PETITIONER:
NEDUNURI KAMESWARAMMA

Vs.

RESPONDENT:
SAMPATI SUBBA RAO

DATE OF JUDGMENT:
17/04/1962

BENCH:
HIDAYATULLAH, M.
BENCH:
HIDAYATULLAH, M.
DAS, S.K.
SHAH, J.C.

CITATION:
1963 AIR 884 1963 SCR (2) 208
CITATOR INFO :
F 1977 SC 27 (7,8)

ACT:
Pleading-Written statement not traverred-Relevant issue not raised but material evidence led by parties-Effect-Construction of document, when involves issue of law-Karnikam service inam Dumbala Dharmila inam-Madras Permanent Settlement Regulation of 1802 (Madras Regulation 25 of 1802) Madras Karnams Regulation 1802 (Madras Regulation 29 of 1862)-Madras Hereditary Village Offices Act, 1895 (Mad. III of 1895). The Madras Proprietary Estate's Village Service, Act, 1894 (Mad. II of 1894) s. 17.

HEADNOTE:
The appellant filed a suit for ejectment of the respondent from 4 80 acres of jeroyti land and for mesne profit, which was based on a kadapa executed by the respondent in 1951; agreeing to pay an annual rent, and to vacate the land peacefully at the end of the year of tenancy. Similar kadapas,were executed in earlier years. The respondent denied that the land was jeroyti land and alleged that-,' it was a part of Dharmila inam land granted to his predecessors more than 100 years ago though muchilakas were taken every year, and claimed kudiwaram rights for himself.. He contended that the appellant had only melwaram rights which she had lost as they
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became vested in the Government after the Estate Abolition Act. The appellant did not seek permission of the court to file a rejoinder to the pleas of the respondent, and the trial proceeded without raising any issue with regard to the subject of Dharmila inam. The trial court found that the land was originally karnikam service inam, which was resumed by the Zamindar in 1925 and regranted as jeroyti land. On appeal a ground was raised that the respondent was prejudiced because the decision was given without any pleas or issue that the land was a Karnikam service inam. The first appellate court found against the respondent but the High Court held that the suit deserved to be dismissed on the short ground that the decision of the two courts below proceeded on a matter not pleaded or raised as an issue; and

held further that the land was a Karnikam service inam and dismissed the suit.
The appellants came up by special leave to the Supreme Court. The questions are : (a) whether the suit should be dismissed on the ground of want of proper plea by the appellant in answer to the written statement and (b) whether the decision that this was not a Karnikam service inam is proper in the circumstances of the case.
Held, that since each party went to trial fully knowing the rival case and led all the evidence not only in support of its own contentions but in refutation of those of the other side, it cannot be said that the absence of an issue was fatal to the case, or that there was that mistrial which vitiates proceedings, and the case could not be decided on this narrow ground.
After the passing of Madras Act II of 1894, Karnamas were to be paid in cash and s. 17 of the Act enabled the enfranchisement of lands granted on favourable terms to the Karnamas. Such lands could be granted for village service either by the State or by the proprietor. The gist of s. 17 was that lands granted for the remuneration of the Karnamas were to be resumed by the State if granted by the State, and by the proprietor, if granted by the proprietors and the second proviso to s. 17 was not limited to village artisans. or village servants doing private service but embraced other village servants like Karnamas and others.
Held, that from 1903 to 1925 the suit land was treated as held on Karnam service inam liable to be resumed by the Zamindar, that in all the subsequent documents, it was described as jeroyti land, and that the land was held as Karnikam service inam on the date of resumption, and that
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it was granted as jeroyti land after resumption of the Karnikam service inam.
Held, also, that a construction of document; (unless they are documents of title) produced by the parties to prove a question of fact does not involve an issue of law, unless it can be shown that the material evidence contained therein was misunderstood by the Court of fact.
Held, further, that a concession made by counsel either by mistake or by ignorance on a point of law is not binding on the client.

