

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.12.2006

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.No.22858 of 2006

and C.R.P.No.685 of 2006

M.P.Nos.1 & 2 of 2006

C.M.P.No.5639 of 2006

Periyar Nagar Veetu Urimaiyalargal  
Podhu Nala Sangam,  
Registered in No.74/2003 dated 07.08.2003,  
by Registrar of Societies  
Rep.by its President,  
A.R.Ramasamy,  
Having its Office at 151/0/16,  
A.R.Compound, Periyar Nagar,  
Palladam Village,  
Palladam Taluk,  
Coimbatore District.

... Petitioner in W.P.No.22858/2006

1. P. Subramanian S/o Palani Gounder,
2. N. Krishnaveni, W/o Narayanan,
3. L. Devaraj, S/o Lakshmana Naidu,
4. P. arumugam, S/o Pongia Gounder,
- 5.G.V. Alias Kamalam, W/o G.V. Thangaraj,
6. T. Vellingiri, S/o Thannasiappa Gounder,
- 7.P. Rajamanickam, S/o Ponnuswamy,
8. M. Maniraj s/o Murugan Chettiar,
9. K. Subramanian, S/o Kandaswamy,
10. A. Kanniammal, W/O Appachi Gounder,
11. P.M. Ponnuswamy, S/o Murugesu Mudaliar,

12. P. Gopal, S/o Bangan,
13. R. Bangaruswamy, S/o K. Ramasawamy,
14. T. Dhanalakshmi, W/O Thangavel,
- 15 K. Chandran, S/o Periyasawamy Gounder,
- 16.P. Ponnuswamy, S/o Periyaswamy Gounder,
- 17 M. Kannammal, W/O Muthuswamy,
18. P. Ponnuswamy, S/o Periyaswamy Gounder,
- 19.K.S. Natchimuthu, S/o Subbiah Mudaliar,
20. R. Gopal, S/o Rajamanickam,
21. M.Subramanian, S/o Muthuswamy Gounder,
22. P. Narayanaswamy S/o Palani Gounder,
23. Karunaammal, S/o Krishnaraj,
24. S. Velusamy S/o Subbbiah Thever
25. P. Muthukumaraswamy S/o Peria Gounder
26. R. Ramaswamy S/o Peria Gounder
27. P. Krishnasamy S/o Peria Gounder
28. G. Janaki, W/o Gnanavadivel
29. P. Shankar S/o Punnusamy सत्यमेव जयते
30. S. Mylswamy s/o Subbiah Gounder
31. M. Nataraj S/o Mottaiappa Gounder
32. A. Sivasubramanian, S/o Aruchamy
33. S. Aruchamy S/o Sennimalai Gounder
34. A. Ramaswamy S/o P. K. Ayyasamy Gounder

35. P. Thangavel S/o Peria Gounder  
(Legal heir of 27th respondent)

36. Madheswaran S/o Peria Gounder

37. C. Radhakrishnan

S/o K. Chinnaswamy Chettiar,

Petitioners/Respondents in CRP.685/06

Vs

1. Special Commissioner and Land Administration,  
Commissioner,  
Ezhilagam, Chempauk, Chennai 600 005.

2. The District Collector,  
Coimbatore District, Coimbatore.

3. The District Revenue Officer,  
Coimbatore District, Coimbatore.

4. The Revenue Divisional Officer Kumaran Road,  
Tirupur, Coimbatore District, Coimbatore.

5. The Tasildar, Palladam TK,  
Palladam, Coimbatore District, Coimbatore.

6. Sub-Registrar,  
Palladam Taluk,  
Palladam, Coimbatore District, Coimbatore.

7. Varadaraja Naidu,  
Executive Officer,  
Arulmigu Angalamman Temple,  
Palladam, Coimbatore.

8. Narayanasami,  
Trustee  
Arulmigu Angalamman Temple,  
Palladam, Coimbatore.

... Respondents in W.P.No.22858/2006

1. Sri Angalamman Temple,  
Rep.by its Managing Trustee,  
C.Natarajan

.... 1st Respondent/Appellant

2. The Settlement Officer,  
Chepauk,  
Chennai 600 005. ... 2nd Respondent/39th Respondent
3. T.Chandra Jothi ... 3rd Respondent/8th Respondent
4. M.Murugesan ... 4th Respondent/23rd Respondent

