



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

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**W.P.No.17359 of 2008**

Between:

- # 1. Smt. Anakapalli Vijayalakshmi,  
W/o. Maheswara Rao,  
Aged about 40 years,  
R/o.Flat.No.102, Annapoorna Mansion,  
Old CBI Down, Visakhapatnam.
2. Smt. Andiboyina Varalakshmi,  
W/o. Gurumurthy,  
Aged about 39 years,  
R/o. D.No.5-13, Cheemalapally, Vepagunta,  
Visakhapatnam.

... **Petitioners**

AND

- \$ 1. The State of Andhra Pradesh,  
Rep. by Principal Secretary,  
Revenue (Endowments) Dept.,  
Secretariat, Hyderabad.
2. Sri Varaha Lakshmi Narasimha Swamy Devasthanam,  
Simhachalam, Visakhapatnam District,  
Rep. by its Executive Officer.

... **Respondents**

**Date of Judgment pronounced on : 21-10-2021**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

1. Whether Reporters of Local newspapers  
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked  
to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy  
Of the Judgment? : Yes/No



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**... Respondents**

- ! Counsel for petitioners : Sri P. Roy Reddy
- ^Counsel for Respondents 1 : G.P. for Endowments
- ^Counsel for Respondent No.2 : Sri K. Madhava Reddy, learned  
Standing Counsel for Endowments

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>HEAD NOTE:

? Cases referred:

<sup>1</sup> 2016 (4) ALD 218 :: 2014 (4) ALT 380

<sup>2</sup> AIR 1963 SC 884

<sup>3</sup> AIR 1928 Madras 786

<sup>4</sup> 1992 Law Weekly (Madras) 150

<sup>5</sup> ILR Vol.LVI 366 (Madras) 1933

<sup>6</sup> 1927 Law Weekly (Madras) 367

<sup>7</sup> 1916 Law Weekly (Madras) 485

<sup>8</sup> 2008 (4) APLJ 123 (Division Bench)

<sup>9</sup> (2009) 15 SCC 504

<sup>10</sup> ILR Vol.LVI 366 (Madras) 1933

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****W.P.No.17359 of 2008****ORDER:**

The 1<sup>st</sup> petitioner claims to be the absolute owner and possessor of an extent of 225 Sq.Yds of land in Sy.No.24/3D2, Varalakshmi Nagar, Cheemalapally Village, Pendurthy Mandal, Visakhapatanam District. The 2<sup>nd</sup> petitioner claims to be the absolute owner and possessor of an extent of 418 Sq.Yds of land in the same survey number. Both the petitioners trace their ownership and possession through various registered deeds of sale, to a registered deed of sale in the year 1947. It is the case of the petitioners that the land purchased by them had been recognised as "Zeroyati" land in the survey, which was got conducted in the year 1902, by the then guardian of the Vizianagaram Estate, Mr.H.F.W.Gillman. The register prepared at that time, which is more popularly known as the Gillman register, under the provisions of the Madras Survey and Boundaries Act, 1897 would show that Sy.No.24 consisting of Ac.52.56 cents was classified as "Zeroyati" land which is "Banjara".

2. The petitioners have approached this court, being aggrieved by the action of the 2<sup>nd</sup> respondent-Devasthanam, which is said to be attempting to interfere with the peaceful possession and enjoyment of the above lands of the petitioners, claiming that the 2<sup>nd</sup> respondent-Devasthanam had been granted Ryotwari pattas in respect of this land under the provisions of the Andhra Pradesh (Andhra Area) Inams



(Abolition and Conversion into Ryotwari) Act, 1956 [for short “the Inam Abolition Act”]. It is the case of the petitioners that their land in Sy.No.24/3D2 is not covered by any Ryotwari patta and the 2<sup>nd</sup> respondent-Devasthanam cannot make any claim over the said land. It is the further case of the petitioners that the 2<sup>nd</sup> respondent itself had issued a public notification vide Rc.No.C1/8279/96, dated 19.12.1996 setting out the land covered by the Ryotwari pattas given in favour of the 2<sup>nd</sup> respondent and the land in Sy.No.24/3D2 is not shown in the said notification. The petitioners would also contend that even if there is such a Ryotwari patta, the same would be invalid, as a patta under the Inam Abolition Act could have been granted only in relation to “Inam” land, and “Zeroyati” land can never be treated as Inam land falling within the ambit of the Inam Abolition Act.