JUDGMENT:
CIVIL APPELLATE JURISDICTION : Civil Appeal No. 233 of 1960.
Appeal by special leave from the judgment and decree dated September 4, 1958, of the Andhra Pradesh High Court in Second Appeal No. 633 of 1955.
A. Ranganadham Chetty, A. V. Rangam and T. Satyanarayana for the Appellant.
K.Bhimasankaram and I. V. R. Tatachari for the Respondent.
1962, April 17. The Judgment of the Court was delivered by HIDAYATULLAH, J.-This is an appeal with special leave against a judgment in second appeal of the High Court of Andhra Pradesh, by which a suit filed by the appellant was ordered to be dismissed, thus reversing the judgments and decrees of the two Courts below.
The suit was simple, but as it went on from appeal to appeal, it has widened out. It was filed by the appellant for ejectment of the respondent from 4.80 acres of jeroyti land bearing R. S. No. 186/1-2 in Nedunuru Village and for mesne profits. 'The suit was based on kadapa executed by

the respondent agreeing to pay an annual rent of 58 bags of paddy and a sum of Es. 38/- towards
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thirwa and cesses, the appellant undertaking to pay the jeroyti tax. The respondent agreed to vacate tile land peacefully at- the end of the year of tenancy is kadapa is Ex. A- 1 dated April 4, 1951. Similarly,yearly kadavas were 'executed in earlier and 1948 were also produced in the case.

The respondent, however, raised many pleas. He denied that the land was jeroyti land, alleged that it was part of a Dharmila inam land bearing R. S. No. 186/1-2, that the inam was granted to the appellant's predecessors more than 100 years ago, that the respondent's ancestors were ryots of that land from the very beginning, though muchalikas were taken from them every year and were executed by him and also his predecessors out of ignorance and under threats. The respondent claimed the kudiwaram rights for himself and averred that the appellant had only the melwaram rights which she lost, as they became vested in the Government after the Estates Abolition Act. He, therefore, contended that the appellant was now entitled only to a right to compensation, but had no right to the kudiwaram or the right to bring the present suit. The respondent also alleged that the appellant's husband who was a karnam had himself made entries in the Adangal accounts which he maintained, showing the suit land as Dharmila inam.

The appellant did not seek permission of the Court to file a rejoinder to the pleas of the respondent, but must be taken to have denied them. it appears that in the trial her stand was that this was not a Sarvadumbala inam but a karnikam service inam, i.e., an inam in lieu of wages for village service, which was resumed by the Zamindar of Pithapuram, who granted a jeroyti patta (Ex. A-5) on September 1, 1925 to Vakkalanka Venkata sub. barayudu, the predecessor of the appellant. The question which was thus tried by the District Munsif,
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Amalapuram, embraced an issue as to whether the suit land was a Dumbala Dharmila inam before 1925 and had continued till the Estates Abolition Act was passed and enforced, or whether it was a Karnikam service inam granted by the Zamindar of Pithapuram, who could and did resume it in 1925 regranting the land to Vakkalanka Venkatasubbarayudu. It is clear that if the suit land was a Dharmila Dumbala inam, the appellant would have bad only melwaram rights, which she must be deemed to have lost under the Estates Abolition Act, and consequently the respondent would now be considered to have become a ryot. If the suit land was a Karnikam service inam, then the resumption by the Zamindar of Pithapuram in 1925 would be valid and the regrant to Venkatasubbarayudu would make him a tenant and the respondent, a sub-tenant liable to ejectment according to the terms of the kadapa executed by him. Unfortunately, by reason of the fact that the pleas on the subject of Dharmila inam were exclusively raised in the written statement, which pleas were not traversed by the appellant, the issue framed was :

> "whether the suit land is Dharmila inam, and if no, whether the suit in ejectment is maintainable ?"

The issues whether the land was a Karnikam service inam and whether there was valid resumption and a valid re-grant, were not framed., Before the District Munsif, Amalapuram, however, parties led their evidence on the issue, as if it embraced all the other issues not specifically framed.