PRAYER IN W.P.No.22858 of 2006: This writ petition is filed under Article 226 of the Constitution of India to issue of writ of certiorarified mandamus, calling for the records of the 3<sup>rd</sup> respondent in Na.Ka.No.11710/2004/E.2 dated 10.11.2004 confirming the order of the 4<sup>th</sup> respondent in Ref.No.2022/2002/A2 dated 22.1.2004 and quash the said order of the 3<sup>rd</sup> respondent directing 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> respondents to issue transfer of pattas to the names of members of petitioner association as per orders of Settlement Tahsildar - I, Gobichettipalayam dated 22.04.1969 in S.R.No.27/69 and order dated 31.10.1972 in C.M.A.No.676/69 and Batch by Inams Tribunal Cum Principal Subordinate Judge, Coimbatore from the names of their respective vendors in respect of respective sub-divided extents in main Survey No.334/1 Palladam Village, Palladam Taluk, Coimbatore District.

PRAYER IN C.R.P.No.685 of 2006 : Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and order pendency of the C.M.A.No.81 of 2003 on the file of Principal Subordinate Judge, and Tribunal constituted under the Tamil Nadu Inam Abolition and Conversion into Ryotwari Act 1963, Coimbatore.

For Petitioners : Mr. Kalyanasundaram, S.C.  
For R.Jothinarayanan  
For Respondents : Mr. D.Srinivasan for R1-R6  
in W.P.  
Mr. M.M.Sundresh for R8 in  
WP & CRP for R1  
Mr. R.C.Manoharan R3 & R4  
in C.R.P.

## WEB COPY O R D E R

The C.R.P.No.685 of 2005 is filed under Article 227 of the Constitution of India to call for the records pertaining to C.M.A.No.81 of 2003 pending before the Principle Subordinate Judge Tribunal and Tribunal constituted under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 1963, Coimbatore and to set aside the proceedings. The said appeal has been filed by Sri Angalamman Temple, namely, the first respondent in the revision petition against the order of the Settlement



Tahsildar I Gobichettipalayam, dated 22.04.1969. The lands in question comprising in Survey No.334 (Dry) to the extent of 12.72 acres situated at Palladam Village, was originally granted as Devadayam by Kartar King of Mysore for the support of the Pagoda of Sri Angalamman Temple at Palladam by the British Government in T.D.No.516 along with another property. The said Inam was notified and taken over under the provisions of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963, with effect from 15.02.1965. There was an enquiry conducted by the Settlement Tahsildar I Gobichettipalayam under Section 11 of the said Act. The Survey No.334/1 being used for non agricultural purposes consisting of house sites and therefore, enquiry was deferred. It was there after, the Settlement Tahsildar I Gobichettipalayam has conducted an enquiry to determine the persons eligible for Ryothwari patta. After enquiry, an extent of 4.09 acres stated in the Schedule A of the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969 were issued with the Ryotwari patta under Section 13 of the said Act, to various persons mentioned therein. They were related to house sites patta. In respect of another extent of 8.32 acres mentioned in the Schedule B of the said order, patta was granted to the first respondent Sri Angalamman Temple, Palladam represented by its Trustee for the time being under Section 13 r/w Section 8(2)(ii) of the Act. In respect of the remaining 0.32 acres, a joint patta was given to the first respondent Sri Angalamman Temple along with one Kulandaiappa Chettiyar, S/o Palaniyappa Chettiyar, Palladam.

2. Out of the said 8.32 acres of land for which the patta was granted to the first respondent temple in the B Schedule, in respect of 3.94 acres, batch of appeals were filed before the Minor Inams Tribunal, Coimbatore under Section 11(3) of the said Act in C.M.A.No.670 of 1969 etc., batch. The said appeals were allowed by an order dated 31.10.1972 by granting patta to the appellants under Section 13 of the said Act. However, in respect of the remaining extent of 4.38 acres of land, out of the total 8.32 acres, the occupants have not filed appeal against the original order passed by the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969. In the said appeal, the first respondent temple herein has been the second respondent and it was after contest, the said order came to be passed. In respect of the said remaining extent of 4.38 acres of land, still 19 persons are in occupation of the said housing plots.

