

PETITIONER:
S. THENAPPA CHETTIAR ETC.

Vs.

RESPONDENT:
STATE OF TAMIL NADU

DATE OF JUDGMENT 04/03/1986

BENCH:
VENKATARAMIAH, E.S. (J)
BENCH:
VENKATARAMIAH, E.S. (J)
THAKKAR, M.P. (J)

CITATION:
1986 AIR 1117 1986 SCR (1) 421
1986 SCC (2) 275 1986 SCALE (1) 283

ACT:

Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1969 (Act 23 of 1969), constitutional validity of - Whether the legislation is covered and protected by Article 31A of the Constitution - Constitution of India, 1950, Articles 14, 19, 31 and 31A.

HEADNOTE:

The princely State of Pudukottai got merged with the Indian Union with effect from March 3, 1948 as a result of which it became part of the Madras Province. Pursuant to the report of the Prakasam Committee constituted in 1937 to look into the question of agrarian reform in Madras Province, the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act 26 of 1948) was passed by the Madras Legislature. The said Act applied to all estates, namely, zamindari, under tenures and inam estates as defined in section 3, clause (2) of the Madras Estates Land Act, 1908; except inam villages which became "estate" by virtue of the Madras Estates Land (Third Amendment) Act 1936. The said Act was intended to provide for the repeal of the permanent settlement, the acquisition of the rights of the land holders in permanently settled and certain other estates in the Province of Madras and the introduction of the ryotwari settlements in such estates. Thereafter for the purpose of completing the process of agrarian reform, the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) was passed. Act 26 of 1963 provided for the acquisition of all rights of the land holders in inam estates in the State of Tamil Nadu and the introduction of the ryotwari settlements in such estates. The estates to which this Act was applicable were of two kinds; (i) existing inam estates; and (ii) new inam estates. The existing inam estates were inam villages which became estates by virtue of the Madras Estates Land (Third Amendment) Act, 1936. They were whole villages. The new inam estate which was a new

422

nomenclature evolved for the purpose of Act 26 of 1963, meant a part village inam estate or a Pudukottai inam Estate as defined in section 2(14) of that Act. Then came the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari)

Act, 1963 (Act 30 of 1963) which provided for the acquisition of minor inams in the State and introduction of the Ryotwari settlements in such inams. This was followed by the Tamil Nadu Inams (Supplementary) Act, 1963 (Act 31 of 1963) providing the machinery for the determination of the questions whether a non-ryotwari area in the State of Tamil Nadu was or was not an existing inam estate, apart village in an estate, a minor inam, or whole inam village in Pudukottai.

The appellants and other persons who were similarly situated made applications for the grant or ryotwari pattas in respect of such lands which they claimed to be in their possession on the basis that their lands were covered by Act 30 of 1963. In some cases ryotwari pattas were issued and in some cases the proceedings were still pending. At that time, the Government of Tamil Nadu on the representation made by the ryots of Pudukottai area appointed a special officer for the purpose of investigating into the character of the lands held as inams in Pudukottai area, who on an examination recommended that 116 part inam villages should be brought within the purview of Act 26 of 1963. Accepting the said recommendations, the Tamil Nadu Government passed the Tamil Nadu In m Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1969 (Act 23 of 1969). In the added Schedule 1A to Act 26 of 1963, by the 1969 Act, the two appellants' lands were shown at serial Nos. 2 and 110. The effect of the Act on the rights of the appellants was (i) that their lands came within the scope of Act 26 of 1963 with retrospective effect i.e.. 15.2.65; and (11) that their lands were not covered by Acts 30 and 31 of 1963 and as such any amount paid under Act 30 of 1963 was recoverable with interest thereon at the rate of 3 per cent per annum as if it were an arrears of land revenue and all pending proceedings under the said two Acts abated. The appellants therefore filed writ petitions before the Madras High Court challenging the said Act of 1969. The High Court, came to the conclusion that Act 26 of 1969 was an integral part of the legislation made in the State of Tamil Nadu in order to bring about agrarian reform and therefore all the contentions based on Articles 14, 19 and 31 of the Constitution were untenable and dismissed the writ petitions.

