PETITIONER:
KHAJAMIAN WAKF ESTATES ETC.

Vs.

RESPONDENT:
STATE OF MADRAS & ANR.

DATE OF JUDGMENT:
18/11/1970

BENCH:
HEGDE, K.S.
BENCH:
HEGDE, K.S.
SHAH, J.C.
MITTER, G.K.
GROVER, A.N.
RAY, A.N.

CITATION:
1971 AIR 161 1971 SCR (2) 790
1970 SCC (3) 864
CITATOR INFO :

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|---|---|---|
| F | 1971 SC 989 | (8) |
| RF | 1972 SC2097 | (7) |
| RF | 1973 SC1461 | (1182) |
| RF | 1973 SC2734 | (37) |
| E | 1974 SC2098 | (22,27,28) |
| RF | 1986 SC1117 | (10) |
| RF | 1988 SC 782 | (52,66) |
| F | 1988 SC1353 | (5) |

ACT:
Constitution of India, 1950, Art. 31A-Madras Inam Estates (Abolition and Conversion into Ryotwari) Act (26 of 1963); Madras Leaseholds (Abolition and Conversion into Ryotwari) Act (27 of 1963) and Madras, Minor Inaras (Abolition and Conversion into Ryotwari) Act (30 of 1963) --Legislative competiency-If violative of Arts. 14, 19, 26 and 31.

HEADNOTE:
In the State of Madras there were :three types of inams namely: (1)those which constituted of the grant of melwaram alone; (2) thosewhichconsisted of the grant of both melwaram and kudivaram; and (3) minor inams. By Madras Inams (Assessment) Act, 1956, full assessment was levied on all inam lands except melwaram inams granted on service tenure, without affecting in any way the rights between the inamdars and the persons in possession or enjoyment of the land. To complete the agrarian reform initiated by the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, the he Madras Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 the Madras Leaseholds (Abolition and Conversion, into Ryotwari) Act, 1963, and the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, were enacted. Under the first, acquisition of all rights of landholders in inam estates and the introduction of ryotwari settlement in such estates was provided for. Section 18 of the Act provides that compensation shall be determind for each inam as a whole. The second Act provides for the termination of the

leases of certain leaseholds granted by the Government, the acquisition of the rights of the lessees in such leaseholds and the introduction of ryotwari settlement; and the third Act provides for the acquisition of the rights of inamdars in minor inams and the introduction of the ryotwari settlement. The Acts contain provisions reducing the liability of the tenants in the matter of payment of arrears of rent.

On the question of the validity of the Acts,

HELD : (1) The impugned Acts could not be challenged as violative of Arts 14, 19 and 3 1. They deal with 'estates' as defined in Art. 31A of the Constitution, and provide for their acquisition by the State' They seek to abolish all intermediate holders and to establish direct relationship between the Government and the occupants of the concerned lands. They were undertaken as a part of agrarian reform and hence, the provisions relating to acquisition or extinguishment of the rights of the intermediate holders fall within the protective wings of Art. 3 IA. [795 D-E]

B. Shankara Rao Badami & Ors. v. State of Mysore & Anr., [1969] 3 S.C.R. 1, followed.

(2) Assuming that as a result of the levy of full assessment under the 1956-Act, the lands cease to be inams and the intermediaries ceased to be inamdars, the lands are still 'estate' within the meaning of Art. 31A, because, they fall under one of the sub-cls. 1, II or III of Art.

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3 IA(2) (a). If the impugned legislation can be traced to a valid legislative power the fact that the Legislature wrongly described some of the intermediaries sought to be removed does not make the law invalid. [795 E-H]

(3) In the Absence of any material to the contrary, the court must proceed on the basis that the President had given his assent to the bills after duly considering the implication of the provisions contained therein. [796 E-G],

(4) If the arrears of rent are treated as rent then the State Legislature has power to legislate with respect to the liability of tenants to pay the arrears, under Entry 18 of List 11, VII Schedule. If they are considered as debts due from agriculturists then the State Legislature has competence to legislate under Entry 30 of the same list. [796 G-H; 797 A]