3. The first respondent temple having not filed any appeal in respect of 4.09 acres of land for which patta has been granted to private parties as per the A Schedule of the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969, has filed C.M.A.No.81 of 2003 on 20.11.2003, after a lapse of more than 34 years purported to be under Section 11(3) of the Minor Inams Act, before the Inams Tribunal, namely, Sub-Court, Coimbatore and it is challenging the said appeal in C.M.A.No.81 of 2003 filed by the first respondent the above revision is filed under Article 227 of the Constitution of India by the petitioners, who were

granted patta by the Settlement Tahsildar I Gobichettipalayam under Section 13 of the Act. The grounds under which the said appeal is challenged in C.R.P.No.685 of 2006 and W.P.No.45549 of 2006 are

i) Section 11(3) of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, contemplates filing of any appeal against the order of Assistant Settlement Officer under Sub Section 2 within a period of 3 months in respect of individuals and in respect of Government one year. It also contemplates an extension of further 2 months can be condoned by the Tribunal. It further provides that in cases of appeal by the Government, the Tribunal can set aside the decision of the Settlement Officer at any time, if it is vitiated by fraud or by mistake of facts. In the present case, when once the Settlement Tahsildar I Gobichettipalayam has passed the order under Section 11(1) of the Act, for determination regarding the entitlement of Ryotwari patta, the filing of the present appeal in C.M.A.No.81 of 2003 by the first respondent after more than 34 years, is not competent.

ii) It is also the case of the petitioners that the first respondent temple cannot say either that it was not aware of the proceedings before the Settlement Tahsildar I Gobichettipalayam or no notice was served since admittedly in respect of the B Schedule property, which is also forming part of the same survey number, patta has been given to the first respondent temple by the same order dated 22.04.1969.

It is also their specific case that when individual appeals were filed against the persons, who were in occupation, to whom the patta was not granted in C.M.A.No.670 of 1969 etc., batch, the first respondent has been shown as the second respondent in those appeals and the second respondent was represented through counsel and therefore, it can never be said as if, the first respondent temple was not aware.

iii) The claim of the first respondent temple by invoking Section 109 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 to say that the appeal is maintainable irrespective of the period of limitation, is also not sustainable. According to the petitioners, the said section will apply only in cases where the individuals claim adverse possession of temple lands belong to H.R. & C.E. department and in the event of any occupants claiming adverse possession against the temple and therefore, the said provision is not applicable to the filing of appeal under Section 11(3) of the Minor Inams Act, which is a self contained code.

iv) A reference is made Section 46 of the Minor Inams Act, which says that any order passed by the Tribunal or Appellate Tribunal has become final only subject to appeal. Therefore, according to the petitioners in so far as it relates A Schedule property to the extent of 4.09 acres of land comprising the order of the Settlement Tahsildar I Gobichettipalayam

dated 22.04.1969 and order of the Inams Tribunal dated 31.10.1972, in respect of B Schedule property to the extent of 3.94 acres, have become final and cannot be reopened under C.M.A.No.81 of 2003 by the Inams Tribunal, Coimbatore.

4. Therefore, according to the petitioners there is a total lack of jurisdiction for maintaining the appeal due to the above said reasons and therefore, prayed for quashing the appeal on the file of the Inams Tribunal, Coimbatore.

5. W.P.No.22858 of 2006 is filed by Periyar Nagar Veetu Urimaiyalargal Podhu Nala Sangam, Palladam Village against the order of the third respondent District Revenue Officer dated 10.11.2004 confirming the order of the 4<sup>th</sup> respondent Revenue Divisional Officer, Coimbatore dated 22.01.2004 and also for a direction against the respondents 2 to 5 to issue pattas in the name of the members of the petitioner association as per the order of the Settlement Tahsildar I, Gobichettipalayam dated 22.04.1969 in S.R.No.27 of 1969 and order of the Minor Inams Tribunal, Coimbatore dated 31.10.1972 passed in C.M.A.No.670 of 1969 etc., batch, in respect of Survey No.334/1 Palladam Village, Palladam Taluk, Coimbatore District.

