KANNAN DEVAN HILLS PRODUCE COMPANY LTD.

v.

THE STATE OF KERALA AND ANOTHER

April 27, 1972

[S. M. SIKRI, C.J., J. M. SHELAT, A. N. RAY, I. D. DUA AND H. R. KHANNA, JJ.]

Kannan Devan Hills (Resumption of Lands) Act, 1971 (*Kerala Act 5 of* 1971)—*Competency of State legislature to enact—Sections* 4 *&* 5 *of Act do not fall under entry* 52 *List I but under entries* 18 *of List II and* 32 *of List III in Seventh Schedule of Constitution—Act whether has protection of Act* 31*A of Constitution—Land in question whether 'estate'.*

The petitioner was in possession of an area of approximately 1,27,904 acres, commonly known as the 'Concession Area' lying contiguously in the Kannan Devan Hills village. The concession was first given to the predecessor-in-interest of the appellant company in 1877 by the poonjar Chief for a consideration of Rs. 5,000/-. After some years a yearly sum of Rs. 3,000 was to be paid to the rent collector of the Chief. In 1878 the Maharaja of Travancore ratified the Concession on certain conditions. In 1886 the agreement called the Second Pooniat Concession was entered into modifying the previous deed of ratification. A Royal Proclamation was made on September 24, 1899 whereby the Poonjar Chief surrendered the propriety rights which he had exercised over the tract known as Anjanad and Kannan Devan Hills. According to the petitioner it had all times been holding, cultivating, enjoying and dealing with the Concession land as the absolute owner thereof. The petitioner further alleged that it had established 23 tea estates, with factories in each estate for the manufacture of tea, hospitals, quarters, township and shopping centres. The Kannan Devan Hills (Resumption of Lands) Act 1971 (Kerala Act 5 of 1971) the lands agricultural & non-agricultural situated in the Kannan Devan Hills Village vested in the Government of Kerala. The petitioner company filed a writ petition under Art. 32 of the Constitution challenging certain provisions of the Act. The questions that fell for consideration were: (i) whether the impugned Act was within the legislative competence of the State of Kerala; (ii) whether the impugned Act was protected from challenge under Art 31A of the Constitution.

HELD: (i) The State has legislative competence to legislate on entry 18 List II and entry 42 List III. This power cannot be denied on the ground that it has some effect on an industry controlled under entry 52 List I. Effect is not the same thing as subject-matter. If a State Act, otherwise valid, has effect on a matter in List I it does not cease to be legislation with respect to an entry in List II or List III. The object of ss. 4 and 5 seems to be enable the State to acquire all the lands which do not fall within the categories (a), (b) and (c) of s. 4(i). These provisions are really incidental to the exercise of the power of acquisition. The State cannot be denied a power to ascertain what land should be acquired by it in the public interest. [369 C-D]

The fact that the plantation was run as an integrated unit cannot impinge upon and take away the legislative power of the State in respect of List II entry 18. 370 [F-G]

Ch. Tika Ramji v. *State of Uttar Pradesh*, [1956] S.C.R. 393, 420 and *Canadian Pacific Railway Company* v. *Attorney General*, [1950] A.C. 122, 123, 140, applied.

A *Baijnath Kedai* v. *State of Bihar*, [1970] 2 S.C.R. 100, *Harakchand Ratanchand Banthia* v. *Union of India*, [1970] 1 S.C.R. 712 and *State of Maharashtra* v. *Madhavrao Damodar Patilchand*, [1968] 3 S.C.R. 712, referred to.

There was no repugnance between the provisions of the impugned Act and the Tea Act. It was said that there is conflict because it is the Tea Board and not the Land Board, which should determine what land is B necessary for the efficient working of the plantation; but Parliament has not chosen even if it could, to say so. [373G-H]

Paresh Chandra Chatterjee v. *The State of Assam and Another*, [1961] 3 S.C.R. 88, applied.

(ii) On the material placed before the Court it was difficult to resist the conclusion that the lands in dispute fell within the expression 'Janmam C right'. It is stated in Travancore Land Revenue Manual Volume IV there are no lands that do not belong to a Janmam and the Sircar becomes a Janmi by escheat, confiscation or otherwise. The effect of the Royal Proclamation of 1899 must be that the Sircar became the Janmi. [376F]

Kavalappara Kottarathil Kochuni v. *State of Madras*, [1960] 3 S.C.R. 887 and *Sukanuram Sabbayogam* v. *State of Karala*, A.I.R. 1963 Kerala 101, referred to. D

(iii) From the Travancore Land Revenue Manual it would appear that the State grants like Kanan Devan Hills Concession and Ten square Miles Concession and Munro Lands, were treated under the heading 'Pandaravaka Lands', *i.e.*, land belonging to the Sircar. It was held by this Court in *Pushothaman Nambudri's* case that Pandaravaka Verumpattam lands could be regarded as local equivalent of an estate under E cl. (2) of Art. 31A. If it is held that the land in question does not fall within the expression 'janmam right' it may possibly be covered by the decision of this Court in *Purushottam Namboodri's* case but as no arguments were addressed on this point it was not necessary for the Court to express its final opinion. [379C-D]

Purushothaman Nambudri v. *State of Kerala*, [1962] Supp. 1 S.C.R. 753, referred to.

F

(iii) The three purposes mentioned in s. 9 namely (1) reservation of land for promotion of agriculture; (2) reservation of land for the welfare of agricultural population and (3) assignment of remaining lands to agriculturists and agricultural labourers, were covered by the expression "agrarian reform" and the legislation was protected from challenge under Art. 31-A. [382]

G *Deputy Commissioner and Collector, Kamrup* v. *Durga Nath Sarma*, [1968] 1 S.C.R. 561, *P. Vajravalu Mudaliar* v. *Special Deputy Collector, Madras*, [1965] 1 S.C.R. 614 and *Ranjit Singh* v. *State of Punjab*, [1965] 1 S.C.R. 82.