Twice the case was reopened to give the respondent a chance to lead more evidence, though even so late as that, no attempt was made to get the issue modified or the proper pleadings to be made. After the District Munsif decreed the suit, a ground was raised before the Subordinate Judge, Amalapuram in appeal that the respondent had been

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prejudiced, because the decision was given without any plea or issue that this was a Karnikam service inam, which decision lay at the root of the decree. The learned Subordinate Judge in the appeal before him held that the absence of the issue regarding the Karnikam service inam had not prejudiced the respondent, who had himself set up a case of Dharmila inam and had also met the case of a Karnikam service inam and had filed documents and led evidence in refutation of the other case. He upheld the decision of the District Munsif that this was a Karnqkam service inam, and be confirmed the decree passed by him. On second appeal, the learned single Judge in the judgment under appeal held that the suit deserved to be dismissed on the short ground that the decision of the two Courts below proceeded on a matter not pleaded or raised as an issue. He, however, went on to consider whether the land in question was a Sarvadumbala Dharmila inam or a Karnikam service inam, and came to the conclusion that the two Courts below were wrong in holding that it was a Karnikam service inam. He, therefore, allowed the appeal, and ordered the dismissal of the suit.

In this appeal with special leave, only two questions arise, and they are (a) whether the suit should be dismissed on the ground of want of proper pleas by the appellant in answer to the written statement, and (b) whether the decision that this was not a Karnikam service inam is proper in the circumstances of this case.

On the first point, we do not see how the suit could be ordered to be dismissed, for, on the facts of the case, a remit was clearly indicated. The appellant had already pleaded that this was jeroyti land, in which a patta in favour of her predecessors existed, and had based the suit on a kadapa, which showed a sub-tenancy. It was the respondent

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who had pleaded that this was a Dharmila inam and not jeroyti land, and that he was in possession of the kudiwaram rights though his predecessors for over a hundred years, and had become an occupancy tenant. Though the appellant had not mentioned a Karnikam service inam, parties well understood that the two cases opposed to each other were of Dharmila Sarvadumbala inam as against a Karnikam service inam. The evidence which has been led in the case clearly showed that the respondent attempted to prove that this was a Dharmila inam and to refute that this was a Karnikam service inam. No doubt, no issue was framed, and the one, which was framed, could have been more elaborate ; but since the parties went to trial fully knowing the rival case and led all the evidence not only in support of their contentions but in refutation of those of the other side, it cannot be said that the absence of an issue was fatal to the case, or that there was that mis-trial which vitiates proceedings. We are, therefore, of opinion that the suit could not be dismissed on this narrow ground, and also that there is no need for a remit, as the evidence which has been led in the case is sufficient to reach the right conclusion. Neither party claimed before us that it had any further evidence to offer. We therefore, proceed to consider the

central point in the case, to which we have amply referred already.

The appellant examined four witnesses and respondent, seven in support of their respective cases. The High Court and the two Courts below did not rely upon the oral testimony at all. In view of this, it is not necessary to refer to the evidence of these witnesses, except where the proof of a document is to be considered. The decision in this case therefore, depends upon the documents produced by the two parties in proof of their own contentions. These documents stand divided

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two kinds : (a) those in which the inam is described as Dharmila inam and (b) those in which it is described as Karnikam service inam. Some of these documents do not appear to have been properly proved. There are, besides, many documents which were filed in the case but which are difficult to connect with the land in dispute. The last category will obviously have to be excluded from considera-tion. The most important document, of course, is the jeroyti patta (Ex. A-5) granted by the Zamindar of Pithapuram on September 1, 1925, because if the. land was held for Karnikam service from the Zamindar, then it is admitted that it could be validly resumed and re-granted by the Zamindar. The attempt of the respondent, therefore, which succeeded before the High Court but which had failed before the two Courts below was to show that the land was a Sarvadumbala inam, which could neither be resumed by the Zamindar of Pithapuram nor regranted by him.