423

Dismissing the appeals by certificates under Article 133(1) (c) of the Constitution, the Court,

^

HELD 1. A reading of the provisions of the Madras Act 26 of 1963 clearly establishes that it was intended to bring about agrarian reform in the State of Tamil Nadu in respect of the estates which were included in Schedule 1A which included the lands of the appellants also. Therefore the lands of the appellants which have been included in Schedule 1A to Madras Act 26 of 1963 by the Madras Act 23 of 1969 are liable to be dealt with under Act 26 of 1963. [436 D-E; 439 B-C]

2.1 After the Seventeenth Amendment of the Constitution the expression "estate" for purposes of Article 31A included within its scope (i) any Jagir, inam or muafi or other similar grant and in the State of Tamil Nadu and Kerala, any janam right; (ii) any land held under ryotwari settlement; and (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 and the expression rights in relation to an estate, included any

rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under raiyat or other intermediary and any rights or privileges in respect of land revenue. Therefore, even granting that the lands in question were ryotwari lands they would still come within the definition of the expression "estate" given in clause (2) of Article 31A of the Constitution. Further their lands could be brought within Act 26 of 1963 for purposes of Act 26 of 1963 with retrospective effect from a date prior to the coming into force of Act 26 of 1963. Any declaration that the lands were not inam estates would have been of no use. It may be that the inclusion of the lands of the appellants was violative of Article 14 but still the law is protected by Article 31A of the Constitution. It is no longer open to the appellants to question about the applicability of Article 31A of the Constitution to Act 26 of 1963. [436 E-H; 438 B-C; G-H; 439 A-B]

Khajamian Wakf Estates etc. v. State of Madras & Anr., [1971] 2 S.C.R. 790 followed.

2.2 The contention that since appellants had only a right to get the patta in respect of the lands on the date on
424

which the impugned Act was passed in the year 1969 the subject matter of the legislation was not agricultural lands and therefore Article 31A of the Constitution was not applicable is untenable. Clause (a) of Article 31A(1) which refers to the acquisition by the State of any estate or of any rights or extinguishment or modification of any such rights would be applicable even to a right to get a patta in respect of an agricultural land and any law which affects such right also would be protected by Article 31A. No such law can be questioned on the ground that it violates Article 14, Article 19 and Article 31. [438 B-R]

2.3 The plea that the Madras Act 23 of 1969 encroached upon the judicial power of courts when it declared that the lands mentioned in Schedule 1A which was added by the said Act were also inam estates is equally untenable. It is true that under Act 31 of 1963 it was open to the parties to seek a declaration before the Settlement Officer, the Tribunal, and the High Court regarding the nature of the tenure of the lands in question but by the impugned Act the State Legislature declared that Act 26 of 1963 was applicable to the lands included in Schedule 1A. That became possible in the case of ryotwari lands after the Seventeenth Amendment of the Constitution on June 20, 1964 with retrospective effect. [438 E-G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION Civil Appeals Nos. 1055-1056 of 1972

From the Judgment and Order dated 6th August, 1971 of the Madras High Court in Writ Petitions Nos 180 and 214 of 1970

S. Balakrishnan for the Appellants

V Rangam for the Respondent.

The Judgment of the Court was delivered by

VENKATARAMIAH, J. These two appeals filed under Article 133(1)(c) of the Constitution of India, as it stood when they were instituted, are filed against the common judgment dated August 6, 1971 of the High Court of Madras in Writ Petition No. 180 of 1970 and Writ Petition No 214 of 1970 dismissing

