

**Paleru Venkateswarlu and ors. Vs. Pothina Chenchiah, Chairman of the Trust Board of Pothinavari Tank and ors.**

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**Court :** Andhra Pradesh

**Decided On :** Jul-31-1992

**Reported in :** 1992(3)ALT25

**Judge :** B. Subhashan Reddy, J.

**Acts :** Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 - Sections 3 and 3(3)

**Appeal No. :** Writ Petition No. 7196/1987

**Appellant :** Paleru Venkateswarlu and ors.

**Respondent :** Pothina Chenchiah, Chairman of the Trust Board of Pothinavari Tank and ors.

**Advocate for Def. :** M.N. Narasimha Reddy, Adv. for 1st Respondent and ;Government Pleader for Revenue for Respondents 2 and 3

**Advocate for Pet/Ap. :** M. Ramaiah and ;D. Krishna Murthy, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

## **B. Subhashan Reddy, J.**

1. This writ petition is filed challenging the order of the 2nd respondent herein setting aside the order dated 2-4-1980 passed by the Special Deputy Tahsildar (Inams), Ongole who is the 3rd respondent herein. The dispute revolves around the agricultural lands and the nature of the rights therein. While the petitioners claim that they were holding the lands in their personal capacity and that they were entitled to have Ryotwari pattas, the contra claim was that the lands belonged to the institution and they are Inam lands. The law which operates is Andhra Pradesh (Andhra Area) Inams Abolition and Conversion Act, 1956 (A.P. Act No. 37/1956). Section 3 confers power on the Tahsildar, which according to the definition includes the Deputy Tahsildar also, to enquire into as to

(1) whether a particular land in his jurisdiction is a Inam land;

(2) whether such land is in Ryotwari, Zamindari or Inam village; and

(3) whether such Inam land is held by any institution. The enquiry initiated can be suo motu or on application. The 3rd respondent herein purporting to exercise his suo motu powers under the above provision, has initiated proceedings and rendered an order on 2-4-1980 holding that the lands in question are Inam lands held by the petitioners and not by the institution. The said proceedings and the said order were on the premise that there were no earlier proceedings of that kind initiated. That is very clear from 3rd paragraph of the order 'In these cases, the old case records of the Special Deputy Tahsildar, Bapatla are not forthcoming. There is also no indication to show that the the decision Under Section 3(3) of the Inams (Abolition and Conversion into Ryotwari) Act, 1956 was issued previously and it was published in the District Gazette. Therefore, I am obliged to take up suo-motu enquiry in these cases under the Inams Abolition Act, 1956.'

2. Admittedly, previously, there were proceedings initiated suo motu by the competent Special Deputy Tahsildar in cases numbers 8598,8599,8600, 8601, 8602,8603,8604 and 8605 of 1959 and after due enquiry, the then Special Deputy Tahsildar (Inams), Bapatla has rendered a decision on 10-3-1960 that the lands in question were Inam lands belonging to the institution. In the records produced by

the learned Government Pleader, the said order is found and Mr. Krishnamurthy, the learned counsel for the petitioner also filed a photostat copy of the said order. Thus, it is crystal clear that there were earlier proceedings concerning the same subject matter, same lands and same adjudication and it was held that the lands in question belonged to the institution and not to the petitioners and that the petitioners were not entitled for ryotwari pattas.

3. I have scanned through the entire scheme of the Act referred to above and I am at loss to find any provision enabling the Special Deputy Tahsildar to reinstitute the proceedings even after the initiation of the proceedings suo motu earlier and the decision thereon. As such, the inescapable conclusion is that the entire proceedings initiated by the 3rd respondent culminating into his order dated 2-4-1980, were rightly set aside on valid grounds by the 2nd respondent, i.e., on the ground of his authority as they are clearly without jurisdiction and are void ab initio and non-est under law.

4. Mr. Krishna Murthy, the learned counsel for the petitioners, further contends that the earlier order passed on 10-3-1960 by the then Inams Deputy Tahsildar, Bapatla had not become final inasmuch as, an appeal was filed in I. A. No. 21/1960 before the appellate authority and that the said order dt. 10-3-1960 passed by the then Inams Deputy Tahsildar, Bapatla, cannot be construed as final and binding. I cannot countenance this argument for the simple reason that, admittedly, there is no stay or suspension of this order dated 10-3-1960 by any appellate or superior authority. It is also not shown to me that the appeal was prosecuted further or that it was allowed setting aside the order dated 10-3-1960. In the absence of the same, the irresistible conclusion is that order dated 10-3-1960 passed by the then Special Deputy Tahsildar (Inams), Bapatla had become final. However, Mr. Krishnamurthy, the learned counsel for the petitioners disputes the correctness of the finding of the 2nd respondent in his proceedings that LA. No. 21/1960 was returned and was not re-presented and that as such it can be taken that the order dated: 10-3-1960 passed by the Deputy Tahsildar (Inams), Bapatia, had become final. His contention is that LA. No. 21 / /1960 is still pending. But, there is no trace of any paper so as to indicate the pendency of the said proceedings. However, I am not adjudicating on the fact as to whether the said

appeal is pending or disposed of and that is entirely irrelevant so far as the adjudication of this writ petition is concerned and this writ petition is dismissed upholding the order of the 2nd respondent, thus annulling the order of the 3rd respondent only on the ground of jurisdiction and authority of the 3rd respondent to re-initiate the suo motu proceedings under Section 3 of the Act referred to above.

5. The writ petition is dismissed. No order as to costs.

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