The wide wording of the first two purposes did not carry them beyond the concept of 'agrarian reform'. The definition of 'common purpose' which was sustained by this Court in *Ranjit Singh's* case shows that the H purposes sustained thereby would come under either the express "promotion of agriculture" or "welfare of agricultural population" in s. 9, Indeed some would fall under both. For instance, reservation of lands for manure pits, water-works or wells, village water courses or water

channels and grazing grounds would promote agriculture; schools and playgrounds, dispensaries, public latrines etc. would be for the welfare of the agriculturists. [381C] A

If the State were to use lands for purposes which have no direct connection with the promotion of agriculture or welfare of agricultural population the State could be restrained from using the lands for these purposes. Any fanciful connection with these purposes would not be enough. [381D] B

If the two purposes were understood to mean that these include only "common purposes', which were sustained by this Court and purposes similar thereto it would be difficult to say that they are not for agrarian reform. In a sense agrarian reform is wider than land reform. It includes besides land reform something more and something more is illustrated by the definition of "common purpose" which was sustained by this Court in *Ranjit Singh's* case. [381E-F] C

The third object—settlement of agriculturists and agricultural labour—is clearly covered by the expression "agrarian reform". The main object of agrarian reforms has been to acquire excess land and settle landless labourers and agriculturists. [382B-C] D

Ranjit Singh v. *State of Punjab*, [1965] 1 S.C.R. 82 and *State of Uttar Pradesh* v. *Raja Anand*, [1967] 1 S.C.R. 362, applied.

Deputy Commissioner and Collector, Kamrup v. *Durga Nath Sarma* [1968] 1 S.C.R. 561 and *P. Vajravalu Mudaliar* v. *Special Deputy Collector, Madras*, [1965] 1 S.C.R. 82, referred to.

ORIGINAL JURISDICTION : Writ Petition No. 44 of 1971.

Under Article 32 of the Constitution of India for enforcement of the Fundamental Rights. E

M. C. Chagla, A. J. Rana, Joy Joseph, B. Datta, J. B. Dadachanji, O. C. Mathur and *Ravinder Narain*, for the petitioner.

M. M. Abdul Khader, Advocate-General for the State of Kerala, *V. A. Seyid Muhammad, Verghese Kaliath* and *K. M. K. Nair*, for the respondent. F

J. B. Dadachanji, for the interveners.

The Judgment of the Court was delivered by

Sikri, C.J. Two main points arise in this petition under art. 32 of the Constitution, brought by the Kannan Devan Hills Produce Company Ltd., hereinafter referred to as the petitioners (1) Whether the Kannan Devan Hills (Resumption of Lands) Act, 1971 (Kerala Act 5 of 1971)—hereinafter referred to as the impugned Act—is within the legislative competence of the State of Kerala; and (2) whether the impugned Act is protected from challenge under art. 31A of the Constitution, and if so, to what extent. G

The petitioner is in possession of an area of approximately 1,27,904 acres, commonly known as the 'Concession Area' lying contiguously in the Kannan Devan Hills village. The petitioner H

A grows and manufactures tea in the plantation set up and developed by it. The petitioner's predecessor-in-title was one Mr. John Danial Munro, who obtained, what is called, the first Pooniat Concession from Punhatil Kayikal Kela Varma Valuja Raja, on July 11, 1877 (Mithunam 20, 1052). This Concession recited that an application was made for the grant of the above property B to the Raja for coffee cultivation. The Concession conveyed the properties in consideration of Rs. 5,000/-. It was further stipulated in the Concession that "you shall clear and remove the jungles, and reclaim the waste lands within the said boundaries, and cultivate them with coffee up to the year 1058 and from the year 1059, pay our rent collector a yearly rent at the rate of 3,000 C British Rupees." Various other conditions were mentioned but it is not necessary to refer to them because this Concession was superseded by another agreement called the Second Pooniat Consession.

Before we refer to the terms of the Second Pooniat Concession, we may mention that H.H. the Maharaja executed a deed of D ratification, dated November 28, 1878, by which the Government ratified the First Pooniat Concession dated July 11, 1877. This deed of ratification laid down the terms and conditions in regard to Government assessment and other matters under which the Government permitted the grantee to hold the land. These terms and conditions were declared in the Deed to be independent of E any rents or payments due to the Poonjar Chief under the Grantee's Agreement with him.

Clause 5 of the Deed of Ratification, is important. It provides, *inter alia*, that "the grantee can appropriate to his own use within the limits of the grant all timber except the following and such as may hereafter be reserved namely, Teak, Cole Teak, F Blackwood, Bhony, Karoonthaly, Sandalwood; should he carry any timber without the limits of the grant it will be subject to the payment of Kooteekanom, or Customs Duty....."

The eleventh clause reads :

> "The land granted shall be held in perpetuity as heritable or transferable property, but every case of G transfer of the grant by the grantee shall be immediately made known to the Sircar, who shall have the right of apportioning the tax, if a portion of the holding is transferred."

The twelfth clause stipulates :

> H "The discovery of useful mines and treasures within the limits of the grant shall be communicated to the Sircar, and the grantee shall in respect to such mines and treasures, abide by the decision of the Sircar."

The sixteenth clause provides : A

> "The grantee shall be bound to preserve the forest trees growing on the banks of the principal streams running through the tract to the extent of fifty yards in breadth on each side of the stream, the underwood only being permitted to be cleared and coffee planted instead. Similarly he shall also be bound to preserve the trees about the crest of the hill to the extent of a quarter of a mile on each side." B

On August 2, 1886, the agreement called the Second Pooniat Concession was entered into modifying the previous deed of ratification. It appears that by this time a company called the North Travancore Land Planting and Agricultural Society, Ltd. had acquired the rights in the said land from John Danial Munro. The Land Revenue Manual (Vol. 3, Part I Revised Edition 1936, p 7) summarises the main provisions. C

For our purposes we may only mention the following provisions of the deed : D

(1) Assesment of one-half of a British Rupee per annum on every acre of land, other than grass land, which is opened up for the purpose of cultivation or otherwise.

(2) Assessment of two annas and eight pies per annum on every acre of grass land brought under cultivation or taken up for homesteads and farmsteads, or reserved as shooting reserves or for the grazing of cattle or for any other purposes. E

(6) The Society may use and appropriate to its own use within the limits of the Concession all timber except teak, cole-teak, blackwood, ebony (Karunthaly) and sandalwood, but should not fell any timber beyond what is necessary for clearing the ground for cultivation or for building, furniture and machinery, within the limits of the grant. No unvalued timber or articles manufactured therefrom should be carried outside the limits of the grant except in conformity with the rules of the Forest and Customs Departments for the time being in force. F G

(10) The land is to be held in perpetuity as heritable or transferable property but every case of transfer of the grant by the Society should be immediately made known by the Society to the Government. H

A (11) On the discovery by the Society of any useful or valuable mines, minerals or treasures within the limits of the grant, the same should at once be communicated to the Government and the Society should, in respect to such mines, minerals and treasures, abide by the decision of the Government.