425

the writ petitions In the said writ petitions along with some others the appellants questioned the constitutional validity of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari Amendment Act, 1969 (Act No 23 of 1969) (hereinafter referred to as 'the impugned Act') by which certain lands held by each of them had been treated as falling within the scope of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) (hereinafter referred to as 'Act 26 of 1963') The appellants in Civil Appeal No. 1055 of 1972 S. Thenappa Chettiar and others were interested in the lands (both wet and dry) measuring altogether 77.23 acres situated at Varpet Village, Tirumayam Taluk, Tiruchirapalli District covered by Title Deeds Nos 7909 to 7979, 8310 to 8312, 8315, 8316, 9209, 9618 to 9623, 9519, 9795 and 9796 and the appellants in Civil Appeal No 1056 of 1972 were interested in the lands (both wet and dry) measuring altogether about 300 acres situated at Gudalur Village, Kolathur Taluk, Tiruchirapalli District covered by Title Deeds Nos 8005 to 8023 and 9447 These lands were situated in the area which formerly formed part of the Pudukottai State which later on was merged in the Indian Union with effect from March 3, 1948 as a result of which it became part of Madras Province In the Province of Madras the question of agrarian reform was taken up for consideration seriously first in the year 1937. The Madras Government appointed a committee headed by Shri T Prakasam to enquire into and to report on the conditions which prevailed in the zamindari and other proprietary areas in the Province. m at committee submitted its report along with a draft bill on the lines of its recommendations No action could be taken on that report as the Congress Ministry which had appointed the committee resigned Then in the year 1948 the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act 26 of 1948) was passed by the Madras Legislature m e said Act applied to all estates namely, zamindaris under tenures and inam estates as defined in section 3, clause (2) of the Madras Estates Land Act, 1908, except inam villages which became estates by virtue of the Madras Estates Land (Third Amendment) Act, 1936 The said Act was intended to provide for the repeal of the permanent settlement, the acquisition of the rights of the land-holders in permanently settled and certain other estates in the Province of Madras and the introduction of the ryotwari settlements in such estates Thereafter for the purpose of

426

completing the process of the agrarian reform initiated by the said Act of 1948, Act 26 of 1963 referred to above was passed Act 26 of 1963 provided for the acquisition of all rights of the land-holders in inam estates in the State of Tamil Nadu and the introduction of the ryotwari settlements in such estates me estates to which this Act was applicable were of two kinds; (i) existing inam estates; and (ii) new inam estates The existing inam estates were inam villages which became estates by virtue of the Madras Estates Land (Third Amendment) Act, 1936 They were whole villages The new inam estate which was a new nomenclature evolved for the purpose of this Act, meant a part village inam estate or a Pudukkottai Inam Estate as defined in section 2(14) of that Act Then came the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwsri) Act, 1963 (Act 30 of 1963) (hereinafter referred to as 'Act 30 of 1963') Act 30 of 1963 provided for the acquisition of rights of inamdars of minor inams in the State of Madras and the introduction of ryotwari settlements in such inams. This was followed by the

Tamil Nadu Inams (Supplementary) Act (Act 31 of 1963) (hereinafter referred to as 'Act 31 of 1963') providing the machinery for the determination of the questions whether any non-ryotwari area in the State of Tamil Nadu was or was not an existing inam estate, a part village inam estate, a minor inam or whole inam village in Pudukottai. The appellants and other persons who were similarly situated made applications for the grant of ryotwari pattas in respect of such lands which they claimed to be in their possession on the basis that their land were covered by Act 30 of 1963. In some cases it appears ryotwari pattas were issued and in some other cases the proceedings were still pending. At that time the Government of Tamil Nadu on the representation made by the ryots of Pudukottai area appointed a Special Officer for the purpose of investigating into the character of the lands held as Inams in the Pudukottai area. The Special Officer on examination recommended that 116 part inam villages should be brought within the purview of Act 26 of 1963. It may be mentioned here that the lands of the appellants had not been brought within the scope of Act 26 of 1963 when it was enacted. Accepting the recommendation, the Act (which is an amending Act) which is impugned in these proceedings, was passed in the year 1969. The Statement of Objects and Reasons accompanying the Bill which ultimately became the impugned Act read as follows-

427

"The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963) applies to all Iruwaram inam estates, part-village inam estates and certain whole inam villages in the merged territory of Pudukottai specified in Schedule I of the Act. There have been repeated representations to the Govt by the ryots of Pudukottai area that most of the inams which have been dealt with under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Madras Act 30 of 1963) are part-inam villages and that they should also be brought within the scope of Tamil Nadu Act 26 of 1963. The Inamdars also preferred counter representations contending that even the villages already brought within the scope of Tamil Nadu Act 26 of 1963 should be taken away from its purview. The Govt considered both the representations and appointed a Special Officer to investigate into the tenure of these inams in Pudukottai area. The Special Officer, after a thorough examination of the whole matter recommended that 116 part-inam villages will have to be brought within the purview of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963). The Government have decided to accept the recommendation of the Special Officer and to bring these 116 part-inam villages within the purview of Tamil Nadu Act 26 of 1963 and to amend the Act suitably.

