gone into

11. In view of the alternative submission of the respondent based on T.N. Act 27 of 1966, it is not necessary for us to go into the above contention that the decisions of this Court, ought not to have applied the concept of lands appurtenant to the manors of English nobleman to the case of private land of landholders under the Madras Estates Land Act, 1908. Nor is it necessary for us to deal with the contention based on Periannan Case (Supra). We, therefore, do not propose to go into the said controversy. We are of the view that for the purpose of the case before us, it will be sufficient, as shown hereinafter, to rely upon T.N. Act 27 of 1966. We shall, therefore, proceed to deal with this

alternative submission made on behalf of the learned counsel for the respondent-temple.

Alternative contention of temple landholder based on exemption by T.N. Act 27 of 1966.

12. We shall start with T.N. Act 26 of 1963. The legislative history behind the abolition of "existing inam estates" and "new inam estates" specified in T.N. Act 26 of 1963 has been set out in: detail in two decisions of this Court in Khajamian Wakf Estates v. State of Madras, and in S. Thenappa Chettiar v. State of T.N., where the vires of the Act and its amendment of 1969, respectively, were upheld. There is an elaborate discussion in these rulings about melwaram and kudivaram rights and rights of ryots in ryoti land under the Madras Estates Land Act, 1908, its amendment in 1936 and the Madras Estates (Abolition & Conversion into Ryotwari) Act, 1948 and about different types of "inam estates" and their abolition from time to time, Existing and new inam estates.

13. Under T.N. Act 26 of 1963, estates which were sought to be abolished and converted into ryotwari and for which ryotwari pattas were proposed to be granted related to "existing inam estates" and "new inam estates". Section 2(4) defined "existing inam estate" as an "inam village" which became an estate by virtue of the Madras Estates Land (Third Amendment) Act, 1936 while "new inam estate" was defined in Section 2(9) as "part village inam estate or a Pudukottai inam estate". Section 2(11) defined "part village inam estate" as a part of a village (including a part of a village in the merged territory of Pudukottai) the grant of which part has been made, confirmed or recognised by the Government, notwithstanding that subsequent to the grant, such part had been partitioned among the grantees or the successor-in-title of the grant of grantees. (This definition was amended by T.N. Act 23 of 1969 w.e.f. 15-2-1965 in certain respects.) Section 2(11) contains two Explanations, I and II. "Private land" in new inam estates.

14. We next come to the crucial definition of "private land" in respect of "new inam estates" in Section 2(13) of Act 26 of 1963 and to the proviso in Section 9(2) which deals with grant of ryotwari patta to landholders in respect of "new inam estates".

15. At the outset, we may make it clear that our reading of the judgments of the tribunals below and of the High Court shows that the respondent-temple nowhere relied upon Section 2(13)((7)(b) of the 1963 Act as contended for by the appellant and that the parties on both sides proceeded on the basis that the case of the temple was based only on Section 2(13)(ii)(a). We shall therefore examine the contentions of the respondent-temple with reference to Section 2(13)(ii)(a). We shall therefore refer to the definition of "private land" as applicable to "new mam estates" and to the rights of landholders for grant of ryotwari patta in "new inam estates".

16. So far as 'new mam estates' are concerned Section 2(13)(ii) defines "private land" as:

"(a) the domain or home farmland of the landholder by whatever designation known, such as Kambattam, Khas, Sir or Pannai; or

(b) land which is proved to have been cultivated by the landholder himself, by his own servants or by hired labour, with his own or hired stock for a continuous period of twelve years immediately before the 1 st day of April, 1980, provided that the landholder has retained the Kudivaram ever since and has not converted the land into ryoti land; or...."

It will be noticed that, we are here concerned with Section 2(13)(ii)(a) only. Grant of ryotwari patta to landholder in new inam estates.

17. So far as grant of ryotwari patta in respect of "new inam estates" to the landholder is concerned, the same is provided in Section 9(2)(a). Before amendment by Act 27 of 1966, Section 9(2) of the Act of 1963 provided that the landholder will be entitled to grant of ryotwari patta in respect of: "(a) all land which immediately before the notified date belonged to him as private land; provided that in the case of private land specified in Clause (13)(ii)(a) of Section 2, such land is proved to have been cultivated by the landholder himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry, for a continuous period of three years within a period of twelve years immediately before the 1st day of April, 1960;..."

We are here concerned with the proviso in Section 9(2)(a) which, for the purpose of proof of private land under Section 2(13)(ii)(a), permits proof of cultivation for 3 years out of 12 years before 1-4-1960.