B

A Royal Proclamation was made on September 24, 1899 (Kanni 9, 1075). It recites :

"Whereas we deem it expedient to clearly declare the position of this State in respect of the tract known as
C Anjanad and Kannan Devan Hills, we are pleased to declare as follows :

(1) The tract known as Anjanad and Kannan Devan Hiils is an integral portion of our territory and all rights over it belong to and vest in us.

D (2) The inhabitants of the said tract and all others whom it may concern are hereby informed and warned that they are not to pay any taxes, rents or dues, or make any other payment to the Poonjar Chief or his representatives or to any person other than an officer of our Government authorised in this behalf, in respect of anything in,
E upon or connected with the said tract, with the exception, however, of a payment of rupee three thousand per annum from the succeessors in interests of the late Mr. J. D. Munro of London and Peermade now being paid to the said Chief in virtue of a Lease deed executed by the said
F Chief in favour of the said late Mr. J. D. Munro on the 11th July, 1877, and which we are pleased to permit the said Chief to continue to receive.

(3) The lands within the said tract will be dealt with by our Government in the same manner as lands in other parts of our territory with such modifica-
G tions as the circumstances and conditions of the said tract may require and all taxes, rents and dues hitherto paid, and that may hereafter be imposed by our Government shall, with the exception of the sum of rupees three thousand aforesaid, be paid by the occupants of lands within the said tract whose occupation has been
H or may be recognized or confirmed by our Government, and of such portions of the said tract as may from time to time hereafter, with the per-

mission of our Government, be occupied, to the officers of our Government who may be authorised in this behalf." A

According to the Land Revenue Manual (Vol. III Pt. I page 9) "this Proclamation was the outcome of an arrangement made by the Government, with the Poonjar Chief for the surrender of certain proprietary rights which he had been exercising over the tract known as Anjanad and Kannan Devan Hills." B

We have set out these facts in detail because it will be necessary to appreciate the significance of the documents in order to decide the question whether these lands fall within expression 'Janmam right' in art. 31A of the Constitution. C

According to the petitioner it has at all times been holding, cultivating, enjoying and dealing with the Concession Land as the absolute owner thereof. The petitioner further alleges that it has established 23 tea estates, with factories on each estate for the manufacture of tea, hospitals, quarters and township, and shopping centres and is employing approximately 18,500 persons for the running of the said estates. The breakup of the area of 1,27,904 acres was given as follows : D

Tea Estates			
1. Tea Planted area		23,570,95 acres	
2. Fuel area	17,851·55		
3. Building sites, roads, Workers gardens, Manner Township	2,605·35		E
4. Grazing land	1,453·75		
5. Swamps and Streams	2,407·36		
6. Uncultivable lands, rocks, slips, barren lands, ridges etc.	6,789·51		
	31,107·52	31,107·52 acres	F
7. Lands interspersed within the boundaries of the tea plantation considered necessary for the protection and efficient management of the tea plantation		23,404·00 acres	
	Total:	78,082·47	
8. Forest Area		22,311·00	G
9. Set apart for Wild Life Preservation .		21,353·60	
10. Other grass lands		6,157·49	
		1,27,904·56	

We may now notice the provisions of the impugned Act. The preamble reads as follows : H

"Whereas the lands comprising the entire revenue village of Kannan Devan Hills in the Devicolam taluk of

A the Kottayam district had been given on lease by the then Poonjar Chief to late Mr. John Daniel Munro of London and Peermade on the 11th day of July, 1877, for coffee cultivation;

And Whereas the right, title and interest of the lessor had been assumed by the former Government of Tra-
B vancore;

And Whereas by such assumption the lands have become the property of the former Government of Travancore;

And Whereas the Government of Kerala have be-
C come the successor to the former Government of Travancore;

And Whereas large extent of agricultural lands in that village has not been converted into plantations or utilised for purposes of plantation and such lands are not required for the purposes of the existing plantation;
D

And Whereas the Government consider that such agricultural lands should be resumed for the distribution thereof for cultivation and purposes ancillary thereto."

It would be noticed that in the preamble the State claims that the right, title and interest of the Poonjar Chief had been assumed
E by the former Government of Travancore and the lands had become the property of the former Government of Travancore and now the Government of Kerala. It will also be noticed that the object is to resume agricultural lands for their distribution for cultivation and purposes ancillary thereto.

F "Plantation" is defined in s. 2(f) of the impugned Act :

" "Plantation" means any land used by a person principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamon (hereinafter referred to as "Plantation crops" ".

G Section 3 may be set out in full

"3. *Vesting of Possession of certain lands* : (1) Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub-sections (2) and (3), with effect on and from the appointed day, the
H possession of all lands situate in the Kannan Devan Hills village in the Devicolam taluk of the Kottayam district shall stand transferred to and vest in the Government free from all encumbrances, and the right, title and

interest of the lessees and all other persons, including rights of mortgagees and holders of encumbrances, in respect of such lands, shall stand extinguished. A

(2) Nothing contained in sub-section (1) shall apply in respect of—

(a) plantations, other than plantations belonging to trespassers; B

(b) buildings, other than buildings belonging to trespassers, and lands appurtenant to, and necessary for the convenient enjoyment or use of, such buildings;

C

(c) play-grounds and burial and burning grounds; and

(d) lands in the possession of the Central Government or any State Government or the Kerala State Electricity Board.

D

(3) Nothing contained in sub-section (1) shall apply in respect of so much extent of land held by a lessee under his personal cultivation as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto."

E

It will be noticed that what the section vests in the Government is not only agricultural lands but all lands situated in the Kannan Devan Hills village in the Devicolam taluk of the Kottayam district. It extinguishes the rights of the lessees and other persons and vests the lands in the State subject to some exceptions which are contained in sub-ss. (2) and (3) of s. 3. Sub-section (2) F exempts plantations. Sub-section (3) does not have any bearing on the problem before us.

Section 4 is a peculiar provision which has led the counsel for the petitioner to argue vehemently about the legislative competence of the State. It reads thus :

G

"4. *Restoration of possession of lands in certain cases.*—(1) Where the person in possession of a plantation considers that any lands, the possession of which has vested in the Government under sub-section (1) of section 3,—

(a) is necessary for any purpose ancillary to the cultivation of plantation crops in such plantation or for the preparation of the same for the market; H
or

A (b) being agricultural land interspersed within the boundaries of the area cultivated with plantation crops, is necessary for the protection and efficient management of such cultivation; or

(c) is necessary for the preservation of an existing plantation, he may, within sixty days from the B date of publication of this Act in the Gazette, apply to the Land Board for the restoration of possession of such land.