3. The 2<sup>nd</sup> respondent after notice has filed a counter affidavit. In this counter affidavit, the case of the 2<sup>nd</sup> respondent is that the lands in Cheemalapally Village falls within the ambit of the Inam Abolition Act and the Special Deputy Tahsildar (Inam, Visakapatnam) by an order dated 02.01.1978 had declared that the lands covered under title deed No.1191, given in favour of the 2<sup>nd</sup> respondent- Devasthanam are Inam lands in an Inam village. On this basis, the M.R.O, Pendurthy, had granted Ryotwari pattas under Section 7(1) of the Inam Abolition Act, by proceedings dated 06.09.1996 to an extent of Ac.383.70 cents in favour of the 2<sup>nd</sup> respondent-Devasthanam.



4. The 2<sup>nd</sup> respondent contends that the total extent of land in Sy.No.24 is Ac.52.56 cents out of which the 2<sup>nd</sup> respondent-Devasthanam was given a Ryotwari patta in relation to Ac.7.75 cents of land in Sy.No.24/1 and the Ryotwari patta for the remaining extent of Ac.44.81 cents is yet to be given. The 2<sup>nd</sup> respondent also took the stand that the Petitioners, except showing certain deeds of sale, have not demonstrated their right and title over the property, and in any event, the petitioners could only claim such right and title by virtue of an occupancy certificate or pattas given under the provisions of the Inam Abolition Act, as this land falls within the ambit of the Inam Abolition Act.

5. Another significant contention raised by the 2<sup>nd</sup> respondent is that the entire land in Sy.No.24 is divided into two parts i.e., Sy.Nos.24/1 and 24/2 because of which, the M.R.O, Pendurthy had granted Ryotwari patta only in relation to Sy.No.24/1 admeasuring Ac.7.75 cents and the enquiry relating to the remaining land is still pending.

6. The petitioners rely upon the entries in the Gillman register, in relation to Sy.No.24 to claim that the said land is "Zeroyati" land and not governed by the provisions of the Inam Abolition Act, 1956. The case of the 2<sup>nd</sup> respondent-Devasthanam is that the entire land in Sy.No.24 is "Inam land" which falls within the ambit of the Inam Abolition Act, 1956, and any claim by any person would require the said person to



produce necessary proceedings under the Inam Abolition Act only.

7. A learned Single Judge of the erstwhile High Court of Andhra Pradesh in the case of ***State of Andhra Pradesh Vs. Kothacheruvu Plantations Industries Private limited & Ors.***<sup>1</sup>. has elaborately and comprehensively discussed the system of rights over land in relation to Zamindari Estates in the erstwhile Madras province and the various changes in the said system.

8. A brief recapitulation of that discussion would be sufficient for our purpose. This court may also point out that the present recapitulation is restricted to only lands falling within an Estate as, the undisputed fact in the present case is that, the land in dispute falls within the limits of the erstwhile Viziangaram Estate.

9. The British East India Company by way of The Madras Permanent Settlement Regulation, 1802( subsequently renamed as The Andhra Pradesh (Andhra Area) Permanent Settlement Regulation, 1802) had created prima facie title in all the lands falling within a Zamindari Estate in favour of the Zamindar. The Zamindar, as the holder of the land, was entitled to collect rent from the Ryots who were the cultivators of the land, by entering into annual or longer rental agreements with them. The ryots were treated as occupants, of the land under

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<sup>1</sup> 2016 (4) ALD 218 :: 2014 (4) ALT 380



their cultivation, with certain rights, as long as they paid their rents.

10. In return for being recognised as the prima facie owners of all the land in their Estates, the Zamindars were required to pay a fixed Peishkush which was the assessment fixed at the time of the permanent settlement. The Peishkush was fixed by taking into account all the assets of the Estate, including the lands in the Estate and the income being obtained from all such assets. Since all the land within the limits of the Estate was to be taken into account, even lands which were granted as Inams would have to be taken into account. However, all lands which had already been granted as Inams before 1802, (generally called pre settlement Inams) and on which no income was arising for the Estate were excluded from the calculation and these lands were, thereafter, treated as not being part of the said Estate. All subsequent grant of Inams, after 1802, (generally called Darimilla Inams) were treated as part of the Estate. Another enactment which is relevant is The Andhra Pradesh (Andhra Area) Estate Land Act, 1908 which laid down the substantial rights of the cultivators and the Zamindars. Under this Act, even Inam villages or parts of villages, or Khandrigas, within the limits of an Estate, were included in the definition of "Estate". Thus, lands in an Estate could be broadly divided into (a) "Private Land" which is the land cultivated by the Zamindar directly or through his employees, (b) Inam land, which is the land given by way of grant of Inam by the Zamindar essentially as rent free land (c) Ryoti land,



which was the cultivable land in an estate, other than private land, and on which rent was being collected from the ryots. However, this would not include service Inams and (d) certain Inams which were treated as being part of the Estate and termed as Inam Estates.