2. All these 116 part-inams which are proposed to be brought within the purview of Tamil Nadu Act 26 of 1963 are now treated as minor inams. They have vested in the Government under the provisions of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Madras Act 30 of 1963), on the appointed day under that Act. The question as to how the proceedings already taken or pending under Madras Act 30 of 1963 should be treated. The

428

Government have decided that the amending legislation should be deemed to have come into force in respect of these part-inams on the appointed day under Madras Act 30 of 1963 subject

to a proviso that, where in respect of any such Inam estate the operation of the Act has been stayed or interrupted, then the date from which the Government are in uninterrupted possession should be deemed to have come into force in respect of such inam estate. It is also proposed that every order passed in any proceeding taken under Madras Acts 30 and 31 of 1963 in respect of any such estate shall be deemed to be of no effect and any such proceeding pending on the date of the publication of the proposed Act should abate and the amount paid, if any under Madras Act 30 of 1963 to any person should be recovered with interest as if it were an arrear of land revenue "

By section 2 of the impugned Act, section 1 of Act 26 of 1963 was amended by adding sub-section (7) thereto which read as follows -

"(7). Notwithstanding anything to the contrary contained in sub-sections (4) to (6), in regard to Pudukkottai inam estates specified in Schedule IA, this section and sections 2, 4, 5, 7, 8, 56(3), 59, 64, 73 and 75 shall be deemed to have come into force on the 1st January, 1964; and the rest of this Act shall be deemed to have come into force in regard to such Pudukkottai inam estates on the 15th February, 1965

Provided that in the case of any such Pudukkottai inam estate, the settlement of which is published under sub-section (2) of section 3 of the Pudukkottai (Settlement of Inams) Act, 1955 (Madras Act XXIII of 1955), on a date subsequent to the 15th February, 1965, the rest of this Act as aforesaid shall be deemed to have come into force in regard to such Pudukkottai inam estate on such subsequent date

Provided further that where, in regard to any such Pudukkottai inam estate, the operation of the rest of this Act as aforesaid has been stayed or interrupted by order of Court of Tribunal or other

429

authority constituted under any law for the time being in force, the date from which the Government have been in uninterrupted possession of such estate shall be deemed to be the date on which the rest of this Act as aforesaid shall be deemed to have come into force."

The impugned Act also introduced a new section- section 73-B in Act 26 of 1963 which read as follows :-

"73-B Madras Acts XXX and XXXI of 1963 not to apply to Pudukkottai inam estates specified in Schedule IA. - (1) Notwithstanding anything contained in the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Madras Act III of 1963) and in the Madras Inams (Supplementary) Act, 1963 (Madras Act XXXI of 1963)-

(i) the provisions of the said Acts shall be deemed never to have applied to a Pudukkottai inam estate specified in Schedule I-A, and every order passed in any proceeding taken under the said Acts

in respect of that inam estate shall be deemed to be of no effect and if any proceeding under the said Acts is pending on the date of the publication of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1969 in the Fort St George Gazette, such proceeding shall abate; and

(ii) any amount paid under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Madras Act XXX of 1963) to any person, in respect of that inam estate shall, with interest thereon at three per cent per annum, be recoverable as if it were an arrear of land revenue.

(2) Where the entries relating to the inam area and the revenue number and name of revenue village as specified in columns (3) and (4) respectively of Schedule I-A are found to be either incomplete or incorrect with reference to the corresponding entries in the revenue registers, the Government

430

may, by notification, from time to time, amend suitably the entries of columns (3) and (4) aforesaid.