6. According to the petitioner Association the members of the petitioner Association were granted Ryotwari patta under Section 13 r/w Section 8(2) of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, in respect of A and B Schedule properties mentioned in the order dated 22.04.1969. Narrating the facts stated in the above revision, the petitioner association would state that after the order passed in C.M.A.No.670 of 1969 etc., batch patta has been granted in respect of A and B Schedule properties and the persons to whom the patta has been granted as per the Inams Act, have sold their lands and the members of the petitioner association are the subsequent purchasers, holding the same as house sites and the original patta issued in favour of their vendors still remains as on date. It was the members of the petitioner association who made representation to the second respondent the District Collector on 16.12.2002 to issue patta in favour of the members of the petitioner association, who were the purchasers, which was forwarded by the second respondent to the 4<sup>th</sup> respondent, who by the impugned order dated 22.01.2004, has dismissed the claim of issuance of patta stating that the Arulmigu Angalamman Temple namely the 7<sup>th</sup> and 8<sup>th</sup> respondents in the writ petition, was not given sufficient opportunity by the Settlement Tahsildar and directed to file an appeal before the third respondent and the third respondent by the impugned order dated 10.11.2004 has upheld the order of the 4<sup>th</sup> respondent on the ground that the temple has filed C.M.A.No.81 of 2003, which is pending before the Appellate Tribunal. It was for the reasons stated above, the writ petition is filed challenging the impugned orders and also for further direction.



7. The first respondent in the revision, who is represented by respondents 7 and 8 in the writ petition, namely, the Arulmigu Angalamman Temple has filed a counter affidavit. While admitting that the Settlement Tahsildar I, Gobichettipalayam has granted patta in respect of A Schedule to the extent of 4.09 acres to individuals and in respect of the temple regarding 8.02 acres, would submit during proceedings no notice was served on the temple, which was not represented either by trustee or by administrator. According to the temple, the persons who have represented before the Settlement Tahsildar I Gobichettipalayam, were poojaris, who have no right.

8. It is also further case of the temple that the petitioner association cannot maintain the writ petition. It is also further case that under Section 45 of the Minor Inams Act, the copy of the order of any proceedings have to be served on parties and period of limitation will run only from the date of communication and the temple has not received any order. Therefore, according to them, by applying Section 109 of the H.R. & C.E. Act, the question of limitation will not arise. In respect of the appeal before the Inams Tribunal in C.M.A.No. 670 of 1969 etc., batch, the respondent state that it is to be seen as to whether the respondent temple has been properly represented.

9. It is also the case of the temple that in respect one Thiagarajan, who filed appeal in C.M.A.No.1 of 1981 against the temple the same was dismissed. It is also the case of the temple that when once the temple has filed appeal in C.M.A.No.81 of 2003, the individual persons can very well contest by appearing in the case. Therefore according to the temple, the C.R.P. as well as the Writ Petition are misconceived.

10. The petitioner in C.R.P. has also filed reply affidavit, reiterating the earlier fact and also stating that in respect of one portion of the property called B Schedule, the Settlement Tahsildar I Gobichettipalayam has granted patta in favour of the temple and before the Tribunal the temple has been represented by the counsel and therefore, it is false for the temple now to alleged as if no notice has been served.

11. Mr.M.Kalyanasundaram learned Senior counsel appearing for the petitioners in both the revision as well as the Writ Petition, while reiterating all the legal issues raised by the petitioners, would submit that the Madras Minor Inams (Abolition the Conversion into Ryotwari) Act, 1963 is a self contained code. The purpose of Section 11 is to determine the persons, who are entitled for Ryotwari patta and when a statutory enquiry is conducted by the Settlement Tahsildar I Gobichettipalayam and patta is granted, the said Section provides a period of limitation, making it clear that the period of limitation of 3 months can be extended only by another 2 months and not otherwise.