(2) An application under sub-section (1) shall be in such form as may be prescribed.

C

(3) On receipt of an application under sub-section (1), the Land Board shall, after giving the applicant an opportunity of being heard and after such inquiry as it deems necessary by order determine the extent of land necessary for the purpose or purposes specified in the application, and such order shall be final.

D

(4) As soon as may be after determining the extent of land necessary for the purpose or purposes specified in the application under sub-section (1), the Land Board shall cause such land to be demarcated and put the applicant in possession of such land.

E

(5) Any person put in possession of any land under sub-section (4) shall be entitled to possess that land on the same terms and subject to the same conditions on or subject to which he was holding such land immediately before the appointed day."

F It will be seen that s. 4 proceeds on the basis that certain lands, which have vested in the State under s. 3, may be necessary for the efficient carrying on of the plantation. A procedure is laid down by which the Land Board shall determine the extent of land necessary for purposes mentioned in s. 4(a), (b) and (c) to be specified in the application of the landholder, and direct restora- G tion of possession.

Section 5 alleviates the rigour of s. 4 by giving the Collector power to remove the hardship, if any, on the management of the plantation on the vesting of any land under sub-s. (1) of s. 3. Section 8 provides that no compensation shall be payable for the extinguishment under sub-s. (1) of s. 3 of the right, title and H interest of the lessees or other persons or of the rights of mortgagees or holders of encumbrances.

Section 9 may be set out in full. It reads thus

"9. *Assignment of lands.*—(1) The Government, shall, after reserving such extent of the land, the possession of which has vested in the Government under subsection (1) of section 3 (other than lands, the possession of which has been restored under section (4), as may be necessary for purposes directed towards the promotion of agriculture or the welfare of the agricultural population to be settled on such lands, assign on registry the remaining lands to agriculturists and agricultural labourers in such manner, on such terms and subject to such conditions and restrictions, as may be prescribed.

(2) The Government may, by notification in the Gazette, delegate their power of assignment under subsection (1) to the Collector, subject to such restrictions and control as may be specified in the notification."

The position taken by the State in its reply is as follows : The petitioner is not an absolute owner, but only a lessee under the Government, especially since the Proclamation issued by H.H. the Maharaja. The lands to which the provisions of the Act apply, fall within the definition of 'estate' under art. 31A(2) of the Constitution. If the petitioner is the absolute owner of the lands subject to levy of basic tax, as contended, the lands held by the petitioner are 'estate' because they are held in Janmam rights or at any rate as the local equivalent of 'estate' in its basic concept as understood in the decisions of this Court falling under art. 31A(2)(a)-(i) of the Constitution. In the alternative it is alleged that treating the lands as a lease-hold under the State, these are undoubedly lands held or let for the purposes of agriculture or purposes ancillary thereto coming within the inclusive definition of 'estate' under art. 31A(2)(a)(iii) of the Constitution. It is denied that the lands were held primarily for development of the petitioner's tea industry. It is alleged that the petitioner had used large tracts of land for diverse agricultural purposes as was clear from the averments in the petition. It is further asserted that the impugned legislation is a law relation to the agrarian reform.

During the course of the hearing, the petitioner's counsel said that he was willing to argue on the basis that the petitioner was a lessee and not a full proprietor. After we had heard the arguments for some time and it became necessary to adjourn the case, the State obtained permission to amend its reply and raised the point that the lands of the petitioner were 'estate' within the purview of art. 31A(2)(a)(i) being janmam right. We may reproduce the relevant paras. "The Raja of Poonjar was admittedly the Janmi of the said lands at the time of letting as per Annexures B & C to the Writ Petition. By the Royal Proclamation of 1899 (Annexure R-1) the Janmam right of the lessor, the Poonjar Chief,

A got vested in the Government of Travancore." [Para 4(1)]. "After the said vesting the writ petitioner is a lessee under a Janmi—the Sircar, the State." [Para 4(2)]. Para 4(4) refers to pages 314 and 315 of Travancore State Manual—Vol. III—where it is recorded that the lands of Poonjar Chief are Janmam lands. Further reference is made to Travancore Land Revenue B Manual, Vol. IV, which we will discuss a little later.

In the sur-rejoinder affidavit the petitioner denies that Poonjar Chief or Raja was the Janmi of the land covered by the impugned legislation. It is further alleged that "even asuming without admitting that the Poonjar Chief was a Janmi, the Janmam rights of the Chief became vested in the Sircar by the Royal Proclama- C tion of 1899 (Annexure R-1), the lands became part of and merged with the Sircar land. The Sircar as the overlord and the Ruler of the State became the sole owner of the land and the petitioner became a permanent and perpetual lessee of Sircar with heritable and alienable rights. The impugned legislation in no way deals with the Janmam rights, if any, vested in the Sircar." It is fur- D ther stated that "in any event, without prejudice to the other contentions, it is submitted that Article 31A(2)(a)(i) speaks only of "Janmam right" and not "Janmam" land as such."

We may first deal with the question of legislative competence. We have set out the relevant provisions of the impugned legislation. It seems to us clear that in pith and substance it is a law dealing E with entry 18 of List II and entry 42 of List III. Entry 18 reads :

> "Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agri- F cultural land; land improvement and agricultural loans; colonization."

Entry 42 List III reads :

> "Acquisition and requisitioning of propetty."

This Court has upheld the legislative competence of States to G deal with land reforms under entry 18 of List II and entry 42 of List III in various cases.

The learned counsel for the petitioner, however, contends that ss. 4 and 5 of the impugned Act are a law with respect to entry 52 List I. These provisions, according to him, regulate the carrying on of tea industry, within the competence of Parliament, by con- H trolling the land available for tea plantation. He says that it is impossible to run an efficient plantation except by having sufficient land (1) for purposes ancillary to cultivation and plantation of the

crop and (2) for the preparation of the same for the market. He says that it is also necessary to have land interspersed within the boundaries of the area cultivated with plantation for the preservation of the existing plantation. He urges that if the effect of the legislation is to control the working of the tea plantation the legislation must be regarded as legislation with respect to entry 52 List I.

The learned counsel has drawn our attention to various reports to show that the plantation is a self-contained unit of organisation. In para 1.11 of the Report of the Study Group for Plantation (Tea) it is stated :

> "1.11. The cultivation and manufacture of tea do not exhaust the activities associated with tea plantations. A typical plantation covers a wide area, having a large resident population in a number of settlements. Management of plantations involves construction and maintenance of roads and buildings, running of hospitals, schools, creches, and canteens, etc. and in a miniature form, transport and public health activities. In short, a plantation is a self-contained unit of organisation."