The learned single Judge in the High Court treated the finding, that prior to 1925 what existed was a Karnikam service inam, as a finding of law open to him to consider in second appeal. After a painstaking examination of the documents filed by the parties, he came to the conclusion that there was no such thing as a Dharmia Karnikam service inam. He held that the Zamindar had no power to resume this land under the second proviso to s. 17 of the Madras Proprietary Estates' Village Service Act, 1894 (11 of 1894) or to re-grant it on jeroyti patta. In this appeal, it is argued, at the outset, that the learned single Judge, in substance, reversed a finding of fact and that he was not entitled to do so under s. 100 of the Code of the Civil Procedure.

A Construction of documents (unless they are documents of title) produced by the parties to prove a question of fact does not involve

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an issue of law, unless it can be shown that the material evidence contained in them was misunderstood by the Court of fact. The documents in this case, which have been the subject of three separate considerations, were the Land Registers the Amarkam, and Bhooband Accounts and the Adangal Registers, together with certain documents derived from the Zamindari records. None of these documents can be correctly described as a document of title, whatever its evidentiary value otherwise. We do not, however, wish to rest our decision on this narrow ground even if right, because the legal inference from the proved facts may still raise a question of law.

Before we examine for ourselves the various documents in the record of the case we wish to determine the exact point which the evidence has been held to establish. The term "Dharmila" is not a term of art, but is a convenient expression to describe those inams which are post-settlement as distinguished from those that are pre-settlement. Under

s. 11 of the Estates (Abolition and Conversion into Ryotwari) Act, 1948 (26 of 1948 , every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of all ryoti lands. The Act abolishes all rights and interests in an estate belonging to any land holder, and the word "estate" includes an inam estate within the meaning of s. 3(2)(d) of the Estates Land Act. Another consequence of the notification is to extinguish the relationship of the land holder and ryot from the notified date. To avoid the consequences of the Estates (Abolition and Conversion into Ryotwari) Act, both sides claim the benefit of s. 11 of that Act, the appellant claiming occupancy right on the strength of the patta read with the provisions of the Madras Estates Land Act as amended in 1936, and the respondent, on the strength of the averment that the appellant

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and her predecessors held an inam estate having only the meluwaram rights, which got extinguished. Whether the one or the other is right, therefore, depends upon whether the appellant held an inam or was merely a pattadar and thus an occupancy tenant now entitled to be a ryot, and the respondent was merely a sub-tenant. It is from this point of view that the evidence of documents in the case should be viewed.

Before considering this evidence, it is necessary to refer to the provisions of the three statutes, which will clear the ground for our findings. The Madras Permanent Settlement Regulation of 1802 (Madras Regulation 25 of 1802) was passed to fix for ever a moderate assessment of public revenue not liable to be increased under any circumstance, to ensure to the proprietors of lands the proprietary right of the soil. Under that Settlement, instruments fixing the demand were to be delivered to the proprietors, and they, in their turn, were to execute Kabuli at accepting the assessment. Where a part of the Zamindari etc. was sold either in invitum or by private negotiation, the assessment on the separated lands bore the same proportion to the actual value of the separated portion, as the total permanent jama on the Zamindari bore to the actual value of the whole Zamindari. The Zamindars, were required to furnish true accounts for this purpose. Section II of the Regulation provided that the Zamindars or landholders should support the regular and established number of karnam in the several villages of their respective Zamindaries. These karnams were to obey all legal orders, but were removable only by a sentence of a Court of Judicature. Simultaneously, the Madras Karnams Regulation of 1802 (Madras Regulation 29 of 1802) was passed to provide for the efficient establishment of the office of a karnam, so that authentic information and accounts might be had. This Regulation provided for the

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establishment of karnam for each village if the revenue was 400 pagodas or more, but it was possible for a karnam to be appointed for two or more villages where the revenue was less. The office was hereditary except for proved incapacity of the successor. Lists of karnams and of villages under each had to be deposited in the Collectorate. Elaborate provisions were made for the duties of the karnams, the accounts and registers they had to maintain, to the accuracy of which the karnams were compelled to swear.