12. It is also his contention that only in respect of the Government appeal, when fraud or mistake fact is alleged, the period of limitation is not applicable. According to the learned Senior Counsel, the first respondent temple was represented both before the Settlement Tahsildar I Gobichettipalayam as well as before the Minor Inams Tribunal, Coimbatore. It is also his contention that when the temple in the counter affidavit has specifically admitted that C.M.A.No.1 of 1981 filed by one Mr.Thiyagarajan against the temple, was dismissed, which was also in the same batch and when that fact was known to the first respondent temple, it is not known as to how the knowledge of the temple can be stated to have arisen only now for filing of the present appeal in C.M.A.No.81 of 2003. He would also submit that even before the Inams Tribunal, the temple was represented by the counsel and poojaris are not the parties in any of the proceedings at all. Therefore, it is too late for the temple now to state falsely as if, they came to know only now.

13. He would also further submit by referring to the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 with particular reference to Section 109 of the Act, to substantiate his contention that the said Section applies only in respect of suit filed by the Temple for possession of immovable property and that Section has no application as far as the applicability of the Minor Inams Act, 1963, which is a self contained code. He would also submit that as per Section 46 of the Minor Inams Act, any order passed by the authority under the Act or Tribunal becomes final unless appeal or revision is filed, which means the said revision or appeal filed in accordance with the period of limitation stated under the Act.

14. He would also submit that Section 45 of the Act, will not come to the protection of the first respondent temple, especially in the circumstance that the temple has been a party throughout the proceedings and the temple has been represented through counsel. He would also submit that respondents 3 and 4 in the Writ Petition have wrongly come to the conclusion as if, the Settlement Authority has not given any notice to the temple and under that pretext refused to grant patta to the members of the petitioner association, who are the subsequent purchaser from the original patta holders, whose name, the patta granted by the Settlement Tahsildar I Gobichettipalayam under the Minor Inams Act, stands even as on today.

15. According to the learned Senior Counsel, the Revenue Divisional Officer, namely, 4<sup>th</sup> respondent in the Writ Petition has passed the impugned order dated 22.01.2004 on an erroneous conclusion as if, no notice was served on the temple at all.

16. On the other hand Mr.M.M.Sundaresh, learned counsel appeared for the first respondent in the revision, who are represented by respondents 7 and 8 in the Writ Petition, namely, the Arulmigu Angalamman Temple. According to the learned counsel, the revision under Article 227 is not maintainable. According to him whether the appeal filed within the period of limitation or not, has to be decided in the appeal and in such circumstances, when an alternative remedy is available under the Minor Inams Act, by way of statutory appeal, which has been taken up by the respondent temple, the revision petition filed under Article 227 is to be dismissed.

17. He would also submit that the petitioner association in the Writ Petition cannot represent the individual purchasers, while submitting that in respect of the patta granted in favour of the temple, no appeal has been filed by any occupiers. He would also submit that the period of limitation has to be decided by the appellate Tribunal. He would place reliance on not only Section 45 of the Minor Inams Act, which states that it is only from the date of receipt of the copy of any order, any period of limitation should run. He would also place reliance on the judgement of this Court rendered in Alamelu Ammal Vs. District Collector, Salem reported in 1997(1) CTC 669.

18. He would also rely upon the Division Bench judgement of this Court in Panduranga Chetti and another Vs. The Government of Tamil Nadu, rep.by the Collector of North Arcot and another reported in 1978(II) MLJ 388 to show that when the order was not communicated, the period of limitation should run from the date of communication.

19. I have heard the learned Senior counsel for the petitioners as well as the learned counsel appearing for the respondents and perused the entire records.

20. As I have stated above, the facts relating to the case are admitted by both parties. While it is true that the Settlement Tahsildar I Gobichettipalayam in his order dated 22.04.1969, has considered issuance of patta in respect of Survey No.334/1 relating to 12.72 acres of land under the statutory powers vested on him under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. A reference to the order passed by the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969 shows that the Settlement Tahsildar has examined the village karnam before whom the documents, namely, Inams B Registrar were filed and an elaborate survey was made by the Tahsildar by finding out the persons who were in possession of various plots of lands and ultimately has come to a conclusion, by identifying the persons mentioned in the A Schedule property to the extent of 4.09 acres of land and has granted patta in their favour. Admittedly, the patta granted in favour of those persons stands either unchallenged or remain as it is as on date and it was based

on the said pattas issued under the Minor Inams Act, after the enquiry conducted under the Act, the present petitioners have purchased the same.