In the report of P. C. Borooah Committee on Tea Industry following measures were recommended :

> "1. 18. Taking into consideration the difficulties faced by the industry because of Government enactments and in view of our recommendation in regard to the necessity for undertaking extensions of plantings to achieve the plan targets laid down by Government and the need for replacement to increase foreign exchange earnings of the country, the Committee recommends that the following measures should be taken by Government :—
>
> (i) The Central Government should take steps to convene a conference of all representatives of tea producing State Governments to frame a well-considered policy in regard to land required for expanding tea production. Where land is proposed to be resumed by the State Governments concerned, the Tea Board should be taken into consultation.
>
> (ii) The principles underlying all resumption of land should be such as to ensure that tea estates should have enough land available for extensions and for other ancillary purpose for their viability and protection. Land within an estate should in no case be taken over as the integrity of estates must at all costs be maintained."

A In the Second Five Year Plan, while considering the question of exemption from ceilings one of the factors taken into account was the "integrated nature of operations, especially where industrial and agricultural work are undertaken as a composite enterprise." It was recommended that "if these considerations are kept in view there would appear to be an advantage in exempting the B following categories of farms from the operations of ceilings which may be proposed :

(1) tea, coffee and rubber plantation

. . . . . .

. . . . . .

C It seems to us clear that the State has legislative competence to legislate on entry 18 List II and entry 42 List III. This power cannot be denied on the ground that it has some effect on an industry controlled under entry 52 List I. Effect is not the same thing as subject-matter. If a State Act, otherwise valid, has effect on a matter in List I it does not cease to be a legislation with respect D to an entry in List II or List III. The object of ss. 4 and 5 seems to be to enable the State to acquire all the lands which do not fall within the categories (a), (b) and (c) of s. 4(1). These provisions are really incidental to the exercise of the power of acquisition. The State cannot be denied a power to ascertain what land should be acquired by it in the public interest.

E The case of *Baijnath Kedai* v. *State of Bihar*(1) relied on has no relevance. It was held in that case that entry 23 List II was subject to entry 54 of the Union List and once a declaration was made and the extent laid down, the subject of legislation to the extent laid became an exclusive subject for legislation by Parliament. The scope of entry 52 of the Union List is slightly differ- F ent. Once it is declared by Parliament by law to be expedient in the public interest to control the industry, Parliament can legislate on that particular industry and the States would lose their power to legislate on that indusry. But this would not prevent the States from legislating on subjects other than that particular industry.

In *Ch. Tika Ramji* v. *State of Uttar Pradesh*(2) Bhagwati, J., G observed :

> "Industry in the wide sense of the term would be capable of comprising three different aspects : (1) raw materials which are an integral part of the industrial process, (2) the process of manufacture or production, and (3) the distribution of the products of the industry. H The raw materials would be goods which would be comprised in Entry 27 of List II. The process of manufac-

(1) [1970] 2 S.C.R. 100.

(2) [1956] S.C.R. 393, 420.

ture or production would be comprised in Entry 24 of List II except where the industry was a controlled industry when it would fall within Entry 52 of List I and the products of the industry would also be comprised in Entry 27 of List II except where they were the products of the controlled industries when they would fall within entry 33 of List III. This being the position, it cannot be said that the legislation which was enacted by the Centre in regard to sugar and sugarcane could fall within Entry 52 of List I. Before sugar industry became a controlled industry, both sugar and sugarcane fell within Entry 27 of List II but, after a declaration was made by Parliament in 1951 by Act LXV of 1951, sugar industry became a controlled industry and the product of that industry *viz.*, sugar was comprised in Entry 33 of List III taking it out of Entry 27 of List II."

In *Harakchand Ratanchand Banthia* v. *Union of India*(1), *Tikka Ram's* case (*supra*) was referred to but the Court held that it was not necessary for the purposes of that case to attempt to define the expression "industry" precisely or to state exhaustively all its different aspects. The Court observed :

"But we are satisfied in the present case that the manufacture of gold ornaments by goldsmiths in India is a "process of systematic production" for trade or manufacture and so falls within the connotation of the word "industry" in the appropriate legislative entries."

In *State of Maharashtra* v. *Madhavrao Damodar Patilchand*(2) the point was left open whether the State legislature had or had not the authority to legislate adversely on matters falling within entry 52 List I.

None of these cases assist the petitioners.

The fact that the plantation is run as an integrated unit was strongly relied on but this cannot impinge upon and take away the legislative power of the State in respect of List II entry 18.

The Privy Council in *Canadian Pacific Railway Company* v. *Attorney General*(3) dealing with a similar matter observed :

"But their Lordships can find neither principle nor authority to support the competence of the Parliament of canada to legislate on a matter which clearly falls within the enumerated heads in s. 92 and cannot be brought

(1) [1970] 1 S.C.R. 479.
(2) [1968] 3 S.C.R. 712.
(3) [1950] A.C. 122, 123, 140.

A within any of the enumerated heads in s. 91 merely because the activities of one of the parties concerned in the matter have created a unified system which is widespread and important in the Dominion."

The facts in that case are set out briefly in the headnote as B follows :

"The appellant, the Canadian Pacific Rly., Co., which owned and managed the Empress Hotel in Victoria, British Columbia, while not denying that the regulation of hours of work was ordinarily a matter of "property and civil rights in the province" under head 13 of C s. 92 of the British North America Act, 1867, and accordingly within the legislative competence of the provincial legislature, contended, *inter-alia*, that the company's activities had become such an extensive and important element in the national economy of Canada that the Dominion Parliament was entitled under the general D powers conferred by the first part of s. 91 of the Act of 1867 to regulate all the affairs of the company, even where that involved legislating in relation to matters exclusively reserved to the provincial legislatures by s. 92."

It is not necessary to consider the situation where State legis- E lation on a topic in List II makes the control of industry by the Union virtually impossible. No such question arises now.

