

**SUPREME COURT OF INDIA**

Arulmighu Lakshmi Narayanaswamy

Vs.

Nallammal

C.A.No.3537 of 2002

(P.Sathasivam and B.S.Chauhan,JJ.,)

15.09.2011

**JUDGMENT**

**P.Sathasivam,J.,**

1. This appeal is filed against the final judgment and order dated 09.10.2000 passed by the High Court of Judicature at Madras in S.T.A. No. 12 of 1996 whereby the Division Bench of the High Court allowed the appeal filed by the respondents herein and set aside the judgment and order dated 15.07.1996 passed by the Minor Inams Abolition Tribunal (Subordinate Judge), Salem (hereinafter referred to as "the Tribunal") in M.I.A. No. 1 of 1993 in favour of the appellant-Temple herein.

2. Brief facts:

(a) According to the appellant-Temple, in the year 1760, Krishna Raja Udayar, the Rajah of Mysore, granted the village of Jagadapady or Nattapatti together with 12 hamlets, to certain Brahmins. Komarapalayam was one of the 12 hamlets. The grant, however, was not by way of gift of either the land or any portion of the assessment thereon. A number of Brahmins subscribed and collected a sum of Rs.50,000/- Rajagopala Pagodas". Four of them, who represented the others as well, paid the amount into the treasury and obtained a grant of Jagadapady and 12 hamlets rent free from the rule. When Tippu Sultan came to power, he resumed six of the 12 hamlets, allowing the successors of the original grantees to remain in possession of the rest without any obligation to pay any rent on that portion of the village. On the assumption of sovereignty by the British, Captain Macleod confirmed the title on the successors of the grantees in regard to the lands in their possession. During the enquiry by the Inam Commission, it was found that the inam was enjoyed in 110 vritties, however, only persons holding 90 vritties appeared and filed statements and there was no claim for about 20 vritties. The Inam Commissioner confirmed the inam on 26.01.1863 subject to an assessment of Rs. 566-11-3 in addition to the quit rent of

Rs. 299-12-0 and Title Deed No. 1164 was issued in the name of the appellant-Temple.

(b) When the Madras Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act No. 26 of 1963) was enacted, the aggrieved parties challenged the validity of the Notification issued by the State Government by filing a writ petition before the High Court on the ground that Komarapalayam hamlet is not an inam and, therefore the Notification has no application to that hamlet. They also challenged the validity of the aforesaid Act. The High Court, by order dated 24.06.1966, upheld the validity of the Act. On appeal, this Court, by judgment dated 17.08.1973, confirmed the decision of the High Court in *K.M. Sengoda Goundar & Ors. vs. State of Madras & Anr.*<sup>1</sup>,

(c) However, suo motu proceedings were taken by the Assistant Settlement Officer, Salem under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act No. 30 of 1963) (in short "Act No. 30 of 1963"), on the ground that the lands in question situated in Komarapalayam Agraharam hamlet are minor inam lands and, therefore, they are liable to be resumed and converted into Ryotwari lands after the commencement of Act No. 30 of 1963. The Assistant Settlement Officer, by order dated 20.04.1981, granted Ryotwari Patta in favour of the appellant-Temple for Survey Nos. 2/1, 2/2, 3/1 and 3/3 and classified Survey No. 3/2 as Cart track Poramboke.

(d) Against the said classification, the appellant-Temple filed M.I.A. No. 27 of 1981 before the Tribunal and the other claimants - respondents herein filed M.I.A. Nos. 29-31 and 35 of 1981. By order dated 21.10.1982, the Tribunal allowed all the appeals and remanded the matter to the Assistant Settlement Officer for fresh disposal.

(e) Against the said order of the Tribunal, the appellant- Temple filed S.T.A. Nos. 34-37 of 1983 before the High Court. The High Court, vide order dated 17.08.1988, dismissed the appeals. In the meanwhile, portion of Survey Nos. 3/1 and 3/3 was acquired by the State Government under the Land Acquisition Act for Municipal Shandy and compensation amount was deposited in the Court by the Land Acquisition Officer by his award being L.A. No. 2 of 1983 dated 01.07.1983.