11. These terms gain significance on account of the legislations which dismantled this system. The Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (hereinafter referred to as the Estate Abolition Act) essentially repealed the Permanent Settlement Regulation of 1802. This Act sought to grant Title to the actual cultivators of the Land. To achieve this objective, Section 3 of the Estate Abolition Act transferred all ownership rights of the Zamindar, over the land in the Estate, to the Government. After determining the lands to which the Estate Abolition Act would apply, the Government, under section 11 of the Abolition Act, was to grant Ryotwari pattas to the Ryots cultivating the ryotwari land.

12. As noticed above, the provisions of the Estate Land Act, 1908 had included certain Inams as being part of the Estate, with the nomenclature "Inam Estate". The Estate Abolition Act also treated Inam Estate lands as being part of the Estate, and whose ownership would vest with the Government. To obviate any further controversy on this aspect, the Estate Abolition Act provided for an enquiry to determine as to whether an Inam granted by the Estate Holder should be treated as an





Inam Estate to which the provisions of the Estate Abolition Act would apply or should be treated as an ordinary Inam, to which the Estate Abolition Act would not apply. After determining the lands to which the Estate Abolition Act would apply, the Government, under section 13 of the Abolition Act, was to grant Ryotwari pattas to the Ryots cultivating the lands in the said Inam Estates.

13. In a similar fashion The Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act 1956, (hereinafter referred to as the Inam Abolition Act) abolished all Inams, falling outside the purview of the Estate Abolition Act, with the intention of granting ownership rights to cultivators and also to the Inamdars in certain situations. Section 3 of the Inam Abolition Act, required the Tahsildar concerned to conduct an enquiry to determine whether a particular land in his jurisdiction was Inam land and whether such Inam land was within a Ryotwari village, Inam Village or Zamindari Village and whether the Inam land was held by an Institution. The last part of the enquiry was necessary as ryotwari pattas for Inam lands held by Institutions were to be given to the Institutions alone, while individual Inamdars had to share the land with their cultivating tenants.

14. The undisputed facts in the present case are that the land falls within the limits of the Vizianagaram Estate and that Cheemalapalli village has been declared as an Inam Village and not an Inam Estate. The dispute commences from here.



The 2<sup>nd</sup> respondent contends that the Special Deputy Tahsildar (Inam, Visakhapatnam) by an order dated 02.01.1978 had declared that the lands covered under title deed No.1191, given in favour of the 2<sup>nd</sup> respondent- Devasthanam are Inam lands in an Inam village. However, neither the said title deed nor the declaration has been placed before this court to ascertain as to which part of the land in the said village has been declared as Inam land. Further, the 2<sup>nd</sup> Respondent has admitted that a ryotwari patta has been given to the 2<sup>nd</sup> respondent only to an extent of Ac.7.75 cents of land in Sy.No.24/1 and that the Ryotwari patta for the remaining extent of Ac.44.81 cents is yet to be given. The 2<sup>nd</sup> respondent claims ownership over all the land of Ac. 52.56 cents in Survey No. 24 of Cheemalapalli Village, but has been able to demonstrate title only to the extent of Ac. 7.75 cents. The claim of the 2<sup>nd</sup> respondent over the remaining land is based on the claim that the remaining land is also classified as Inam land. The petitioners claim that this land has been declared as Zeroyati land and cannot be treated as Inam land to which the Inam Abolition Act would apply.

15. Sri P. Roy Reddy, learned counsel appearing for the petitioners, after relying on the entries in the Gillman register to contend that the land in S.No.24 was classified as Zeroyati lands, has taken pains to take this Court through various judgments of the Hon'ble Supreme Court of India and Hon'ble Madras High Court to point out the difference between "Zeroyati" land and "Inam" land under the Estate Land Act, 1908 and the Estate Abolition Act, 1948. The said judgements



being *Nedunuri Kameswaramma Vs. Sampati Subba Rao*<sup>2</sup>,  
*Dadamudy Tatayya & Ors. Vs. Kelachina Venkatasubbarayya Sastri*<sup>3</sup>, *Sri Sri Sri Varadaraja Sooru Harischendra Deo Bahadur*<sup>4</sup> Vs. *Kanda Barikivadu, Pogaru Ramamurthi Vs. Sri Raja Mirja Sri Pushavati Alaka Narayana Gajapathiraju Maharaju Manya Sultan Bahadur*<sup>5</sup>, *Sri Raja Rao Sri Swetachelapati Ramakrishna Ranga Rao Bahadur Garu, Raja of Bobbili Vs. Ayyagiri Sodemma*<sup>6</sup>, *Sree Ravu Seshayya Garu Vs. The Rajah of Pittapur, Sreee Rajah Ravu Venkata Kumara Mahipathi Surya Rao Bahadur Varu*<sup>7</sup>, *Sri Varaha Laxmi Narasimha Swamy Vari Devasthanam Vs. S.V.Narasimham & Ors*<sup>8</sup> and *Sri Varaha Laxmi Narasimha Swami Vari Devasthanam Vs. S.V.Narasimham & Ors.*<sup>9</sup>.