(3) All references made in this Act to Schedule I-A shall be considered as relating to the said Schedule as for the time being amended in exercise of the powers conferred by this section "

In Schedule IA which was added to Act 26 of 1963 by the impugned Act, the lands of the appellants in Civil Appeal No 1055 of 1972 were shown at serial number 2 thereof and the lands of the appellants in Civil Appeal No 1056 of 1972 at serial No. 110 The effect of the Act on the rights of the appellants was that their lands referred to above came within the scope of Act 26 of 1963 with retrospective effect notwithstanding anything to the contrary contained in sub-sections (4) to (6) in regard to Pudukottai Inam Estates as they had been specified in Schedule I-A which was added by the impugned Act to the Act 26 of 1963 Sections 1, 2, 4, 5, 7, 8, 56(3), 59, 64, 73 and 75 of the Act 26 of 1963 were deemed to have come into force in regard to such Pudukottai estates on the 1st January 1964 and the rest of the Act 26 of 1963 became applicable to them with effect from 15th February, 1965. The two provisos which are in sub-section (7) of section 1 of the 1963 Act made certain ancillary provisions with regard to the date from which the Pudukottai Inam estates specified in Schedule I-A came within the ambit of Act 26 of 1963 It is further seen that by virtue of section 73-B which was introduced by the impugned Act in Act 26 of 1963, Act 30 of 1963 and Act 31 of 1963 became inapplicable to the estates specified in Schedule I-A to Act 26 of 1963 including the estates of the appellants Section 73-B provided that the provisions of Act 30 of 1963 and Act 31 of 1963 should be deemed never to have applied to Pudukottai Inam estates specified in Schedule I-A and every order passed in any proceeding taken under the said Acts in respect of these inam estates should be deemed to be of no effect and if any proceeding under the said Acts was pending in respect of any such estates on the date of the publication of the impugned Act such proceedings would abate. It further provided that any amount paid under Act 30 of 1963 to any person in respect of those inam estates was recoverable with interest thereon at

431

the rate of 3 per cent per annum as if it were an arrear of land revenue. Aggrieved by the impugned Act by which their

lands were brought under Act 26 of 1963 the appellants filed the writ petitions referred to above, before the High Court of Madras.

The principal grounds which were urged before the High Court by the appellants in their writ petitions were :-

(a) A Pudukkottai estate which had vested in the Government on its enfranchisement was no longer a Pudukkottai estate on 15.2.1965 when Act 26 of 1963 came into force and therefore Act 26 of 1963 as amended by the impugned Act which came into force in 1969 was inapplicable to such an estate.

(b) The promulgation of the Pudukkottai Inam Settlement Rules, 1888 and their application to the lands of the appellants had the effect of converting the inam lands of the appellants into the freehold assessed lands and even otherwise on the merger of the Pudukkottai State with the Indian Union on March 3, 1948 and on the coming into force of the Pudukkottai (Settlement of Inams) Act, 1955 the lands of the appellant became enfranchised.

(c) The levy of full assessment by the State of Madras on the lands in the merged territory made the lands of the appellants lose the inam character.

(d) In the guise of an amendment the impugned Act of 1969 really attempted to take away the benefit which had already been given to the appellants under Act 30 of 1963 and thus the impugned Act was only a legislative device to deprive the inamdars of their right to get the patta under Act 30 of 1963. It was, therefore, urged that the impugned law was a piece of colourable legislation offending the appellants' fundamental rights guaranteed under Articles 14, 19 and 31 of the Constitution of India.

432

(e) That the impugned law was unconstitutional as there was no public purpose to warrant its enactment nor did it satisfy the requirements of Article 31 (2) of the Constitution.

(f) That the impugned law not being a law for the acquisition of land by the State or acquisition by the State of any estate or any right therein on the extinguishment or modification of any such rights, Article 31-A of the Constitution of India had no application.