Coming now to the question of repugnancy : The object of the Tea Act, 1953, is to provide for the control by the Union of the tea industry, including the control, in pursuance of the international agreement now in force, of the cultivation of tea in and F the export of tea from India. Chapter II sets up a Tea Board. Section 10 sets out the functions of the Board. Broadly the duty of the Board is to promote by such measures as it thinks fit the development under the control of the Central Government of tea industry. Measures contemplated are listed in sub-s. (2) as follows :

G

"(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) regulating the production and extent of cultivation of tea;

H

(b) improving the quality of tea;

(c) promoting co-operative efforts among growers and manufacturers of tea;

(d) undertaking, assisting or encouraging scientific, technological and economic research and maintaining or assisting in the maintenance of demonstration farms and manufacturing stations;

(e) assisting in the control of insects and other pests and diseases affecting tea;

(f) regulating the sale and export of tea;

(g) training in tea tasting and fixing grade standards of tea;

(h) increasing the consumption in India and elsewhere of tea and carrying on propaganda for that purpose;

(i) registering and licensing of manufacturers, brokers, tea waste dealers and persons engaged in the business of blending tea;

(j) improving the marketing of tea in India and elsewhere;

(k) collecting statistics from growers, manufacturers, dealers and such other persons as may be prescribed on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(l) securing better working conditions and the provisions and improvement of amenities and incentives for workers;

(m) such other matters as may be prescribed."

Chapter III contains provisions to enable control to be exercised over the extension of tea cultivation. Section 15(1)(a) proceeds on the basis that land which is planted with tea can be compulsorily acquired for in that eventuality the owner of the tea estate in which such land is situated is permitted to apply to the Board for permission to plant tea on land not planted with tea. Tea Act does not prohibit voluntary sale or compulsory acquisition.

We may mention that no body has challenged the validity of the Tea Act and we are proceeding on the basis that the Act is valid. In this connection entry 14 of List I (.....implementing of treaties.....) may be kept in mind. If the Act is within the competence of Parliament and the impugned Act is within the competence of the State the petitioners must show that the impugned Act is repugnant to the Tea Act but we can see no conflict between the provisions of the impugned Act and the Tea Act.

A In *Paresh Chandra Chatterjee* v. *The State of Assam and Another*(1) the validity of Assam Land (Requisition and Acquisition) Act, 1948 was challenged partly on the ground that it was *ultra vires* the State Legislature insofar as it provided for the requisitioning and acquisition of tea estate. As it was a pre-Constitution Act and there was no Federal Law then declaring that B the development of tea industry was expedient in the public interest, the Act was held to be constitutionally valid. The Court then examined the question whether the impugned Act would continue in force under art. 372 of the Constitution in face of the Tea Act of 1953. This Court held that the impugned Act provided only for requisition or acquisition of lands in public interest and C it had nothing to do with tea industry. After examining the scheme of the Act, Subba Rao. J., observed :

> "It is, therefore, manifest that the Tea Act mainly concerned with the development of the tea industry, and it has nothing to do with the requisition or acquisition of lands, though the said lands may form part of a tea D estate or used for purposes incidental to the tea industry. Indeed, s. 15(1)(b) of the Tea Act provides for the contingency of a part of a land on which tea is planted being compulsorily acquired under the provisions of the Land Acquisition Act, 1894 (Act I of 1894) or by any other law for the time being in force and no longer car- E ries tea. In such an event, the said section authorises the owner of the tea estate in which such land is situate to apply to the Board for permission to plant tea on land not planted with tea. The Tea Act, therefore, not only does not expressly prohibit the acquisition of any land, but also in express terms provided for the replacement F of the area acquired by other land for the purpose of tea plantation."

> "A comparative study of both the Acts makes it clear that the two Acts deal with different matters and were passed for different purposes."

G It was said that there is conflict because it is the Tea Board and not the Land Board, which should determine what land is necessary for the efficient working of the plantation but Parliament has not chosen, even if it could, to say so.

For the reasons mentioned above we have come to the con- H clusion that the State Legislature was competent to enact the impugned Act and that it is not repugnant to the Tea Act.

(1) [1962] 3 S.C.R. 88.

Coming to the second point, namely whether the impugned Act is protected from challenge under art. 31A of the Constitution, three points arise out of the contentions of the parties : (1) Do the lands acquired fall within the expression "janmam right" in art. 31A(2)(a)(i) ? (2) If not, do they fall within the expression "estate" as defined in art. 31A(2) ? and (3) If not, do any of the lands fall within the lands described in art. 31A(2)(a)(iii) ? Art. 31A(2) may be set out for the sake of convenience.

"31A(2) In this article,—

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local eq ivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any *jagir*, *inam* or *muafi* or other similar grant and in the States of Madras and Kerala, any *Janmam* right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, subproprietor, underproprietor, tenure-holder, (raiyat, underraiyat) or other intermediary and any rights or privileges in respect of land revenue."

Dealing with the first point there is no doubt that the Poonjar Raja was a janmi when the First Concession was granted to the predecessor-in-interest of the petitioner, and if nothing had transpired after that the whole lands would have fallen within the expression 'janmam right'. But the Royal Proclamation dated September 24, 1899, changed the situation. The Poonjar Chief surrendered certain rights which he had been exercising over the tract known as Anjanad and Kannan Devan Mills. What is the effect of this surrender ? According to the learned Advocate-General, the janmam rights still subsisted and instead of the Poonjar Chief H.H. the Maharaja became the janmi.

The nature of 'janmam right' has been examined by this Court previously in *Kavalappara Kottarathil Kochuni* v. *State of Madras*(1). Subba Rao, J., as he then was, speaking for the Court, observed :

(1) [1960] 3 S.C.R. 887.

A "Under the definition, any janmam right in Kerala is an "estate". A janmam right is the freehold interest in a property situated in Kerala. Moor in his "Malabar Law and Custom" describes it as a hereditary proprietorship. A janmam interest may, therefore, be described as "proprietary interest of a landlord in lands", and such B a janmam right is described as "estate" in the Constitution. Substituting "janmam right" in place of "estate" in cl. 2(b), the "rights" in art. 31A(1)(a) will include the rights of a proprietor and subsordinate tenure-holders in respect of a janmam right. It follows that the extinguishment or modification of a right refers to the C rights of a proprietor or a subordinate tenure-holder in respect of a janmam right. A proprietor called the janmi or his subordinate tenure-holder has certain defined rights in a "janmam right". Land-tenures in Malabar are established by precendents or immemorial usage. Janmam right is a freehold interest in property and the landlord is called "janmi". He can create many D subordinate interests or tenures therein."

In the Travancore Land Revenue Manual Volume 4 it is stated :

"9. A Janmi differs from such landlords in that he E does not derive his title to lands from the Sircar & Co. His title to the Janmam lands is inherent.

. . . . . .

12. Janmam lands are precisely what are in Europe called allodial properties as contra-distinguished from feudal.

F

13. It must be clear from what has been stated that all the lands in the Travancore belonged to a body of janmis. There are no lands that do not belong to some janmi or other.