(5) In the case of the first of the impugned Acts, assuming that for some of the properties included in the inam no compensation was provided, Art., 31A bars the plet that there was contravention of Art. 31(2).[796 C-D]

(6)In regard to the inams belonging to the religious and charitable institutions, the impugned Acts do not provide for payment of compensation in a lumpsum but provision is made to pay a portion of the compensation every year as tasdik. The method adopted is not violative of Art 31(2) and is at any rate protected by Art, 31A. [7917] A-C]

(7) Article 26(c) and (d) of the Constitution provide that religious denominations shall have the right to own and acquire properties and administer them according to law. But that does not mean that the properties owned by them cannot be acquired by the State. [797 C-E]

(8)It is open to the inamdars to agitate before the. Tribunal constituted under the last Act that a particular property is not an inam at all and that the Acts do not apply to them. [798 D-E]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 2480 to 2509 2543 to 2546, 2547 to 2553, 2559, 2575, 2576 and 2602 of 1966, 214 to 217, 672 to 674, 1053, 1054, 1055, 1062, 1063,. 1457 and 1458 of 1967, and 162, 672' 673 and 1000 of 1968.

Appeals from the judgments and orders dated June 24, 1966 and July 20, 1966 of the Madras High Court in Writ Petitions Nos. 1542 of 1965 etc. etc.

V. Vedantachari, K. C. Rajappa, S. Bala krishnanand N. M. Ghatate, for the appellants (in C.As. Nos. 2480-2482, 2484-2509, 2575 and 2576, of 1966).

V. Vendantachari and S. Balakrishnan, for the appellants (in C.As. Nos. 2543, 2544 and 2546 of 1966).

S. Balakrishnan and N. M. Ghatate, for the appellant (in C.A. No. 2545 of 1966).

S. V. Gupte and K. Jaram, for the appellants (in C.A. Nos. 2547 to 2553 and 2559 of 1966).

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K. Parasaran, K. R. Chaudhuri and K. Rajendra Chaudhuri, for the appellants (in C.As. Nos. 2602 of 1966, 214 to 217 and 1055 of 1967).

M. S. K. Sastri S. Gopalan and M. S. Narasimhan, for the appellants (in C.As. Nos. 672 to 674 of 1967).

M. S. Narasimhan, for the appellants (in C.As. Nos. 1053 and 1054 of 1967).

A. V. V. Nair, for the appellants (in C.As. Nos. 1062 and 1063 of 1967).

V. Vedantachart, A. T. M. Sampath and E. C. Agarwala, for the appellants (in C.As. Nos. 14517 and 1458 of 1967).

P. C. Bhartari, for the appellant (in C.A. No. 162 of 1968).

K. Jayaram, for R. Thiagarajan for the appellants (in C.As. Nos. 672, 673 and 1000 of 1968 and 2483 of 1966).

S. Mahan Kumaramangalam and A., V. Rangarm, for the respondent-State of Madras in, all the appeals).

R. Kunchitapadam, Vineet Kumar and K. Jayaram, for respondent No. 2 (in C.A. No. 2484 of 1966).

M. K. Ramamurthy, J. Ramamurthy and Vineet Kumar, for respondent No. 2 (in C.As. Nos. 2488 to 2490 of 1966).

The Judgment of the Court was delivered by

Hegde, J. In this batch of appeals, the validity of the Madras Inam Estates (Abolition and Conversion Into Ryotwari) Act, 1963 (Madras Act 26 of 1963); the Madras Lease-Holds (Abolition and. Conversion into Ryotwari) Act, 1963 (Madras Act 27 of 19-63) and the Madras Minor Inams (Abolition and Conversion Into Ryotwari) Act, 1963 (Madras Act 30 of 1963) is challenged on the ground that the material provisions in those Acts are violative of Arts. 14, 19(1)(f) and 31 of the Constitution. The provisions in these Acts reducing the tenants" liability to pay the arrears of rent are also challenged on the ground that the legislature had no competence to enact 'those provisions. A few other minor contentions are also raised in these appeals to which reference will be made in the course of the judgment. All these contentions had been unsuccessfully urged before the High Court. Dealing with the allegation of infringement of Arts. 14, 19 and 31, the High Court in addition to holding that there has been no infringement of those Articles has further held that the challenge to the validity of these Acts on the basis of those

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Arts. is precluded in view of Art. 31 (A). Dealing with the contention relating to the reduction of rent the High Court came to the conclusion that the legislature had power to enact the impugned provisions. The High Court also has

given reasons for rejecting the other contentions advanced before it. Aggrieved by the decision of the High Court these appeals have been brought by special leave.