In 1894, the Madras Proprietary Estates' Village Services Act, 1894 (11 of 1894) was passed to make, better provisions for the appointment and remuneration of the karnams among

others. The Act was extended to certain classes of village officers by whatever designation known locally--
viz.,
(1) Village Accountants.
(2) Head Villages.
(3) Village watchmen or police officers.
On the extension of the Act or any portion thereof to the office of a village accountant in any estate, s. 11 of Regulation 29 of 1802 and Madras Regulation 99 of 1892 were to ceased to be in force. "Estate" was defined to include any permanently ,settled estate or any portion of permanently settled estate separately registered or any inam village or any portion consisting of one or more villages of any of the estates specified earlier held on permanent undertenure. "Village-office" was defined to mean in respect of any estate, an offence in such estate to which the Act or any portion thereof was extended and "Village-officer" meant a person holding or discharging the duties of such office Chapter III of the Act then provided for the imposition of a village service coos, its amount on
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apportionment and the method and incidents of its levy. This was to provide funds for payment of remuneration to the village servants who, prior to the Act, were often remunerated by grant of lands. Section 17 then provided :

> "17. If the remuneration of a village office consists in whole or in part of lands, or assignments of revenue payable in respect of lands, granted or continued in respect of or annexed to such village-office by the State, the State Government may enfranchise the said lands from the condition of service by the 'imposition of quit-rent under the rules for the time being in force in respect of the enfranchisement of village-service-inams in villages not permanently settled or under such rules as the State Government may lay down in this behalf, such enfranchisement shall take effect from such date as the State Government may notify:
> Provided that the said' enfranchisement shall be applicable to all lands or assignments as aforesaid even though, at the time this Act comes into force they may not be devoted to the purpose for which they were originally granted ; and provided further, that any lands or emoluments derived from lands which may have been granted by the proprietor for the remuneration of village-service and which are still so held or enjoyed may be resumed by the grantor or his representative."

The section dealt with. the enfranchisement of two kinds of lands : (a) lands granted the State to be enfranchised by the State, and (b) : lands granted by the proprietor to be enfranchised by the proprietor. Previously, in fixing. the peishkush of
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the Zamindar, due regard was given to the expenses of the office of a karnam, and they were excluded from the assets of the Zamindari. An adjustment of the peishkush was allowed by the Act.
From the above, it will be seen that after the passing of Act II of 1894 the karnams were to be paid in cash and the Act enabled the enfranchisement of lands granted on

favourable terms to the karnams. The lands granted by the State were to be enfranchised by the State and those granted by the Zamindar by the Zamindar. The learned single Judge was of the view that the lands granted or held by way of remuneration for the performance of the village office such as that of a karnam could only be enfranchised by the State Government and not by the Zamindar; who had nothing to do with such lands. The action of the Zamindar in this case in 1925 to resume the lands and to re-grant them by a jeroyti patta was thus said to be entirely without jurisdiction. It was held that if these lands were originally Dharmila inams, they could not be resumed by the Zamindar, nor re-granted, and the learned Judge was of the further view that there was no such thing as a karnam service inam.

The words of s. 17 of Act II of 1894 quite clearly show that lands could be granted for village service either by the State or by the proprietor. The title of the Act is "Proprietary Estates' Village Service". The words "village service" are used in the second proviso to s. 17. Much distinction cannot, therefore, be made between village-officers and village servants, as is made in the Madras Hereditary Village-Offices Act, 1895 (III of 1895). We do not think that the second proviso is only limited to lands granted by the proprietors to village artisans or village servants such as the astrologers and the purohits. Even in the Hereditary Village Offices Act, the term "office" is used not only in

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the title but in connection with artisans and village servants. The gist of s. 17 thus was that lands granted for the remuneration of the karnams were to be resumed by the State if granted by the State, and by the proprietor, if granted by the proprietor.