18. The next question is whether, by virtue of the Amending Act 27 of 1966, even the requirement of 3 years' cultivation was dispensed with, so far as claims for ryotwari patta by temples under Section 9(2)(a)? We shall accordingly refer to the amendment brought out by the T.N. Amendment Act 27 of 1966 which amended Act 23 of 1963. Sub-clauses (i) and (if) of Section 3 of the Amending Act 27 of 1966 brought into force the following amendments to Section 9(1)(a) and Section 9(2)(a) of the Principal Act 26 of 1963. Section 3 stated:

"In Section 9 of the Principal Act,

(i) In item (2) of the proviso to Clause (a) of Sub-section (1) for the words 'is proved to have been cultivated by the landholder himself, the word 'is, in the case of a landholder other than a religious institution, proved to have been cultivated by the landholder himself should be substituted.

(ii) In the proviso to Clause (a) of Sub-section (2) for the expression 'provided that in the case of private land specified in Clause (13)(ii)(a) of Section 2, such land is proved', the expression 'provided that in the case of a landholder other than a religious institution, the private land specified in Clause (13)(ii)(a) is proved', shall be substituted,"

We are concerned here with the second para extracted above which concerns the proviso in Section 9(2)(a) and to the Explanation added by Sub-clause (iii) of Section 3 which states that for the purposes of the proviso in Section 9(2)(a) "religious institution" shall mean a religious institution as defined in Clause (18) of Section 6 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act 22 of 1959).

19. In order to understand the background of the abovesaid Amending Act 27 of 1966 we shall refer to the Statement of Objects and Reasons of the Bill which preceded T.N. Act 27 of 1966. It is stated in para 6 of the said Statement as follows:

"According to the proviso to Clause (a) of Sub-section (1) and the proviso to Clause (a) of Sub-section (2) of Section 9 of the Act, in the case of private land, in order that the landholder shall be entitled to ryotwari patta, the land must be proved to have been cultivated by the landholder himself or by his own servants or by hired labour with his own or hired stock in the ordinary course of husbandry for a continuous period of three years within a period of twelve years immediately before 1st April, 1960. This applies to religious institutions also."

It was explained in the Statement of Objects and Reasons, as follows:

"So far as religious institutions governed by the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act 22 of 1959) are concerned, under the rules made under that Act, such religious institutions are prohibited from carrying on pannai cultivation without obtaining the previous approval of the Deputy Commissioner of the division concerned. In view of this, the religious institutions have not been carrying on pannai cultivation and consequently they will not be satisfying the requirement of the provisos referred to above. This causes undue hardship to such institutions and it is proposed not to insist on personal cultivation for three years for the purpose of grant of ryotwari patta in the case of private lands of religious institutions governed by the Madras Hindu Religious and Charitable Endowments Act, 1959.

The bill seeks to achieve the above objects."

20. It is therefore seen from the said Statement of Objects and Reasons that an exemption from "personal cultivation" became necessary in respect of temples for proving land as "private land", inasmuch as, temples were, under the Rules made under the Madras HR & CE Act, 1959 prohibited from having pannai cultivation except with permission of competent authority. Whether Statement of Objects and Reasons of Act 27 of 1966 could be looked into

21. The question arises naturally whether the court can refer to the Statement of Objects and Reasons mentioned in a bill when it is placed before the legislature and even if it is permissible, to what extent the court can make use of the same. On this aspect, the law is well settled. In Narain Khamman v. Parduman Kumar Jain, it was stated that though the Statement of Objects and Reasons accompanying a legislative bill could not be used to determine the true meaning and effect of the substantive provisions of a statute, it was permissible to refer to the same for the purpose of understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy. (See also Kumar Jagdish Chandra Sinha v. Eileen K. Patricia D'Rozarie, .)

22. In our view, the Legislature of Tamil Nadu was aware that in almost every case where a temple landholder was contending that certain land was "private land" and not "ryoti land" and where the landholder was claiming ryotwari patta under Section 9 of T.N. Act 26 of 1963, the tenants were invariably raising a plea that the temple must prove for purposes of Section 9(2)(a) that the land was before the notified date, being cultivated by the landholder himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry. Under Section 9(2)(a), proof of personal cultivation was required at least for a continuous period of 3 years within a period of 12 years immediately before 1-4-1960.

23. The legislature, however, noticed that under the Rules made under the Madras HR & CE Act, 1959 temples were prohibited from "pannai" cultivation without obtaining the previous approval of the Deputy Commissioner and that therefore it would be difficult for temples to prove personal cultivation as required by Section 9(2)(a). With a view to avoid hardship to "temples" in proving pannai cultivation, the legislature therefore thought of introducing new provision of exemption by which it sought to exclude temples from the need to prove personal cultivation under the proviso to Section 9(2)(a).

24. It is therefore permissible for the court to take notice of "the evil which was sought to be remedied" by Amending Act 27 of 1966 by removing the said hardship experienced by temples. In our view the plain meaning of the proviso, after the amendment of 1966 is that, so far as the temples covered by the Madras HR & CE Act, 1959 were concerned, the proof of personal cultivation even for 3 years within a continuous period of 12 years immediately before 1-4-1960 was not required, for purposes of grant of ryotwari patta to the temple under Section 9(2)(a).