21. It is also admitted that in respect of the remaining 8.32 acres of land patta has been granted to the temple. Further reference to the appeal filed under Section 11(3) of the Act, by those persons who were not granted patta but the temple has been granted patta in respect of 3.94 acres of land in B Schedule property, the temple has been shown as second respondent and the order of the Minor Inams Tribunal, Coimbatore in C.M.A.No.670 of 1969 etc., batch dated 30.10.1972 categorically shows that the second respondent temple has been represented through counsel and it was after hearing all the counsel only, the Tribunal has passed an order as early as 31.10.1972. Therefore, factually one cannot come to a conclusion as if, the first respondent temple was not represented throughout in the settlement proceedings. Therefore, the necessary consequence is that the first respondent temple should be taken as having knowledge about the proceedings of the Settlement Tahsildar I Gobichettipalayam and the subsequent appeals before the Inams Tribuna in C.M.A.No.670 of 1969 etc., batch.

22. When the first respondent temple has taken a stand that the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969, was not known to them till they have filed the present impugned appeal in C.M.A.No.81 of 2003 on 20.11.2003 which is nearly 35 years after the order passed by the authority under the Minor Inams Act and especially, placing reliance on Section 45 of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, it is the duty of the first respondent to say at least now as to when such copy of the Settlement Tahsildar I Gobichettipalayam, dated 22.04.1969 was received by them. Unfortunately, in the counter affidavit filed by the temple even though a reference is made about Section 45 of the Minor Inams Act, it is not stated as to when the order of the Settlement Tahsildar was either received by them or they came to know about it. The facts as I have enumerated above that in the Inams Tribunal and in the batch of appeals in C.M.A.No.670 of 1969 etc., batch they were represented through the counsel, goes to show that the present claim is made only for the purpose of dragging on the proceedings, which is otherwise hopelessly barred by limitation.

23. It is in this regard relevant to point out the provisions of The Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963, especially relating to Section 11 of the Act, which states as follows:

"11. (1) The Assistant Settlement Officer shall, subject to the provisions of sub-section (2) inquire into the claims of any persons for a ryotwari patta under this Act in respect of any inam land and decide in respect of which land the claim should be allowed.



(2) (a) Before holding the enquiry under sub-section(1), the Assistant Settlement Officer shall give notice in the prescribed manner to the inamdar and to the Tahsildar of the taluk or Deputy Tahsildar of the sub-taluk in which the inam land is situated; and

(i) if the person in occupation of the land is not the inamdar, to the occupant;

(ii) if the inam has been granted for the benefit of a Hindu religious institution or for service therein, to the Commissioner appointed under the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), or to an officer specified by the said Commissioner in this behalf;

(iii) if the inam is a wakf within the meaning of the Wakf Act, 1954 (Central Act XXIX of 1954), to the Board of Wakfs constituted under that Act, or to an officer specified by the said Board in this behalf;

(iv) to such other persons as may be specified in the rules made by the Government in this behalf.)

(b) The Assistant Settlement Officer shall also publish in the prescribed manner in the village the notice referred to in clause(a) and after giving the parties who appear before him an opportunity to be heard and to adduce their evidence give his decision.

(3) Against a decision of the Assistant Settlement Officer under sub-section (2), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months of the said date, appeal to the Tribunal:

Provided that the Tribunal may, in its discretion, allow further time not exceeding two months for the filing of any such appeal:

Provided further that the Tribunal may in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Assistant Settlement Officer was vitiated by fraud or by mistake of fact."

24. Therefore, while conducting an enquiry the Assistant Settlement Officer has to give notice to various persons as stated under Section 11 (2) of the Act. In the present case Settlement Tahsildar I Gobichettipalayam in his order dated 22.04.1969 has stated that he has examined 25 witnesses. It is also the specific case of the first respondent temple that the trustees or administrators have not been given notice but the temple was represented by poojaris.