(f) Remand Enquiry was taken up by the Assistant Settlement Officer, Dharapuram in S.R. No.4/90 and by order dated 16.10.1992, the patta was granted in favour of the Temple in respect of all the lands except Survey No. 3/1A in favour of the respondents. The other lands in Survey Nos. 3/1B and 3/3 were registered in the name of the Municipality.

(g) Aggrieved by the said order of the Assistant Settlement Officer granting patta in respect of Survey No. 3/1A in favour of the respondents, the appellant-Temple preferred an appeal before the Tribunal in M.I.A. No.1 of 1993. The Tribunal, by order dated 15.07.1996, allowed the appeal and set aside the order passed by the Assistant Settlement Officer, Dharapuram.

(h) Against the said order of the Tribunal, respondent Nos. 1-4 preferred an appeal being S.T.A. No. 12 of 1996 before the High Court of Madras. The Division Bench of the High Court, by impugned judgment dated 09.10.2000, allowed the appeal and set aside the order passed by the Tribunal and remanded the matter to the Tribunal to decide the case on merits.

(i) Aggrieved by the said judgment of the High Court, the appellant-Temple has preferred this appeal by way of special leave petition before this Court.

3. Heard, Mr. R. Venkataramani, learned senior counsel for the appellant-Temple and Mr. K. Ramamoorthy and Mr. R. Sundaravardhan, learned senior counsel for the respondents.

Submissions:

4. Mr. Venkataramani, learned senior counsel for the appellant-Temple, after taking us through the order of the original authority-Assistant Settlement Officer, the Tribunal and the impugned order of the High Court submitted that the High Court has committed a grave error in not following the judgment of this Court in K.M. Sengoda Goundar (supra) wherein, this Court, while dealing with the same Act, i.e., Act No. 30 of 1963 has categorically held that the entire Komarapalayam village in which properties in question are situated is not an Inam village as the original grant was made in consideration of payment of money by the grantees and, therefore, the grant was not an Inam grant. He also submitted that the High Court is not correct in law in reversing the order of the Tribunal holding that the Act No. 30 of 1963 is not applicable to the properties in question. On the other hand, Mr. K. Ramamoorthy and Mr. R. Sundaravardhan, learned senior counsel for the respondents submitted that the Tribunal, by order dated 15.07.1996 erroneously held that the lands are outside the purview of the provisions of Act 30 of 1963 and, therefore, lands cannot be subjected to the grant of Ryotwari Patta under the provisions of the said Act. On this sole ground, the order of the Assistant Settlement Officer was set aside by the Tribunal. They further submitted that the decisions in K.M. Sengoda Goundar (supra) and *Sellappa Goundan & Ors. vs. Bhaskaran & Ors.*<sup>2</sup>, relied on by the appellant, are related only to the village of Komarapalayam Agraharam and not to the minor Inam grants existing in the said village. They further highlighted that these two decisions have nothing to do with the minor inam grants that were in existence in Komarapalayam Agraharam and notified under the Act No. 30 of 1963. They also submitted that the impugned order of the High Court is in order and the matter has to be remitted to the Tribunal to decide the issue on merits as directed by the High Court.

5. We have carefully considered the rival submissions and perused the relevant materials.

6. Though Mr. Venkataramani, learned senior counsel has highlighted certain provisions from the Madras Estates Land Act, 1908 and the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, for the disposal of the present appeal, we are concerned only with the Tamil Nadu Act No. 30 of 1963. The Act was enacted to provide for the acquisition of the rights of Inamdars in minor Inams in the State of Tamil Nadu and the

introduction of Ryotwari settlement in such Inams. Relevant provisions of the said Act as mentioned in Section 2 are as under:-

"(5) "inam" means—

(i) a grant of the melvaram in any inam land; or

(ii) a grant of both the melvaram and the kudiwaram in any inam land which grant has been made, confirmed or recognized by the Government.”