The land in question in this case has not been shown to be granted at any time by the State. Resumption by the State under s. 17 was thus out of question. The only question is whether it was a Dharmila inam, i.e. a personal service inam granted after the settlement. or a grant for Karnikam service. That the land was held as Karnikam service inam on the date of resumption is amply proved by the proceedings. The question is whether it 'was a Karnikam service inam. On this point, the oral evidence has not been considered, and we have thus only the documents filed by parties.

of these documents Exs. B-37 to B-43, which are the Dharmila inam accounts of Neduru village for fasli 1290 relating to Palivela Thana need not be considered, because it is impossible to connect them with the suit land. Similarly also, Ex. A-17 series, the file of assessment receipts showing payment of taxes to Pithapuram Estate, are all after Ex. A-5, and do not add weight to it. They also concern diverse lands, and cannot be said to clinch the issue. Exhibits A-8 to A-11, A-14 and A-15 are the previous Kadapas executed in favour of the appellant similar to Ex. A-1, on the suit was based. They are not relevant to decide the controversy, except in so far as there is an admission by the respondent that he has taken these lands on a yearly lease. Exhibits B-4 to B-12 are the assessment receipts from the jeroyti ryots. They do not mention the suit land, but the name of Vakkalanka Venkatasubbarayadu is mentioned in them. They show that Venkatasubbarayudu was paying jeroyti tax to the Estate from 1888 to 1901, which is the

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period covered by the, receipts. These too cannot be said to help the appellant, because the identity of the lands again is not clear. The remaining documents undoubtedly

speak sometimes of the land as Dharmila inam and sometimes as held for Karnikam service. The documents on which the appellant relies are divided into two parts,, those after the patta, Ex. A. 5 dated September 1, 1925 or in connection with the grant thereof, and those before the grant of the said patta. Exhibit B-1 is of the year 1903, and is a certified extract of the land register of Nedunuru village for the suit land, and there, it is clearly shown that this was a Dharmila inam held for Karnikam service. Exhibits B-14 and B-15 both of June 15, 1903 also show the same thing. The first is a certified extract of a statement of Vakkalanka Venkatasubbarayudu before the Deputy Inam Collector, and the land is described as "Paikars Mirasi in Karnam Service' " The other also mentions it as a service inam. These documents do not bear out the contentions of the respondents, even though Vakkalanka Venkatasubbarayudu seemed to have objected at the time. In Ex. B-18, which is another entry from the land registers, the land is shown as Dharmila inam for' service as Karnikam. In Ex. A-2 of 1920-21, which is a statement of Dharmila inams and services from the Pithapuram Estate, the inam is shown "for service", but there is a note :

> ",There is no need to continue this Inam free of service. This should be resumed and assessed, if no agreement is given. Continue as long as the service is rendered properly.
> (Signed)... .. for Raja.",

and underneath, there is another endorsement :

> "Immediate steps should be taken to resume his Inam and assess, as they are being paid money."

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This shows that by 1910-21 the change in law under which there was a money payment for Karnikam service was taken note of, and the lands were asked to be resumed by the Zamindar under s. I' of Act 11 of 1894. In Exhibits A-3 and A-4 (1923 and 1924), the Dewan again orders resumption of these lands, and in the latter, notice was ordered to be sent through a vakil. This notice was apparently issued in October, 1924, and the reply to it was given by Vakkalanka Venkatasubbarayudu in Ex. B-34, where he stated that the lands were not Dharmila Karnikam service inam. The admission of Vekkalanka Venkatasubbarayuda is used by the respondent as an admission against himself; but it is quite clear that Vakkalanka Venkatasubbarayudu made that statement merely to avert resumption of the lands, which was quite contrary to the facts already stated by us. Indeed, the Pithapuram Estate did not pay attention to it, and took a statement from Venkatasubbarayudu on September 1, 1925 (Ex. B-35) that he was willing to have a jeroyti patta, though he stated that his action was without prejudice to any case that he might file in Court. Venkatasubbarayudu never filed a suit, and accepted Ex. A-5, the jeroyti patta in 1925. In addition to these documents, the appellant relied on Ex. A-12 an important document of 1904, which is an extract from the Survey and Settlement Register. This land is there shown as held for karnam service. He also relied on Ex. B. 25, but that is not a document relating to this land.

