

PETITIONER:
COMMISSIONER OF SURVEY SETTLEMENTS AND LAND RECORDS, A.P

Vs.

RESPONDENT:
KUNSAM SARANARAYANA & ORS.

DATE OF JUDGMENT: 11/09/1997

BENCH:
A. S. ANAND, K. VENKATASWAMI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

These two Civil Appeals arise out of a common judgment of the High Court dated 10.12.1986. The controversy before us is limited and revolves around a patta of land measuring 28 acres and 82 cents, which is stated to be poramboke land. The respondents produced the said patta before the Reference court in the proceedings under Section 18 of the Land Acquisition Act for the first time. The appellant issued a notice under Section 14-A of the Andhra Pradesh (Andhra Area) Inams (Abolition and conversion Into Ryotwari) Act, 196 (hereinafter the Inam Abolition Act. In that notice, inter-alia, it was stated that there was a prima-facie case to suspect that the patta, in question, had been obtained fraudulently. The notice went on to say :

"It is therefore proposed to take up suomotu enquiry as there is genuineness of the patta alleged to have been issued in this case."

The respondents filed Writ Petition No.1225/78 resisting the claim of the Government that the area of 28 acres and 82 cents, which was the subject matter of the patta, vested in the Government by virtue of Section 2-A of the Inam Abolition Act. That Writ Petition was allowed and it was held that the notice under Section 2-A of the Inam Abolition Act, in the facts of the case, was invalid. The respondents also filed Writ Petition No.1798/85 seeking a direction to the Govt. to initiate proceedings under the Land Acquisition Act in respect of the Patta land, measuring 28 acres and 82 cents. That Writ petition was allowed on 24.3.1986. Writ Appeal No.745/86 was decided against that order. After notice under Section 14-A of the Inam Abolition Act was issued on 22.7.1986, the respondents filed yet another writ Petition No.12044/86, seeking quashing of that notice. The Writ Appeal filed by the Government (W.A.No.745/86) and the Writ Petition filed by the respondents (W.P. 12044/86) were heard together and disposed of by the common judgment, against which these two appeals have been filed.

Before the Division Bench of the High Court, it appears the principle contention that was canvassed was that the

Ryotwari Patta, dated 3.10.1974, in respect of the land measuring 28 acres and 82 cents, was a fraudulent and spurious document. It was asserted that no patta had ever been granted to the respondents and that the same had been manipulated with ulterior motives. In view of the stand taken by the appellant before the High Court, and the counter stand of the respondents, the Division Bench, after taking note of the provision of the Act, issued the following directions :

"1) The Government represented by the appropriate authority shall file a suit within three months from the date of receipt of this order under S.14 of the Act against the petitioners challenging the genuineness of the ryotwari patta allegedly granted to the petitioners on 3.10.1974, by the Tahsildar, Narsipatnam in respect of ac.28-82 cents of land in S.No. 1, 5, 7, 8, 9, 12, 15, 18, 20, 22 and 23 situated in Gopalapatham village Visakhapatnam District.

2) The petitioners shall prove their claim regarding the genuineness of the patta in the aforementioned suit directed to be filed.

3) Independent of the suit directed to be filed by the State Government as abovementioned, the petitioners shall also file a separate suit against the Government after complying with the necessary formalities of giving notice etc., claiming compensation or damage in respect of ac.28-82 cents of land above referred and "Veeraparaju Kathu". The suit should be filed within a period of 4 months from the date of receipt of this order.

4) The suit filed by the Government as well as the petitioners in accordance with the above directions shall be entertained by the court and both of them shall be tried jointly. Considering the long-standing claims the court should make every possible endeavour to dispose of both the suits within a period of nine months from the date of institution of suits.

5) If the Civil courts should uphold the genuineness of the patta, a decree would be passed by the civil court granting damages or compensation as may be considered appropriate on such basis as may be found reasonable by the civil court.

6) It is needless to state that the Government as well as the petitioners will be entitled to seek further remedies if they are

aggrieved by the judgment and decree of the civil court."

Learned counsel for the appellant submits that in view of the provision of Section 14 of the Inam Abolition Act, which bears the jurisdiction of the civil courts, the judgment of the High Court, is not sustainable. We cannot agree.

A perusal of the notice issued under Section 14-A of the Act shows that the enquiry was proposed to determine the genuineness or otherwise of the patta relied upon by the respondents. It was, therefore, essentially the allegation of the appellants that the ryotwari patta dated 3.10.1974, was a fraudulent and spurious one, which had weighed with the authorities to issue Section 14-A notice in the terms in which it was done in the present case. Considering the language of that notice and the facts and circumstances of this case, we find that the directions given by the Division Bench of the High Court (supra) do not suffer from any error whatsoever and call for no interference at our hands. The determination of the genuineness of the patta in the civil court, as directed by the Division Bench was a proper course to be adopted in the peculiar facts and circumstances of this case. Section 14-A of the Inam Abolition Act, which ban the jurisdiction of the civil court to question the decision of the Tehsildar, the Revenue court or the Collector under the Act itself, carves out an exception "where such decision is obtained by misrepresentation, fraud or collusion of parties". The directions given by the High Court (supra) are, therefore, justified by the provisions of Section 14 itself. We do not find any cause to interfere with the impugned judgment. The appeals, therefore, fail and are dismissed, but, without any order as to costs.

We clarify that because of the pendency of the appeals in this court, the time granted by High Court, in direction No.1 and direction No.3, has since expired. The parties shall, therefore, have the same period, as is mentioned in direction No.1 and direction No.3, respectively, to take appropriate action and that period would start running from today.