In reply it was contended on behalf of the Government of Tamil Nadu that the enfranchisement under the Pudukkottai Inam Rules of 1888 could not take away the inam character of the lands of the appellants. It was further contended by the Government that the impugned enactment of 1969 was only an ancillary amendment to the Parent Act, Act 26 of 1963 so as to bring 116 inam estates treated wrongly as minor inams without proper basis and quite contrary to the tenure of the inams. It was submitted that the impugned Act was in the nature of a legislative declaration on the debatable point as to whether the appellants' lands were or were not inam estates. The State Government lastly depended upon the provisions of Article 31-A of the Constitution and contended that even if the impugned Act was violative of Articles 14, 19 and 31 of the Constitution it was protected by Article 31-A. The High Court on a consideration of the submissions made before it by all the parties came to the conclusion that the impugned Act was an integral part of the

legislation made in the State of Tamil Nadu in order to bring about agrarian reform and therefore all the contentions based on Articles 14, 19 and 31 of the Constitution were untenable. The Writ Petitions were accordingly dismissed. The appellants have filed these appeals after obtaining a certificate of the High Court under Article 133(1)(c) of the Constitution.

As mentioned earlier the process of agrarian reform was commenced in the Province of Madras with the passing of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948. Then came Act 26 of 1963. It applied to all inam estates. An inam estate was defined under section 2(7) of that Act and it meant an existing inam estate or a new inam estate.

433

An existing inam estate was defined as an inam village which became an estate by virtue of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936) and a new inam estate meant a part village inam estate or a Podukottai inam estate. A Podukottai inam estate was defined in sub-section (14) of section 2 of Act 26 of 1963 as an inam village in the merged territory of Pudukkottai and specified in Schedule I and included such other whole inam village in the said territory as the Government might by notification from time to time specify. The lands of the appellants were not included in the Schedule I of Act 26 of 1963 when it was originally enacted. They fell however within the scope of Act 30 of 1963 which was passed in order to provide for the acquisition of the rights of inamdars in minor inams in the State of Tamil Nadu and the introduction of ryotwari settlement in such inams. The expression 'minor inam' was defined in sub-section (9) of section 2 of Act 30 of 1963. Clause (iii) of sub-section (9) of section 2 of that Act declared any inam recognised and confirmed under section 2 of the Pudukkottai (Settlement of Inams) Act, 1955 (Madras Act XXIII of 1955) but not including a new inam estate as defined in clause (9) of section 2 of Act 26 of 1963 and situated in the merged territory of Pudukkottai also as a minor inam. With effect on or from the appointed day as otherwise expressly provided in Act 30 of 1963 every minor inam including all communal lands etc. stood transferred to the Government and vested in it free of all incumbrances. It further provided that all rights and interests created by the inamdar in or over his inam before the appointed day would as against the Government cease and determine and that the inamdar and any other person whose rights stood transferred under clause (b) or cease and determine under clause (c) of section 3 of that Act would be entitled only to such rights and privileges as were recognised or conferred on him by or under the Act. Section 8 of Act 30 of 1963 provided that subject to the provisions of sub-section (2) thereof every person who was lawfully entitled to the Kudivaram in an inam land immediately before the appointed day whether such person was an inamdar or not would with effect on and from the appointed day entitled to ryotwari patta in respect of that land. Sub-section (1) of section 9 inter alia provided that subject to the provisions of section 10, where in respect of an inam land no person was entitled to a ryotwari patta under section 8 and the lands

434

vested in the Government, the persons specified in that section was entitled to a ryotwari patta in respect of that land in the following order of preference: (i) firstly, a person who had been personally cultivating such land for a continuous period of twelve years immediately before the Ist

day of April, 1960; (ii) secondly, if there was no such person as was referred to in clause (i) then a person who had been lawfully admitted into possession of such land on or after the 27th day of September, 1955 and who had been personally cultivating such land ever since; and (iii) thirdly, if there was no such person as was referred to in clauses (i) and (ii) then a person who had been personally cultivating that land on the 26th day of September, 1955 and for a period of twelve years immediately before that date. Explanation I to section 9 declared that in that section a person included an inamdar also. Act 30 of 1963 thus conferred the right on the inamdar to secure ryotwari patta in respect of his lands in a minor inam in certain circumstances specified above. Act 31 of 1963 was enacted to provide for the determination of questions whether any non-ryotwari area in the State of Tamil Nadu was or was not an existing inam estate, a part village inam estate, a minor inam or a whole inam village in Pudukkottai. Section 5 of Act 31 of 1963 provided that notwithstanding anything contained in the Madras Estates Land Act, 1908 (Madras Act 1 of 1908) or in any other law for the time being in force, any person interested might within three months from the notified date as defined in clause (10) of section 2 of Act 26 of 1963 or from the date of publication in the District Gazette under sub-section (5) of section 1 of Act 30 of 1963 of a copy of the notification under sub-section (4) of the said section 1 make an application to the Settlement Officer for a declaration that the non-ryotwari area specified in the application was or was not (i) an existing inam estate; or (ii) a part village inam estate; or (iii) a minor inam; or (iv) a whole inam village in Pudukkottai. The Settlement Officer before whom the application was made was required to decide the question involved in the application after giving a reasonable opportunity to the applicant to be heard in support of his application. The Settlement Officer was empowered to give a decision whether the non-ryotwari area concerned was an existing inam estate, or a part village estate or a minor inam or a whole inam village in Pudukkottai. Against the decision of the Settlement Officer under sub-section (2) of section 5 the