From the above, it will appear that right from 1903 to 1925 this land was treated as held on karnam service inam liable to be resumed by the Zamindar. The other documents show that it was, in fact, so resumed and a jeroyti patta was given, and in all the subsequent documents, it is described as jeroyti land.

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The other side relies upon some accounts which have been summoned from the Estate. Exhibits B-28 to B-30 are the Bhooband accounts of 1814, 1850 and 1851. They relate to some lands which are described as dumbala inams in Chalapalli Nedunuru group., These accounts cannot be connected with the suit land, and no legal inference can be drawn from them. Exhibit B-36 (1906) is the Jhadta account of fasli 1316. The land in suit is mentioned, and there is a not :

> "Entered as kardam service inam but not correct. It is a Dharmila iiiam."

There is no proof why this entry was made in the Jhadta account, who wrote it and when, and the entries are contradicted by the action of the Zamindar between 1921 and 1925 under which these lands were, in fact, resumed, which they would not have been if they were Dharmila inam. This endorsement was held by the District Munsif not to have been proved. P. W. I could not depose to this fact, and we must treat the endorsement as inconclusive, The next is Ex. B-42 of 1892. That is a Dharmila Inam Statement of Nedunuru Palivela Thana. The Palivela Inams, according to the remarks column were granted for ferry service. There is an entry in the name of Vakkalanka Venkatasubbarayudu under the heading "Shrotriem or service", and the entry there reads : "Dharmila Inam", but the extent of the land and its numbers are missing, and thus, there is no satisfactory evidence that this was the land which was described there. There is also a note to the following effect :

> "It is not known when the Inams were granted, by whom they were granted and for what purpose they were granted. No documents are available."

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This document does not throw any light upon the controversy, in view of the lack of material to connect it with the suit land. Exhibit B-2 is the Adangal Register of Fasli 1333, and the land is shown there as Dharmila inam. It is said that this Adanyal Register was written by the appellant's ancestor, who was the karnam. The fact that he was the karnam concedes a great deal of the appellant's case. The entry made by the then karnam in a register which might not have been accurately maintained, cannot lead to an inference that he made this entry against his own interest. In fact these people were claiming about that time that they bad a Dharmila inam, so that it would not be resumed, and it may be that the entry was made merely to support a case. Similarly, Ex. B-26 of 1920 is another account, and might have been written with the same object. The last document is Ex. B-28, which is a list of the dumbala inams in the Zamindari. There are no numbers of the lands, and there is thus nothing in it to connect the list with the land in suit.

From the above analysis of the documents, it is quite clear that the documents on the side of the appellant established that this was a Karnikam service inam, and the action of the Zamindar in resuming it as such, which again has a presumption of correctness attaching to it, clearly established the appellant's case. Much cannot be made of a concession by counsel that this was a Dharmila inam, in the trial Court, because it was a concession on a point of law, and it was withdrawn. Indeed, the central point in the dispute was this, and the concession appears to us to be due to some mistake or possibly ignorance not binding on the client. We are thus of opinion that the decision of the two Courts below which had concurrently held this to be jeroyti

land after resumption of the Karnikam
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service inam was correct in the circumstances of the case, and the High Court was not justified in reversing it.
The appeal is, therefore, allowed, the judgment of the High Court set aside, and that of the lower Court restored, with costs throughout.
Appeal allowed.