The impugned statues deal with agrarian reforms. They purport to deal with Inam lands. It is profitless to go to the origin of Inams or about their early history. Suffice it to say that the Urdu word "Inam" means a gift. The Inams, rants were made by the Rulers for various purposes. Some of them were granted to institutions and some to individuals. Broadly speaking there were three types of Inams The first type consisted of the grant of the melwaram right alone. The second category consisted of the grant of both the melwaram as well as the kudivaram right. In addition to these two Inams, there were what are known "as Minor Inams. Sometime prior to 1862, the Government took up the question of enfranchising the Inams. The Inams Commissioner went into the rights of various persons claiming to be Inamdars. Thereafter the Madras Enfranchised Inams Act'. 1862 (Madras Act 47 of 1862)- was passed for declaring and confirming the title of the Inamdars. Section 2 of that Act provided that the title deeds issued by the Inams Commissioner or an authenticated extracted from the register of the Commissioner or Collector shall be deemed sufficient proof of the enfranchisement of land previously hold on Inam tenure. By Madras Inams (Assessment) Act, 1956 (Madras Act 40 of 1 95 6), full assessment was levied on 'all Inam lands except Warm inams granted on service tenure, without affecting in any way the rights as between the Inamdar and other, persons, if any, in possession or enjoyment of the Inam land.

Where the Inam comprised the entire villa e, the same was treated as an "estate" in the Madras Proprietary Estates' Village Service Act, 1894 (Madras Act 2 of 1894) and the Madras Hereditary Village Offices Act, 1895 (Madras Act 3 of 1895) as well as in Madras Estate Land Act, 1908 (Madras Act 1 of 1908). Mdras Estates Land Act, 1908 recognised the ryots' permanent tenure. That Act secured a permanent right of occupancy to every ryot who at the commencement, was in possession of "ryoti" I-and or who was subsequently admitted to the possession of such land. Then came the Madras Estate Land (Third Amendment Act, 1936 (Madras Act 18 of 1936). That Act amplified the definition of the "estate" in the Madras Estate Land Act, 1908, so as to bring within its scope A, Inam villages, of

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which the grant was made, confirmed or recognised by the Government. It also provided that when a question arises whether any land was the land-holder's private land or not, the land should be presumed not to be Inamdar's private land until the contrary was proved. In 1937, the Madras Government appointed the, Prakasam Committee to enquire into and report the conditions which prevailed in the Zamindari and other proprietary areas in the State. That committee submitted its report together with a draft bill on the lines of its recommendations, but no action was taken on that report as the Congress Ministry which appointed it resigned. Then we come to the Madras Estates (Abolition and Conversion Into Ryotwari) Act, 1948 (Madras Act 26 of 1948). This Act applies to all estates i.e. Zamindari and under-tenure estates and all-Inam villages in which the grant consisted of melwaram alone. That Act as its preamble says is an Act to provide for the repeal of the permanent settlement, the acquisition of the rights of landholders in permanently settled and certain other estates in the Province of Madras and the introduction of the ryotwari settlement in such