6. "inamdar" in respect of any inam means the person who held the inam immediately before the appointed day;

(7) "inam land" means any land comprised in a minor inam;"

7. The expression "Malevaram" referred to in Section 2(5) means the share of the produce due to the landlord and the expression "Kudiwaram" means the cultivator's share of the produce. Chapter III of the Act deals with "Grant of Ryotwari Pattas". Section 8 deals with grant of Ryotwari Pattas. In terms of Section 8, any person claiming to be entitled to Kudiwaram right has to prove the same by virtue of any grant in his favour or in favour of his predecessors-in-interest and the Kudiwaram interest being a peculiar concept, depending upon the status and grant only, could not be claimed to have been acquired by mere possession or cultivation of lands for any length of time. Such rights as an ordinary cultivating tenant, have got to be asserted or sustained or substantiated under the ordinary tenancy law. Inasmuch as further details are not required, there is no need to delve into other provisions of the Act.

8. From the materials placed, it is seen that the following lands were granted as "Devadayam Inam" in favour of the appellant-Temple in Komarapalayam village, Salem District, Tamil Nadu:

"S.No.	Extent
2/1	0-51-0
2/2	1-41-5
3/1	3-92-5
3/3	1-08-0
3/2	0-12-0"

It is also not in dispute that the Inam grant was confirmed by the British Government and title deed was also issued in favour of the appellant-Temple by the Inam Commissioner.

Inasmuch as the lands were Minor Inam lands, they were notified and taken over by the Tamil Nadu Government under Act 30 of 1963, therefore, patta proceedings were initiated under the said Act and the Assistant Settlement Officer, Thiruchengodu, by order dated 20.04.1981 granted Ryotwari Patta in favour of the appellant-Temple at Komarapalyam in respect of Survey Nos. 2/1, 2/2, 3/1 and 3/3 and classified Survey No. 3/2 as Cart track Poramboke.

9. Aggrieved by the above order of the Assistant Settlement Officer, the Temple filed an appeal to the Tribunal being M.I.A. No. 27 of 1981 against the classification of Survey No. 3/2 as Cart track and the respondents and other claimants filed M.I.A. Nos. 29-31 and 35 of 1981 in respect of the first four items mentioned above. By order dated 21.10.1982, the Tribunal allowed all the appeals and remanded the matter to the Assistant Settlement Officer for fresh disposal. Against the order of the Tribunal, the appellant-Temple filed S.T.A. Nos. 34-37 of 1983 before the High Court. By order dated 17.08.1988, the High Court dismissed those appeals and confirmed the order of the Tribunal. In the meanwhile, the portion of Survey Nos. 3/1 and 3/3 was acquired by the Government under the Land Acquisition Act for Municipal Shandy and compensation amount was deposited in the Court by the Land Acquisition Officer by his award being L.A. No. 2 of 1983 dated 01.07.1983.

10. It is further seen that pursuant to the remand order by the Tribunal, fresh enquiry was taken up by the Assistant Settlement Officer, Dharapuram in SR No. 4 of 1990 and by order dated 16.10.1992, the patta was granted in favour of the appellant-Temple in respect of Survey Nos. 2/1, 2/2, 3/1B and 3/3, classifying Survey No. 3/2 as Cart track and also granted patta in respect of Survey No. 3/1A to an extent of 2-39-0 hectares in favour of the respondents herein. The other lands in Survey Nos. 3/1B and 3/3 were registered in the name of Municipality. It is brought to our notice by the learned senior counsel for the respondents that up to this stage, the appellant-Temple never questioned about the character of the lands as minor Inam lands. However, the Temple filed an appeal before the Tribunal against the grant of Ryotwari Patta in favour of the respondents herein in respect of land in Survey No. 3/1A. It was highlighted that only in this appeal, for the first time, a contention was raised that the lands notified and taken over by the State Government are not minor Inam lands and no proceedings can be taken for issue of patta under this Act. In support of the above claim, they also relied on Sellappa Goundan and Others (supra) and K.M. Sengoda Goundar (supra). It was the stand of the appellant-Temple before the Tribunal that since the village Komarapalayam Agraharam is not an Inam estate as defined under the Act No. 26 of 1948 as decided in Sellappa Goundan (supra) and not an Inam within the meaning of Section 2(4) or part of an Inam village within Section 2(11) of the Act No. 26 of 1963, the lands notified under Act No. 30 of 1963 cannot be notified as minor Inam lands and they cannot fall within the ambit of the said Act. While accepting the contention of the appellant-Temple, the Court held that the lands are outside the purview of the Act No. 30 of 1963 and, therefore, cannot be subjected to grant of Ryotwari Patta. Only on this ground, the order of Assistant Settlement Officer was set aside. When this was challenged by way of Special Tribunal

