

K. Krishnan and ors. Vs. Tirumala Tirupati Devasthanams, Rep. by the Executive Officer and anr.

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Court : Andhra Pradesh

Decided On : Apr-26-1995

Reported in : 1995(2)ALT122

Judge : M.N. Rao and ;D.H. Nasir, JJ.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 9 and 11 - Order 41, Rule 27; [Evidence Act, 1872](#) - Sections 65; Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948; Andhra Pradesh (A.A.) Inams (Abolition and Conversion into Ryotwari) Act, 1956 - Sections 2, 4(1) and 14

Appeal No. : A.S. No. 462 of 1991 and C.R.P. Nos. 1291 and 1292 of 1991

Appellant : K. Krishnan and ors.

Respondent : Tirumala Tirupati Devasthanams, Rep. by the Executive Officer and anr.

Advocate for Def. : T. Anantha Babu, Adv.

Advocate for Pet/Ap. : M.L. Narasimham, Adv.

Disposition : Appeal dismissed

Judgement :

M.N. Rao, J.

1. The appeal - A.S. No. 462 of 1991 - and the two civil revision petitions - C.R.P.Nos.1291 and 1292 of 1991-are inter-connected and so they are disposed of by this common judgment.

2. The appeal, by the six defendants, is from the judgment and decree of the learned Additional Subordinate Judge, Tirupati in O.S. No. 146 of 1987 granting a declaration that the suit land admeasuring Ac.2-73 cents in T.S. No. 4042 corresponding to old Survey No. 405 is a religious inam i.e., 'devadayam' granted in favour of the 'Kurathalwar Devasthanams' situated in Sri Govindarajaswamy temple, Tirupati, for its support, which was subsequently, by operation of law, vested in the Tirumala Tirupati Devasthanams, the first respondent-plaintiff. The trial Court also held that the appellants should deliver vacant possession of the plaint schedule property to the plaintiff and that the plaintiff could seek eviction only by taking recourse to Sections 83 and 84 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act (Act 30 of 1987) (for short 'the Act').

3. The case of the Tirumala Tirupati Devasthanams is that they are the absolute owners of the suit land, an inam granted for the support of the Pagoda of Kurathalwar Devasthanams, attached to the Tirumala Tirupati Devasthanams. The property was leased out in 1939 unauthorisedly for a period of 55 years by one Kurathalwar and his wife Thangammal claiming themselves to be the trustees of the Devasthanam to defendants 2 to 6 (appellants 2 to 6) and in an extent of Ac.0-73 cents, the lessees had constructed a cinema hall named 'Mahavir talkies' and the remaining extent of Ac.2-00 is vacant. In respect of the vacant land, it was averred in the plaint, the Tirumala Tirupati Devasthanams carried out several developmental activities but as the defendants - the appellants herein - started denying the title of the Devasthanams, the necessity for filing the suit had arisen. The reliefs sought in the plaint are: (i) declaration of title; (ii) permanent injunction; (iii) damages in a sum of Rs. 18,000/- for use and occupation for three years prior to the institution of the suit; and (iv) payment at the rate of Rs.1,500/-per month for use and occupation from the date of plaint till the date of recovery of possession.

4. The suit was resisted, inter alia, on the ground that the property was the personal property of Kurathalwar alias Alwar Ayyangar and his wife Thangammal, the ancestors of the first appellant, and the same was leased out by their adopted son, Venugopala Chary, for a period of 55 years commencing from 24-3-1939 to 23-3-1994 under a document dated 6-9-1939 in favour of one Sagarmal Sait, who obtained it benami for Kasthurichand, father of the second defendant and the husband of the third defendant. There was a compromise decree in O.S.No.133 of 1942 on the file of the Court of the District Munsif, Tirupati, under which, Kasthurichand was lawfully inducted into possession as the lessee.

5. Earlier to the institution of O.S. No. 146 of 1987 by the Tirumala Tirupati Devasthanams, appellants 2 to 6 herein(defendants 2 to 5 in O.S.No. 146 of 1987) instituted O.S. No. 4 of 1987 in the Court of the Subordinate Judge, at Tirupati for permanent injunction restraining the Tirumala Tirupathi Devasthanams, its officers and subordinates from trespassing upon the plaint schedule lands and also from demolishing the cinema theatre and other structures on the site. It was averred in the plaint that the property was the personal property of Kurathalwar and Thangamma and they executed a lease deed in favour of Sagarmal Sait who obtained it benami for Kasthurichand. They alleged that the Tirumala Tirupati Devasthanams and their men, with the help of police, attempted to level the ground and also put up a notice board that the property belonged to the Devasthanams. Asserting that the Tirumala Tirupati Devasthanams had no title, right or interest in the property, they prayed for a permanent injunction.

6. In both the suits, a joint memo was filed in the trial Court on 10-10-1988 for clubbing the two suits for joint trial. The following are the issues framed in the two suits:

O.S.No. 146 of 1987:

'1. Whether the plaint schedule land is Inam land granted for the support of the pagoda of Kurathalwar Devasthanams?