estates. To complete the agrarian reform initiated by this Act, the impugned Acts appears to have been enacted. The Preamble to Madras Act 26 of 1963 says that it is an Act to provide for the acquisition of all rights of landholders in Inam estates in the State of Madras and the introduction of the ryotwari settlement in such estates. That Act follows by and large the provisions in Act 26 of 1948. In Act 26 of 1963 Inams estates are divided into two categories namely (1) existing Inam estate and (2) a new Inam estate. The existing Inam estate refers to the estate consisting of the whole village and the new Inam estate means a part village Inam estate of Pudukkottai Inam estate. The "New Inam estate" was not an estate known to law earlier. It is merely a name given to part village Inam estate a Pudukkottai Inam estate for drafting convenience.- Act 27 of 1963 is an Act to provide for the termination of the leases of certain lease-holds granted by the Government, the acquisition of the rights of the lessees in such lease-holds, and the introduction of the ryotwari settlement in such leaseholds. Act 30 of 1963 is an Act to provide for the acquisition of the rights of the Inamdars in minor Inams and the introduction of the ryotwari settlement in such Inams.

We do not think it necessary to go into the contention that one or more provisions of the impugned Acts are violative of Arts. 14, 19 and 31 as in our. opinion these Acts are completely protected by Art. 31'(A) of the Constitution which says that

> "Notwithstanding anything contained in article 13, no law providing for-
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> (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights.....
> shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 1-9 or article 3 1."

The expression "estate" is defined in sub-Art. (2) of Art31 (A). That definition includes not merely Inams but also land held under ryotwari settlement as well as land held or let for the purpose of agriculture or for purposes ancillary thereto, including(, waste land, forest land, land for pastures or site or buildings, and other structures occupied by the cultivators of land, agricultures and village artisans.

The impugned Acts are laws providing for the acquisition by the State of an "estate" as contemplated' by Art. 31 (A). They seek to abolish all intermediate holders and 'to establish direct relationship between the Government and the occupants of the concerned lands. These legislations were undertaken as a part of agrarian reforms. Hence the provisions relating to acquisition or the extinguishment of the rights of the intermediate holders fall within the protective wings of Art. 31 (A)-see B. Sankara Roo, Badami and ors. v. State of Mysore and anr. (1).

It is next contended on behalf of the appellants that the lands, on which full assessment was levied under Act 40 of 1956 ceased to be inams and therefore provisions of the Madras Act 26 of 1963 cannot be applied to the same. We have not thought it necessary to go into the question whether as a result of Madras Act 40 of 1956, certain Inams have ceased to be Inams, as in our opinion, whether they continued to be Inams or not they are still "estate" within

the meaning of Art. 31 (A) because they fall either under sub-clauses (1) or (II) or (111) of Clause (a) of Art. 31 (A) (2) and that being so the provisions of the impugned Acts cannot be challenged on the ground that they infringe Arts. 14, 19 and 31. The contention that as the State purported to abolish Inams and not other intermediaries the law cannot be held to be valid if the intermediaries sought to be removed are not Inamdars is an untenable one. If the impugned legislation can be traced to a valid legislative power, the fact that the legislature wrongly described some of the intermediaries sought to be removed does not make the law invalid. From the above observations, it should not be understood that we have come to the conclusion that the intermediaries concerned were not Inamdars. We have not gone into that question. From the provisions of

(1) [1969] 3 S.C.R. 1.

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The impugned Acts, it is quite clear that the intention of the legislature was to abolish all intermediaries including the owners of those "estates" that were subjected to full assessment by Act 40 ,of 1956.

It was next urged that Art. 31(A) does not protect a legis-lation where no compensation whatsoever has been provided for taking the "estates". We do not think we need go into that question. This contention bears only on the provisions of the Madras Act 26 of 1963. Section 18 of that Act provides that compensation shall be determined for each Inam as a whole and not separately for each of the interests in the Inams. The validity of this section was not challenged before us. All that was urged was that for some of the pro reties included in the Inam, no compensation was provided. Even if we assume this contention to be correct, it cannot be as that no compensation was provided for the acquisition of the lnam as a whole. Hence Art. 31(A) bars the plea that there was contravention of Art. 31(2) in making the acquisition in question. One of the contentions taken on behalf of the appellants that the impugned Acts to the extent they purport to acquire mining lands are outside the purview of Art. 31 (A). It is not known whether the lands in which mining operations are going on were let or held as "estates". There is also no evidence to show that the owners of those lands were entitled to the mines. Hence, it is not possible to uphold the contention that lands concerned in some of the appeals have been acquired without paying compensation.