14. Be it remembered that the Sircar itself is one of G these janmis, it having come to possess janmam lands by gift, purchase, escheat, confiscation and other ways. It is only a great janmi, great in the sense that its janmam property is extensive.

15. If any person wants land in Travancore, he must H obtain it from, and hold it of, some one of the body of Janmis, *i.e.* from the Sircar, which is the Chief Janmi, or from some other Janmi." (Sir T. Madava Row's Memo.)

In Mr. Kunhiramam Nair's Memo on Land Tenures it is stated :

> "At present the Sircar is the largest Janmi in the State. The janmam lands of all the petty Rajas subdued in the last few centuries and of several Madampies, have lapsed to the State, and other causes such as escheat & c, have tended to increase the extent of the Janmam possession of the Sircar. About three-fourths of the whole land in the State belong on Janmam to the Sircar, the remaining one-fourth being distributed among the classes mentioned in para 32."

It is interesting to note that in certain parts of Madras Janmam rights existed and the Government lands were called government janman lands. (See Government Order No. 1902 Revenue dated November 1, 1926). Para 3 of that order deals with the janmam estates and reads as under :

> "3. *JANMABHOGAM*.—Paragraph 11 of the Board's Proceedings—Lands have hitherto been described as—
>
> (a) Government Janmam, *i.e.* lands which are held directly from the Government and on which taram assessment and janmabhogam are paid to the Government and
>
> (b) private janmam, *i.e.* lands which are held directly from the Government and on which taram assessment but not janmabhogam is paid to the Government."

It seems to us that on the material placed before us it is difficult to resist the conclusion that the lands in dispute fall within the expression "Janmam right". If, as stated in Travancore Land Revenue Manual Volume IV, there are no lands that do not belong to a Janmi and the Sircar becomes a Janmi by gift, escheat confiscation or otherwise, the effect of the Royal Proclamation of 1899 must be that the Sircar became the Janmi. We are not concerned here with lands which were held by the Full Bench of the Kerala High Court in *Sukapuram Sabhayogam* v. *State of Kerala*(1) to be held under Ryotwari tenure after the introduction of the Ryotwari Settlement in the Malabar area of Kerala State.

Assuming that the lands do not fall with 'Janmam Right', we may now deal with the second point : In the Travancore Land Revenue Manual, Vol. III, Revised Edition, 1936, Registered Lands are described as follows :

(1) A.I.R. [1963] Kerala 101.

A "Registered lands are lands registered in the revenue accounts as held by or granted to individuals, families, corporations or institutions, and comprise all the different kinds of tenures bearing either the full assessment or wholly or partially free of assessment. These lands comprise not only the areas brought under cadastral survey but include also coffee, tea, rubber and other estates, cardamom gardens and other special grants outside the limits of cadastral survey."

The Registered Lands include, *inter alia*, (a) Pandaravaka lands and (b) Janmam lands. Regarding Pandaravaka lands it is stated :

C "Pandaravaka or Sircar lands are lands of which the State is the landlord or the Jenmi and whatever rights which vest in the ryots are derived from the Sircar."

Kanan Devan Hills Concession is dealt with under this heading, *i.e.* Pandaravaka Lands.

D The Janmam lands are dealt with as follows :

"19. *Definition.*—Jenmom land is defined in the Jenmi and Kudiyan Regulation, V of 1071 as "land (other than Pandaravaka, Sripandaravaka, Kandukrishi or Sircar Devaswom land, recognised as such in the Sircar accounts) which is either entirely exempt from Government tax or if assessed to public revenue, is subject to Rajabhogam only, and the occupancy right in which is created for a money consideration (Kanom) and is also subject to the payment of Michavaram or customary dues and the payment of the renewal fees. "This definition is intended for the purposes of the Regulation, which regulates the relations between janmis and their Kanapattom tenants. A Janmi has not only Kanapattom tenanats but has other tenants as well holding on Adima, Anubhogam, Thiruvulam and similar other tenures and the Regulation is not concerned with the latter class of tenants in whose case the ordinary law of landlord and tenant is applicable. Revenue law, on the other hand, makes no distinction between a Kanapattom tenant and a non-Kanapattom tenant if he holds under a Janmi recgonised in the revenue accounts. Hence for revenue purposes, Jenmom lands are lands that are entered in the revenue accounts under the heads of Devaswomvaka, Brahmaswomvaka and Madampimarvaka *i.e.*, to say a land to be classed as Jenmom land should have been recognised as such in the revenue accounts. The mere circumstance that a land belongs

to a Jenmi does not bring it under Jenmom tenure and conversely the mere fact that Janmom land is absolutely transferred to a non-Jenmi does not any the less detract from its original character. Jenmom lands are allodial properties and the proprietary right in them is considered as inherent in the individual and not derived from the State."

It thus appears that the State grants like Kanan Devan Hills Concession and Ten Square Miles Concession, and Munro Lands, were treated under the heading 'Pandaravaka Lands, *i.e.* lands belonging to the Sircar.

The case of Pandaravaka lands from the erstwhile State of Cochin was considered by this Court in *Purushothaman Nambudiri* v. *State of Kerala*(1). Some of the lands in dispute there were classified by the land records maintained by the State as Pandaravaka holdings while the remaining lands were classified as Puravaka holdings. The petitioner there claimed that the lands did not constitute an 'estate' under art. 31A(2)(a). His case was that as regards Pandaravaka lands he was liable to pay rent to the State calculated as a proportion of the gross yield of the properties and the lands held by him as tenant under the State could not be an estate. It was further contended that he was not an intermediary between the State and the tiller of the soil and therefore the lands did not come within the purview of art. 31A(2)(a). Under clause 13 of the proclamation dated March 10, 1905, the holders of Pandaravaka Verumpattom tenure acquired full rights to the soil of the lands and held them subject to the liability to pay State assessments. This Court, by majority, held that the holders of land held as Pandaravaka Verumpattom were proprietors of the lands and held the lands subject to the liability to pay the assessment to the State, and therefore Pandaravaka Verumpattom would be regarded as local equivalent of an estate under cl. (2) of Art. 31A.

Gajendragadkar, J., as he then was, speaking for the Court, observed :

"It seems to us that the basic concept of the word "estate" is that the person holding the estate should be proprietor of the soil and should be in direct relationship with the State paying land revenue to it except where it is remitted in whole or in part. If therefore a term is used or defined in any existing law in a local area which corresponds to this basic concept of "estate" that would be the local equivalent of word "estate" in that area. It is not necessary that there must be an intermediary in an estate before it can be called an estate within

(1) [1962] Supp. 1 S.C.R. 753.