Appeal (STA) to the High Court, by impugned order dated 09.10.2000, the High Court allowed the appeal and remanded the case to the Tribunal.

11. Inasmuch as the learned senior counsel for the appellant heavily relied on the above referred two decisions stating that the lands are not minor Inam lands, we perused the factual details, issues raised and ultimate conclusion in both the decisions. In the first decision, namely, Sellappa Goundan (supra), the question was whether the village Komarapalayam Agraharam was an Inam estate coming within the purview of Act No. 26 of 1948. In Komarapalayam Agraharam, there were a number of minor Inam lands granted in favour of various temples including the appellant-Temple which has been clearly set out in the Inam Register. The decision in that case relates only to the village Komarapalayam Agraharam and not to the minor Inam grants existing in the said village. Even, in the decision of this Court, namely, K.M. Sengoda Goundar (supra), the question for consideration was whether the Komarapalayam Agraharam village is an existing Inam estate or a part of village Inam estate within the meaning of Act No. 26 of 1963. On going through the entire decision and factual details, we agree with the submission of the learned senior counsel for the respondents and conclude that these two decisions have nothing to do with the minor Inam grants that were in existence in Komarapalayam Agraharam and notified under the Act No. 30 of 1963. In Sellappa Goundan (supra), there was a reference to the Inam Register Extract which shows that there were certain Inam lands in the Komarapalayam Agraharam village. After extracting Column Nos. 11, 12 and 21 of the Inam Register Extract describing the history of the grant, the Court has concluded as under:

"The Inam Register Extract shows that there were certain minor inams in the Komarapalayam village. Those inams were held by (1) Sri Damodaraswami temple (2) Sri Kailasanathawami temple, (3) Sri Badrakali temple, (4) Sri Lakshminarayanawami temple and (5) Sri Angaliamman temple. The minor inams were also confirmed at the inam settlement proceedings, and separate title-deeds were issued to the respective grantees. Exhibits A-2 to A-6 are the extracts from the Fair Inam Register relating to them."

It is clear that these Inams were held not only by the appellant-Temple but also by other four temples and these particulars were reflected in the Inam settlement proceedings and title deeds were issued to those grantees. Exs. A2-A6 mentioned therein, which are extracts from the Fair Inam Register, clearly support the stand of the respondents.

12. Once the lands are notified as minor Inam lands under Act No. 30 of 1963, the same is binding on the authorities constituted under the Act. Thereafter, they cannot go beyond the Act and decide the character of the lands, namely, whether the lands are minor Inam lands or not. With these factual details, we agree with the conclusion arrived at by the High Court, particularly, in para 5 of its order.

13. In the light of the above discussion, we are unable to accept the stand taken by the appellant-Temple and we fully agree with the conclusion arrived at by the High Court. In view of the same, the appeal is liable to be dismissed as devoid of any merit. Inasmuch as the

High Court, by impugned order dated 09.10.2000, remanded the matter to the Tribunal to decide the case on merit, we direct the Tribunal to dispose of the same as directed by the High Court within a period of six months from the date of receipt of copy of this judgment, after affording opportunity to all the parties concerned. The appeal is dismissed with the above direction. However, there shall be no order as to costs.

Judgment Referred.

<sup>1</sup>(1973) 2 SCC 0662

<sup>2</sup>(1960) 2 MLJ 0363