435

State Government or any person aggrieved by such decision might within three months from the date of the decision appeal to the Tribunal. From the decision of the Tribunal a Revision Petition lay to the High Court under section 115 of the Code of Civil Procedure. The final decision rendered under Act 31 of 1963 was binding on all the persons claiming an interest in any land in the non-ryotwari area concerned notwithstanding that any such person had not preferred any application or filed any statement or adduced any evidence or appeared or participated in the proceedings before the Settlement Officer, the Tribunal or the High Court, as the case may be.

The appellants contended that their lands were neither whole inams or part inam villages and that they did not fall within the scope of Act 26 of 1963. They contended that their lands were ordinary ryotwari lands and hence introduction of ryotwari settlement in respect of them did not arise. They pleaded that their lands in any event had to be treated as lands to which Act 30 of 1963 was applicable and they were entitled to reliefs under that Act. Similarly several other land-holders in the same position in Pudukkottai area also raised same contentions and claimed similar reliefs. There was, however, agitation by the tenants who claimed to be in possession of the lands which

were included in the inams in respect of which claims had been preferred by the appellants and several others in the capacity of ryots or minor inamdars. The tenants represented to the Government that most of the inams which had been dealt with or claimed to be falling under Act 30 of 1963 were part inam villages and they should also be brought within the scope of Act 26 of 1963. Some inamdars also preferred counter representations contending that some of even those brought within the scope of Act 26 of 1963 should be taken away from its purview. There was unrest in the villages concerned on account of the disputes between the inamdars and the tenants. Then the Government appointed a Special Officer to investigate into the tenure of these inams in Pudukkottai area. The Special Officer after holding thorough inquiry recommended that 116 part inam villages had to be brought within the purview of Act 26 of 1963. The Government decided to accept the said recommendation and thereafter introduced the Bill in the State Legislature which ultimately became the impugned Act of 1969. On the passing of the impugned Act any proceeding taken under Act 30 and Act 31 of 1963 in respect of

any such estate which was included within Schedule I-A of Act 26 of 1963 by virtue of the impugned Act was to have no effect and all pending proceedings in respect of such estates had to abate and that amount paid if any under Act 30 of 1963 to any person was recoverable with interest at 3% per annum as if it were an arrear of land revenue. The land of the appellants which had been included in Schedule 1A of Act 26 of 1963 were liable to be dealt with in accordance with Act 26 of 1963. In clause 10(A) of section 2 of Act 26 of 1963 which was introduced by the impugned Act by way of amendment the expression 'notified date' in relation to a Pudukkottai inam estate specified in Schedule 1A meant the 15th February, 1965. The two provisos given thereunder made certain ancillary provisions in regard to what was contained in section 2(10-A). By reason of the passing of the impugned Act in 1969 whatever rights the inamdars were claiming under Act 30 of 1963 and Act 31 of 1963 came to an end and the rights and obligations imposed by Act 26 of 1963 which were more prejudicial to the appellants and which conferred certain rights on the tenants commenced to operate.