A the meaning of Art. 31A(2)(a); It is true that in many cases of estate such intermediaries exist, but there are many holders of small estates who cultivate their lands without any intermediary whatever. It is not the presence of the intermediary that determines whether a particular landed property is an estate or not; what deter-
B mines the character of such property to be an estate is whether it comes within the definition of the word "estate" in the existing law in a particular area or is for the purpose of that area the local equivalent of the word "estate" irrespective of whether there are intermediaries in existence or not."

C It seems that if it is held that the land does not fall within the expression 'janmam right' it may possibly be covered by the decision of this Court in *Purushothaman Nambudiri's* case (Supra) but as arguments were not addressed to us on this point we do not express our final opinion.

D The next question which arises is : If the lands acquired by the impugned Act are an estate, is the impugned Act a law for effecting agrarian reforms ? Section 9 of the impugned Act envisages three purposes :

(1) reservation of lands for promotion of agriculture;

(2) reservation of land for the welfare of agricultural
E population;

(3) assignment of remaining lands to agriculturists and agricultural labourers.

Do the first two purposes fall within the concept of agrarian reforms ?

F Flood control and prevention of erosion are undoubtedly of great importance for promoting agriculture and yet it was held by this Court in *Deputy Commissioner and Collector, Kamrup* v. *Durga Nath Sarma*(1) that the Assam Acquisition of Land for Flood Control and Prevention of Erosion Act had no relation to agrarian reforms, land tenure or the elimination of intermediaries.
G Acquisition for housing scheme and slum clearance in the city of Madras, though of great social and economic importance, was not included in the concept of agrarian reform by this Court in *.P. Vajravalu Mudaliar* v. *Special Deputy Collector, Madras*(2) But a wide meaning was given to the concept in *Ranjit Singh* v. *State of Punjab*(3). The transfer of *Shamlat deh* owned by the
H proprietors to the village panchayat for the purpose of management in the manner stated in the Consolidation of Holdings Act and

(1) [1968] 1 S.C.R. 561. (2) [1965] 1 S.C.R. 614.

(3) [19 65] 1 S.C.R. 82, 94.

conferment of proprietary rights in respect of lands in the *Abadi deh* was treated as effecting agrarian reforms. Hidayatullah, J., as he then was, observed :

> "The scheme of rural development today envisages not only equitable distribution of land so that there is no undue imbalance in society resulting in a landless class on the one hand and a concentration of land in the hands of a few on the other, but envisages also the raising of economic standards and bettering rural health and social conditions. Provisions for the assignment of lands to village Panchayat for the use of the general community, or for hospitals, schools, manure pits, tanning grounds etc. enure for the benefit of rural population must be considered to be an essential part of the redistribution of holdings and open lands to which no objection is apparently taken. If agrarian reforms are to succeed, mere distribution of land to the landless is not enough. There must be a proper planning of rural economy and conditions and a body like the village Panchayat is best designed to promote rural welfare than individual owners of small portions of lands."

The definition of "common purpose" is reproduced below for convenience :

> " "Common purpose" means any purpose in relation to any common need, convenience or benefit of the village and include the following purposes :—
>
> (i) extension of the village Abadi;
>
> (ii) providing income for the Panchayat of the village concerned for the benefit of the village community.
>
> (iii) village roads and paths; village drains; village wells, ponds or tanks; village water courses or water channels; village bus stands and waiting places; manure pits; *hada rori;* public latrines; cremation and burial grounds; *panchayat ghar; Janj Ghar,* grazing grounds; tanning places; *mela* grounds; public places of religious or charitable nature; and
>
> (iv) schools and play-grounds, dispensaries, hospitals and institutions of like nature, water-works or tube-wells whether such schools, play-grounds,

A

> dispensaries, hospitals, institutions, water-works or tube-wells may be managed and controlled by the State Government or not."

We are bound by the judgment. What are the implications of this judgment? All the purposes mentioned above were held to be
B comprised within the concept of agrarian reform.

It is urged that the wording of the first two purposes in s. 9 is too wide. But if we look at the definition of "common purpose", which was sustained by this Court in *Ranjit Singh's* case, it shows that the purposes sustained thereby would come under either the expression "promotion of agriculture" or "welfare
C of agricultural population" in s. 9. Indeed some would fall under both. For instance, reservation of lands for manure pits, water-works or wells, village water courses or water channels and grazing grounds would promote agriculture; schools and playgrounds, dispensaries, public latrines etc. would be for the welfare of agriculturists.

D

If the State were to use lands for purposes which have no direct connection with the promotion of agriculture or welfare of agricultural population the State could be restrained from using the lands for those purposes. Any fanciful connection with these purposes would not be enough.

E It seems to us that if we read these two purposes to mean that these include only "common purposes", which were sustained by this Court and purposes similar thereto it would be difficult to say that they are not for agrarian reform. In a sense agrarian reform is wider than land reform. It includes besides land reform something more and that something more is illustrated by the definition
F of "common purpose", which was sustained by this Court in *Ranjit Singh's* case (*supra*).

In the *State of Uttar Pradesh* v. *Raja Anand*(1), the acquisition of a grant in the nature of Jagir was upheld. It was observed:

G

> "Mr. A. K. Sen further urges that the acquisition of the estate was not for the purposes of agrarian reforms because hundreds of square miles of forest are sought to be acquired. But as we have held that the area in dispute is a grant in the nature of Jagir or inam, its acquisition like the acquisition of all Jagirs, inams, or similar
H grants, was a necessary step in the implementation of the agrarian reforms and was clearly contemplated in art. 31A."

(1) [1967] 1 S.C.R. 362, 372.

These observations must be understood in the light of the provisions of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, for the impugned Act in that case (U.P. Act No. 1 of 1964) had amended s. 3(8) of that Act of 1950. This grant in the nature of the jagir stood in the same position as all the big zamindaris and jagirs in Uttar Pradesh. It has never been urged that the Act of 1950 was not a measure of agrarian reform.

The third object—settlement of agriculturists and agricultural labour—it seems to us, is clearly covered by the expression "agrarian reforms". The main object of agrarian reforms has been to acquire excess land and settle landless labourers and agriculturists.

We are accordingly of the opinion that the three purposes—the first two reads as we have indicated—are covered by the expression "agrarian reform" and the legislation is protected from challenge by art. 31-A.

In the result the petition fails and is dismissed, but there will be no order as to costs.

S.C. *Petition dismissed.*