Mantharavadi Suryanarayana and ors. Vs. Merugu Venkatadu and ors.

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Court : Chennai

Decided On : Feb-08-1949

Reported in : (1949)1MLJ520

Appellant : Mantharavadi Suryanarayana and ors.

Respondent : Merugu Venkatadu and ors.

Judgement :

Panchapagesa Sastri, J.

1. C.M.A. No. 648 of 1946 is a transferred appeal from the Court of the District Judge of Kistna. It was C M.A. No. 66 of 1945 there. It was an appeal preferred by the plaintiffs in O.S. No. 46 of 1944 on the file of the Sub-Court, Masulipatam, against an order returning the plaint for presentation to the proper Court on the ground that the Sub-Court had no jurisdiction to try the suit. The suit was to recover a sum of Rs. 1,502-9-0 claimed as damages for use and occupation of the suit property belonging to the plaintiffs in the village of Cherichintala, Kistna district, by the defendants for faslis 1350-52. CM.A. No. 649 of 1946 is also a transferred appeal, which was C M.A. No. 67 of 1947 in the District Court, Kistna. That also was an appeal filed by the plaintiffs, in O.S. No. 53 of 1943, Sub-Court, Masulipatam, against an order returning the plaint for presentation to the proper Court. The suit was to recover a sum of Rs. 3,355-14-0 claimed as damages for use and occupation of plaint land in the same village for faslis 1350-1352. C.R.P. No. 66 of 1946 is a revision petition against an order of the Subordinate Judge, Masulipatam, in S. C. S. No. 62 of 194.3 directing the return of the plaint for presentation to the proper Court. The suit was by the plaintiffs to recover Rs. 696-10-0 from the defendants as damages for use and occupation of the plaint land for faslis 1350-1352. The plaintiffs were the same in all the cases, though the defendants and the lands involved are different. All the lands are the same Cherichintala village aforesaid. The main defence was that Cherichintala was an 'estate ' under the Estates Land Act and the defendants had occupancy rights and that the Civil Courts had no jurisdiction. All the suits were tried together and the learned Subordinate Judge held that the village in question was an ' estate ' under Section 3 (2)(d) of the Estates Land Act. He directed the return of the plaints for presentation to the proper Court. The three cases aforesaid have now come before me for disposal.

2. The question to be decided is whether the decision of the Subordinate Judge holding that Cherichintala village is an estate governed by the Act is correct. Ex. P-1 is an extract from the Fair Inam Register of the said village. Column 2 describes the inam as a personal one. In column 3 the total ayacut is given as 620 acres 86 cents of which poromboke of 44 acres 96 cents and inams of 43 acres 15 cents totalling 88 acres 11 cents together were deducted and the remainder 532 acres 75 cents is

shown as dry. Column 11 shows that the grant was in A.D. 1764. The inam was confirmed and a title deed was issued. Exs. P-3, P-4 and P-5. are also certified extracts from the Register of Inams and they show that they were certain minor inams which were also confirmed at the same time in favour of the holders. Ex. P-3 relates to 8 acres 48 cents of Bhatta Virthi inam, which appears to have been originally granted in fasli 1149. Exs. P-4 and P-5 are inams in favour of the Devasthanam of Sri Veriugopalaswami and the Devasthanam of Sri Someswara-swami in the same village, of 16 acres 97 cents each, which are mentioned therein as inams granted prior to Permanent Settlement. They were also confirmed in favour of the Devasthanams. In addition to these extracts we have also Ex. P-2, an extract from the Oaks Register for fasli 1173 wherein in column 2 the inam is described as an agraharam. The original grant is not now available and is not produced. Ex. D-2 is described as a Purvana and bears date 10th May, 1792. It is stated therein by the Collector that Mantharavadi Gangadhara Sastrulu had an agraharam called Cherichintala village and that he had grains gifts paper granted by Papayya and Surayya in 1173 fasli for the shrotriem of 25 pagodas per annum and that he was enjoying it, but after his death the same is being enjoyed by his son Lakshminarasimha Sastrulu and this Purvana was granted to him for the year fasli 1201. Ex. D-1 is a list of various dumbalas in relation to the grant of' Cherichintala village. These are the materials before the Court from which the proper inference has to be drawn as to whether the grant is of the whole inam village of Cherichintala.

3. I is argued for the appellants that as there were minor inams and also some poromboke, which was nbt included in the grant, the inam could not be taken to be a whole inam village and it was further argued that Madras Act II of 1945. could not apply in favour of the defendants, because the minor inams were not service inams, but were Dharamadayam and personal inams and also because poromboke which was excluded, could not be regarded as land reserved for communal purposes. I do not see why personal inams like Bhatta Vrithi inams and Dharma-dayam inams to the temple would not come under the expression ' other tenure ' in explanation (1) to Section 3 (2)(d) of the Estates Land Act, In Seshagirirao v. Ramayya : AIR1945Mad503 the minor inams were Dharmadayam service inams and it was held that. Explanation (1) would apply. I agree with the lower Court that this contention of the appellants ought to be rejected.

4. The second contention is the existence of poromboke to the ex Vent of 44 acres, which was not included in the grant, stands in the way of the applicability of the Explanation. It is not quite clear whether the poromboke was really included in the grant or not, but even assuming that poromboke was excluded, a Bench of this Court has held in Lakshminarasimhacharyulu v. Ratnam (1947) 2 M.I.J. 289 that the exclusion of poromboke does not stand in the way of applying the Explanation (1). Though no specific reasons are given, it must have been because they thought it comes under the expression ' lands reserved for communal purposes.' In that decision the grant was construed to include the poromboke also. Their Lordships say that even if it were not so, the explanation would apply. As I am bound by the Bench decision, I must hold against his contention of the appellants.

5. Lastly it is argued that the grant was not of a named village. There is no substance in this contention either. From Ex. P-1 and also Ex. P-2 and D-2, the inference can be drawn that the grant was of a named village.

6. In the result, C M.A. Nos. 648 and 649 of 1946 are dismissed with costs. C.R.P. No.

66 of 1946 is adjourned for final orders to the 1st April, 1949.