16. The entry in the Gillman Register, filed by the Petitioners before this court, shows that the entire extent of Ac.52.56 cents of land in Sy.No.24 of Cheemalapally village has been categorized as “Zeroyati” land. The entries in the Gillman register have been made under the provisions of the Madras Survey and Boundaries Act, 1897. In *Pogaru Ramamurthi Vs. Sri Raja Mirja Sri Pushavati Alaka Narayana Gajapathiraju Maharaju Manya Sultan Bahadur*<sup>10</sup>, the Hon’ble Madras High Court had held that the classification of

<sup>2</sup> AIR 1963 SC 884

<sup>3</sup> AIR 1928 Madras 786

<sup>4</sup> 1992 Law Weekly (Madras) 150

<sup>5</sup> ILR Vol.LVI 366 (Madras) 1933

<sup>6</sup> 1927 Law Weekly (Madras) 367

<sup>7</sup> 1916 Law Weekly (Madras) 485

<sup>8</sup> 2008 (4) APLJ 123 (Division Bench)

<sup>9</sup> (2009) 15 SCC 504

<sup>10</sup> ILR Vol.LVI 366 (Madras) 1933



the land is also an issue which can be dealt with by the survey officer under the provisions of the Madras Survey and Boundaries Act, 1897. Incidentally, this judgement came to be delivered on the basis of the same survey conducted at the instance of Mr. H.F.W. Gillman in 1904. Accordingly, it would have to be accepted, prima facie, that the land in Survey no.24 is Zeroyati land and not Inam land.

17. The judgments cited by Sri P. Roy Reddy, learned counsel for the petitioners would also show that “Zeroyati” land is cultivable land, which is in the possession of the ryots as ryotwari land or as the private land of the Estate holder. The consequence of such a distinction would be that “Inam” land would fall within the ambit of the Inam Abolition Act while “Zeroyati” land would stand out side the ambit of the Inam Abolition Act. In the present case, the 2<sup>nd</sup> respondent is before the M.R.O. Pendurthi for grant of ryotwari patta on the ground that this land is Inam land. Once it is found, prima facie, that the land is not Inam land, the jurisdiction of the Tahsildar to grant Ryotwari patta in relation to Non Inam land is, prima facie, non existent and there is every danger of the claim of the 2<sup>nd</sup> respondent over the land in S.No.24 being rejected as its entire claim is based on an Inam said to have been given in its favour.

18. This would bring us to the next question as to the provision of law which would be applicable to the land in Survey number No.24, if the Inam Abolition Act does not apply to this



land. The facts, necessary to arrive at a finding on this issue, are not forthcoming in this case.

19. While this Court cannot decide these issues, the M.R.O. Pendurthy, before whom the application of the 2<sup>nd</sup> Respondent for grant of Ryotwari patta is pending, would be in a position to answer these issues as he is the primary fact finding authority.

20. In the circumstances, this Writ petition is disposed of, leaving it open to the petitioners to approach the M.R.O, Pendurthy, within three weeks from today, in the pending application filed by the 2<sup>nd</sup> Respondent, for grant of Ryotwari pattas under the Inam Abolition Act and raise all their objections before the said M.R.O., including the jurisdiction of the M.R.O. under the Inam Abolition Act, and the applicability of the Inam Abolition Act to the land in Survey No. 24 of Cheemalapalli Village. The M.R.O. Pendurthi, after giving due opportunity and hearing to the petitioners and the 2<sup>nd</sup> Respondent, shall pass orders on the application of the 2<sup>nd</sup> Respondent for grant of the Ryotwari patta. The observations made in the present order are only for the purpose of crystallising the issues and shall not be binding on the M.R.O., while deciding these issues. It shall be open to the M.R.O. Pendurthi, to decide all the issues raised by the petitioners and the 2<sup>nd</sup> Respondent, uninfluenced by any of the observations made in the present order. Needless to say, the 2<sup>nd</sup> Respondent shall not disturb the possession of the petitioners over the said



land till the final disposal of the application of the 2<sup>nd</sup> respondent for the grant of the Ryotwari Patta.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

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**R. RAGHUNANDAN RAO, J**

21<sup>st</sup> October, 2021

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**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**W.P.No.17359 of 2008**

**21<sup>st</sup> October, 2021**

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