25. On the other hand as I have stated above the order of the Inams Tribunal dated 31.10.1972 passed in C.M.A.No.670 of 1969 etc., batch, in which the second respondent is the temple represented by its Managing Trustee Varadaraja Naidu, who was represented by the counsel and therefore, on fact it cannot be accepted as if, some unauthorized persons have represented the temple.

26. As correctly pointed out by the learned Senior Counsel for the petitioners, the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963, is self contained code and it contemplates the specific provision and period of limitation for appeal under Section 11(3) is provided. Further, any order passed by the authorities under the Act becomes final as it is stated under Section 46 of the Act which runs as follows:

"46. (1) Any order passed by any officer the Government or other authority or any decision of the Tribunal or the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall subject only to any appeal or revision provided under this Act be final.

(2) No such order or decision shall be liable to be questioned in any Court of law."

27. The Act is given a overriding effect to the contract or any other laws under Section 49 and also confers power in respect of grant of Ryotwari patta to Innamdars under Section 8(2) notwithstanding the other laws including the Hindu Religious & Charitable Endowment Act, 1959 on certain conditions. Therefore, there is absolutely no difficulty to come to the conclusion that the period of limitation for filing appeal for the first respondent against the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969 was 3 months from the date of the order or further period of 2 months, which can be excused. It is in this regard the contention of the learned counsel for the respondents placing reliance on Section 45 of the Act which is relevant to be considered. Section 45 of The Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963 runs as follows:

"45. (1) A copy of every decision or order in any proceeding against which an appeal or revision is provided for under this Act shall be communicated in such manner as may be prescribed.

(2) For the purpose of computing the period of limitation in respect of any appeal or application for revision against any decision or order the date of communication of a copy of the decision or order to the appellant or applicant shall be deemed to be the date of the decision or order.

(3) The provisions of section 4 and sub-section (1) sub-section (2) of section 12 of the Indian Limitation Act 1908 (Central Act IX of 1908) shall so far as may be apply to any appeal or application for revision under this Act.

(4) Where under this Act an appeal or application for revision may be preferred to any authority or officer within a prescribed period or within such further time not exceeding a specified period as may be allowed by such authority or officer, the further time aforesaid shall be computed on and from the expiry of such prescribed period computed in accordance with the provisions of sub-sections (2) and (3)."

28. While it is true that the first respondent has not stated anywhere as to when he has received the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969 and also it is true that in respect of one of the portions of the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969, when some of the occupants have filed the appeal before the Inams Tribunal in which the temple was shown as second respondent, which was represented by the counsel, it is relevant to point out that even as admitted by the first respondent temple, one T.Thiyagarajan has filed appeal before the Minor Inams Tribunal in C.M.A.No.1 of 1981 against the same order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969 and that was dismissed by the Tribunal as early as on 05.01.1983. A reference to the copy of the said decree passed by the Inams Tribunal in C.M.A.No.1 of 1981 as filed by the first respondent temple itself in the typed set of paper shows that the copy of the said order has been communicated to the counsel who appeared in the said appeal before the Inams Tribunal. Therefore, even assuming that the order of the Inams Tribunal passed in C.M.A.No.670 of 1969 etc., batch dated 31.10.1972 was not represented properly by the first respondent, when admittedly the first respondent has represented in C.M.A.No.1 of 1981 the order of dated 05.01.1983 which was communicated to the counsel as it is seen in the decree of the Tribunal, it has to be presumed that at least 1983 the first respondent temple had the knowledge about the order of the Settlement Tahsildar I Gobichettipalayam dated 22.04.1969. When that is the factual position, I do not think that the wordings of Section 45 can be taken advantage of by the first respondent temple for the purpose of explaining the long delay of 35 years in filing the appeal. The benefit under Section 45 can be made applicable to those persons who are not parties or who are not represented through counsel either before the Settlement Tahsildar or before the Innam Tribunal. Adding to that in the present case as I have pointed out earlier, the first respondent temple has not even stated as to when the first respondent came to know about the order of the Settlement Tahsildar dated 22.04.1969. On the facts and circumstances of the case when once the copy has been served to the counsel representing the first respondent, that should be taken as knowledge of the petitioners and therefore, the contention raised by the

learned counsel for the first respondent as if the actual notice should be serviced and that has to be decided in the appeal is unsustainable. In such circumstances allowing of such appeal after a belated period of 35 years which is hopelessly barred by limitation and in the present factual situation herein can only be an abuse of process of law and this Court cannot be mute spectator to allow such proceedings to go on.