25. In our opinion, the tribunals below and the High Court were right in applying the amending provisions of Act 27 of 1966 so far as the respondent-temple was concerned. We may add that the judgment of the Madras High Court in Shanmugham Case (Supra) insofar as it had taken the same view mentioned by us in this judgment, to that extent, is correct. The presumption under Section 65, if rebutted

26. Learned counsel for the appellant has strongly relied on the statutory, presumption in Section 65 of T.N. Act 26 of 1963 to the effect that land is to be presumed to be ryoti land unless it is proved to be private land by the landholder. Section 65 reads as follows:

"65. (1) Subject to the provisions of Sub- section (3), when in any proceeding under this Act it becomes necessary to determine whether any land is a ryoti land or a private land, it shall be presumed, until the contrary is proved, that such land is a ryoti land.

(2)(i) any expression in a lease, patta or the like executed or issued on or after the 1st day of July, 1918 in the case of an existing inam estate and the 19th day of April, 1949 in the case of a new inam estate to the effect or implying that a tenant has no right of occupancy or that his right of occupancy is limited or restricted in any manner shall not be admissible in evidence for the purpose of proving that the land concerned was private land at the commencement of the tenancy.

(ii) any such expression in a lease, patta or the like executed or issued before the 1st day of July, 1918 in the case of an existing inam estate and the 19th day of April, 1949 in the case of a new inam estate shall not by itself be sufficient for the purpose of proving that the land concerned was private land at the commencement of the tenancy."

27. Now, it is true that Section 65(1) raises a mandatory presumption that until the contrary is proved, land is to be presumed to be ryoti land. But this presumption is a rebuttable one. In yhe normal course, to prove that the land is "private land" the landholder, so far as "new inam estates" are concerned, could establish, under Section 2(13)(ii)(a). that the land was domain land or home farm of the temple, -- by whatever designation known such as, Karnibattam, Khas, Sir or Pannai. But the question is as to what extent the exemption granted by Madras Act 27 of 1966 helps in this behalf.

28. It is contended for the appellant that the respondent cannot rely upon the exemption from self-cultivation introduced in Section 9(2)(a) inasmuch as the said exemption does not find a place in the definition of "private land" in Section 2(13)(ii)(a).

29. It is true that the "exemption" from proof of personal cultivation has been introduced by the legislature in the proviso to Section 9(2)(a) which deals with grant of ryotwari patta to the landholder and not in Section 2(13)(ii)(a) which defines "private land". But, as pointed by the Madras High Court in Shanmugham Case (Supra) that makes no difference. In that case Raju, J. observed (at p. 295):

"The contention of the learned Senior Counsel for the appellants that the amendments introduced by the provisions contained in Section 9(2) without corresponding amendment of the definition of 'private land' in Section 2(13) will not enure to the benefit of the landholder Adheenam effectively, is a mere futile attempt to wriggle out, somehow, of the inevitable consequences flowing out of the Tamil Nadu Act 27 of 1966, enacted with a definite purpose and aim and the legislature in our view, achieved the same effectively by excepting the religious institutions from the necessity to prove personal cultivation for the required period unlike the other class or category of landholders and the efficacy of the amendments introduced to Section 9 which relates to the grant of ryotwari patta in favour of a landholder religious institutions, does not in any way depend upon any further amendment being made to Section 2(13) of the Act. Irrespective of the definition clause in Section 2(13) and the criteria laid down therein, it is always open to the legislature, to carve out a distinct class in the operative provisions of the Act by way of exception to mete out a special treatment." and referred to the opening words in Section 2 -- "unless the context otherwise requires". In our view, the approach of the High Court in this behalf is perfectly justified.

30. If therefore, we go by the exemption carved out in the body of Section 9(2)(a), then the said provision itself helps the temple so far as "new inam estates" with which we are concerned, to rebut the presumption in Section 65(1) of Act 26 of 1963. In other words, while the presumption under Section 65(1) might operate against other landholders claiming ryotwari patta under Section 9(2)(a), the position so far as temples governed by the Madras HR & CE Act, 1959 are concerned, proof of personal cultivation is statutorily dispensed with, even for the period of three years mentioned in Section 9(2)(a). That is how, the statutory

presumption gets rebutted.

31. For the above reasons, we uphold the conclusion arrived at by the Madras High Court which affirmed the grant of ryotwari patta to the respondents.

32. It is therefore held that the authorities were right in granting ryotwari patta to the respondent-temple and in treating Dr Devadoss only as an ordinary cultivating tenant in the private land of the temple.

33. In the result, the appeal is dismissed but in the circumstances, without costs.