A reading of the provisions of Act 26 of 1963 clearly establishes that it was intended to bring about agrarian reform in the State of Tamil Nadu in respect of the estates which were included in Schedule 1A which included the lands of the appellants also. It may be observed here that even granting for purposes of argument that the lands in question were ryotwari lands they would still come within the definition of the expression estate given in clause (2) of Article 31A of the Constitution. After the 17th Amendment of the Constitution the expression 'estate' for purposes of Article 31A included within its scope (i) any jagir, inam or muafi or other similar grant and in the State of Tamil Nadu and Kerala, any janar right; (ii) any land held under ryotwari settlement; and (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 and the expression rights in relation to an estate, included any rights vesting in a pro-prietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under raiyat or other intermediary and any rights or privileges in respect of land revenue.

437

In Khajamian wakf Estates etc. v. State of Madras & Anr. [1971] 2 S.C.R. 790 and connected cases a Constitution Bench was required to consider the constitutionality of (i) Act 26 of 1963 as it stood before its amendment by the impugned Act; (ii) Act 30 of 1963; and (iii) the Tamil Nadu Leaseholds (Abolition and Conversion into Ryotwari) Act (27 of 1963). These appeals had been filed against the decision of the Madras High Court dated June 24, 1966. In the above decision this court observed at pages 794-795 thus :

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

"Notwithstanding anything contained in article 13 no law providing for -

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such right.....

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31."

The expression "estate" is defined in sub-Art.(2) of Article 31A. That definition includes not merely Inams but also land held under ryotwari settlement as well as land held or let for the purpose of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pastures or site or buildings and other structures occupied by the cultivators of land, agriculturists and village artisans.

The impugned Acts are laws providing for the acquisition by the State of an "estate" as contemplated by Art. 31A. They seek to abolish all intermediate holders and to establish direct

438

relationship between the Government and the occupants of the concerned lands. These legislations, were undertaken as a part of agrarian reforms. Hence the provisions relating to acquisition or the extinguishment of the rights of the intermediate holders fall within the protective wings of Art. 31A - see B. Sankara Rao Badami and Ors. v. State of Mysore and Anr. [1969] 3 S.C.R.1".

It is therefore no longer open to question before us about the applicability of Article 31A of the Constitution to Act 26 of 1963. We do not find any substance in the contention urged on behalf of the appellants that since they had only a right to get the patta in respect of the lands on the date on which the impugned Act was passed in the year 1969 the subject matter of the legislation was not agricultural lands and therefore Article 31A of the Constitution was not applicable. Clause (a) of Article 31A(I) which refers to the acquisition by the State of any estate or of any rights or extinguishment or modification of any such rights-would be applicable even to a right to get a patta in respect of an agricultural land and any law which affects such right also would be protected by Article 31A. No such law can be questioned on the ground that it violates Article 14, Article 19 and Article 31.

There is no substance in the plea of the appellants

that the impugned Act had encroached upon the judicial power of courts when it declared that the lands mentioned in Schedule 1A which was added by the impugned Act were also inam estates. It is true that under Act 31 of 1963 it was open to the parties to seek a declaration before the Settlement Officer, the Tribunal, and the High Court regarding the nature of the tenure of the lands in question but by the impugned Act the State Legislature declared that Act 26 of 1963 was applicable to the lands included in Schedule 1A. That became possible in the case of ryotwari lands after the Seventeenth Amendment of the Constitution on June 20, 1964 with retrospective effect. The expression 'estate' in Article 31A included a 'ryotwari' land also by virtue of that amendment. Even granting that the lands of the appellants were ryotwari lands they could be brought within Act 26 of 1963 for purposes of agrarian reform. They were declared as inam lands for purposes of Act 26 of 439

1963 with retrospective effect from a date prior to the coming into force of Act 26 of 1963. Any declaration that the lands were not inam estates would have been of no use. It may be that the inclusion of the lands of the appellants was violative of Article 14 but still the law is protected by Article 31A of the Constitution. We do not, therefore, find any substance in this contention also.

The lands of the appellants which have been included in Schedule 1A to Act 26 of 1963 by the impugned Act passed in the year 1969 are liable to be dealt with under Act 26 of 1963. The impugned Act does not suffer from any constitutional infirmity. The appeals, therefore, fail and they are dismissed. There shall, however, be no order as to costs.

S.R.

Appeals dismissed.

440