29. The further contention placing reliance on Section 109 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 has no legs to stand Section 109 which runs as follows:

"109. Central Act 36 of 1963 not to apply for recovery of properties of religious institution.- Nothing contained in the Limitation Act, 1963 (Central Act 36 of 1963) shall apply to any suit for possession of immovable property belonging to any religious institution or for possession of any interest in such property."

30. A reading of the said section shows that the period of limitation is dispensed with only in respect of cases filed by the religious institutions for the purpose of possession of properties occupied unauthorisedly by the occupants who claim adverse possession whereas on the facts and circumstances of the present case the same is governed by the special enactment, namely, the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act 1963. Equally, the reliance placed on by the learned counsel for the first respondent temple in the judgement rendered in Alamelu Ammal Vs. District Collector Salem reported in 1997(1) CTC 669 is not sustainable. That was the case wherein the appellant before the Division Bench of this Court was not a party to the proceedings before the Settlement Tahsildar. On the other hand in the present case, the first respondent has been a party not only before the Settlement Tasildhar I Gobichettipalayam but also effectively represented through the Inams Tribunal in C.M.A.No.670 of 1969 etc., batch constituted under the Madras Minor Inams (Abolition the Conversion into Ryotwari) Act 1963, as per Section 11(3) of the Act and C.M.A.No.1 of 1981.

31. The reliance placed on the judgement of the Division Bench of this Court reported in 1978 (2) MLJ 388 in Panduranga Chetty and another Vs. The Government of Tamil Nadu rep.by its Collector, North Arcot and another. That was the case wherein the appellant has specifically made a claim that the order was communicated on a particular day and that point was not considered by the Tribunal at all and the Division Bench has also gone into the merits of the case. On the present factual position as I have enumerated above, seeking refugee under Section 45 of the Act will only thwart the entire object of the Act which is specialized in nature.



32. In view of the same the revision petition stands allowed and the proceedings before the learned Subordinate judge and Tribunal constituted under Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, Coimbatore in C.M.A.No.81 of 2003 are quashed. Consequently, the impugned orders of the respondents 3 and 4 in W.P.No.22858 of 2006 are set aside with a direction to the respondents to consider the cases of the claimants in accordance with law and pass appropriate orders. No Costs. Consequently, the connected M.P. and C.M.P. are closed.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

nbj

To

1. The Special Commissioner and Land Administration,  
Commissioner,  
Ezhilagam, Chepauk, Chennai 600 005.
2. The District Collector,  
Coimbatore District, Coimbatore.
3. The District Revenue Officer,  
Coimbatore District, Coimbatore.
4. The Revenue Divisional Officer Kumaran Road,  
Tirupur, Coimbatore District, Coimbatore.
5. The Tasildar, Palladam TK,  
Palladam, Coimbatore District, Coimbatore.
6. Sub-Registrar,  
Palladam Taluk,  
Palladam, Coimbatore District, Coimbatore.
7. The Settlement Officer  
Chepauk, Chennai -5



8. The Settlement Tahsildar,  
Gobichettipalayam.
9. The Principal Subordinate Judge,  
Coimbatore.
10. The Executive Officer,  
Arulmigu Angalamman Temple,  
Palladam, Coimbatore.
11. The Trustee,  
Arulmigu Angalamman Temple,  
Palladam, Coimbatore.

2 cc To Mr.R.Jothinarayanan,, Advocate, SR.64733.  
1 cc To Mr.R.C.Manoharan, Advocate, SR.64734.  
1 cc To The Government Pleader, SR.65128.

W.P.No.22858 of 2006  
and C.R.P.No.685 of 2006

TM(CO)  
RVL 28.12.2006



WEB COPY