In order to avoid the bar of Art. 3 1 (A), a curious plea was put forward. It was urged that when the concerned bills were submitted to the President for his assent as required by the first proviso to Art. 31 (A), the President was not made aware of the implications of the bills. This contention is a wholly untenable one. There is no material before us from which we could conclude that the President or his advisers were unaware of the implications of those 'bills. We must proceed on the basis that the President had given his assent to those bills after duly considering the implication of the provisions contained therein.

it was next urged that the provisions in the impugned Acts reducing the liability of the tenants in the matter of payment of the arrears of rent, whether decreed or not was beyond the legislative competence of the State legislature. This contention is agairt untenable. Those attears are either affairs of rent or debts due from agriculturists. It they are treated as affears of rent then the State legislature had legislative power to legislate in respect of

the same under Entry 18 of List II of the VIIth Schedule. If they are considered as debts due from agriculturists then the
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State legislature had competence to legislate in respect of the same under Entry 30 of the same list.

In regard to the Inams belonging to the religious and charitable institutions, the impugned Acts do not provide for payment of compensation in a lumpsum but on the other hand provision is made to pay them a portion of the compensation every year as Tasdik. This is only a mode of payment of the compensation. That mode was evidently adopted in the interest of the concerned institutions. We are unable to agree that the method is violative of Art. 31(2). At any rate that provision is protected by Art. 31-A.

It was next urged that by acquiring the properties belonging to religious denominations the legislature violated Art. 26 (c) and (d) which provide that religious denominations shall have the right to own and acquire movable and immovable property and administer such property in accordance with law. These provisions do not take away the right of the State to acquire property belonging to religious deuomintions. Those denominations can own acquire properties and administer them in accordance with law. That does not mean that the property owned by them cannot be acquired. As a result of acquisition they cease to own that property. Thereafter their right to administer that property ceases because it is no longer their property. Art. 26 does not interfere with the' right- of the State to acquire property.

Mr. S. V. Gupte appearing for some of the appellants urged that the Impugned Act contravenes the second proviso to Art. 31(A). From the material before us it is not possible to hold that any property under the personal cultivation of any of the appellants had been acquired. Further there is no material to show what the ceiling is. Hence it is not possible for us to examine the correctness of that contention. If in any particular case, the second proviso to Art. 31 (A) has been breached, then to that extent, the acquisition will become invalid.

It was urged by Mr. Sastri appearing for some of the appellants that the impugned Acts do not acquire the lands concerned in some of the appeals. This contention was not 'gone into by the High Court. Dealing with that contention, the High Court in its judgment observed :

> "But the applicability of the impugned Acts to the Inams in question cannot be conveniently investigated in the present writ proceedings. The question will have to be determined with reference to the terms of the
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> grant, the extent of the grant has to be ascertained by reference to the relevant materials. Section 5 of Madras Act, XXXI of 1963 (XXX of 1963 ?) makes special provision for determination of the question whether any non-ryotwari area is or is (not an 'existing Inam Estate 'or' part village Inam Estate' or a minor Inam or whole Inam village in Pudukkottai. It is stated at the bar that in most of the cases now 'before us the parties have applied under the provisions of the said Act for determination of the character of the Inams respectively held 'by them. It, is needless to point out that the Tribunal

constituted under the Act will be entitled to decide that a particular property is neither an existing Inam estate' nor a part village Inam estate nor a whole inam village in Puddukkottai and completely out of the coverage of Acts XXVI and XXX of 1963. We a1so make it clear that the disposal of these writ petitions now does not preclude the Inamdars from agitating The question that a particular property is not an Inam at all and does not under any of the aforesaid four categories or falls under one or other of the categories as may be urged for the inamdars."

We agree with the High Court that the contention in question can be more appropriately gone into in the manner suggested by the High Court.

In the result these appeals fail and they are dismissed. But ,under the circumstances; we make no order as to costs in these appeals.

V.P.S. Appeals dismissed

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