2. Whether the plaintiff has got title to the suit property?

3. Whether the plaintiff is entitled for the injunction prayed for?
4. Whether the suit is designedly exaggerated by the plaintiff?
5. Whether the plaintiff is entitled for damages for use and occupation. If so to what amount?
6. Whether the defendants have perfected title to the suit property by adverse possession?
7. Whether there is no cause of action for the suit?
8. To what relief?

O.S.No.4 of 1987:

- '1. Whether the plaintiffs are entitled for the perpetual injunction?
2. Whether the plaintiffs are entitled for the mandatory injunction prayed for?
3. To what relief?'

Common evidence was recorded in O.S. No. 146 of 1987. The first defendant in O.S. No. 146 of 1987 gave evidence as D.W.I. Both sides admitted that the suit property is situate in T.S. No. 4042 and its extent is Ac.2-73 cents. Of the two witnesses examined on behalf of the Tirumala Tirupati Devasthanams, P.W.I is the Surveyer in the employment of the Devasthanams since 1957. He produced Ex. A-1 certified copy of the Inam Register, which disclosed that the inam was granted in favour of Kurathalwar religious and charitable institution. It was covered by title deed No. 2285. It did not disclose that the inam was a personal inam in favour of any individual. Ex.A-2, certified copy of the Inam Fair Register, in column No. 2, disclosed the classification of the inam as 'devadayam' and it was described in column No. 8 as 'granted for the devasthanams of Kurathalwar pagoda for its upkeep and daily puja'. The evidence of D.W.I (the first defendant-Appellant No. 1) that the property was the absolute private property of his predecessors was rejected by the learned trial judge as there was no corroboration for that claim and the lease deed executed by Kurathalwar in favour of Sagarmal (Ex.B-1) did not

disclose the source of title. One of the lessees - D-6 - gave evidence as D.W.2 and he had no knowledge about the ownership of the land and the affairs of the suit were looked after by his brother. Ex.A-20 is the photo-stat copy of the title deed which specifically recited that the inam was 'devadayam' for the support of Kurathalwar Devasthanams and the grant was made in favour of the manager of the institution for the time being.

7. After considering the oral and documentary evidence, the learned Judge while noticing the fact that ryotwari patta was not granted in favour of appellant No. 1 {D.W.I) or his predecessors in title, held that the Tirumala Tirupati Devasthanams have got title to the suit property and thus answered issues 1 and 2 in O.S. No. 1 46 of 1987 in favour of the plaintiff-Tirumala Tirupati Devasthanams. While considering jointly issue No. 3 in O.S. No. 1 46 of 1987 and issue Nos.1 and 2 in O.S.No.4 of 1987, the learned Judge held that the leased deed, Ex.B-1, is null and void and that the appellants herein are liable to vacate and deliver vacant possession of the entire Ac.2-73 cents to the Tirumala Tirupati Devasthanams. While holding so, the learned judge also declared that the possession of the suit property by the defendants (appellants herein) is that of encroachers within the meaning of Section 83 of the Act and consequently concluded that the Tirumala Tirupati Devasthanams could seek eviction of the lessees (appellants 2 to 6) by taking recourse to Sections 83 and 84 of the Act. Section 83 lays down the procedure for eviction and Section 84, the mode of eviction. Till such time the lessees are evicted by due process of law, the learned Judge held that they are entitled to 'protection by way of injunction against any attempts at high-handed dispossession by the Tirumala Tirupati Devasthanams'. A limited relief was thus granted to the appellants 2 to 4, who are the plaintiffs in O.S. No. 4 of 1987 to the above effect. The learned Judge also held on issue No. 5 in O.S.No.146 of 1987-entitlement for damages for use and occupation - that the Tirumala Tirupati Devasthanams are entitled to past damages for use and occupation for three years prior to the suit and for future damages from the date of the suit till the date of recovery of possession but however, the same shall be ascertained on a separate application under Order 20 Rule 12 of the Code of Civil Procedure. While granting a decree in part so far as O.S. No. 146 of 1987 filed by the Tirumala Tirupati Devasthanams to the effect that they are entitled for the reliefs of

declaration of title and recovery of possession through due process of law and recovery of past and future damages, the learned Judge decreed in part, the suit filed by the lessees - O.S. No. 4 of 1987 - to the effect that they are entitled to the relief of injunction 'protecting their possession till they are dispossessed by due process of law.' The relief of mandatory injunction was consequently negated.

8. Aggrieved by the judgment and decree in Q.S. No. 146 of 1987, the defendants preferred the present appeal - A.S. No. 462 of 1991. So far as O.S. No. 4 of 1987, the suit filed by defendants 2 to 6 in O.S. No. 146 of 1987 - appellants 2 to 6 herein - is concerned, no appeal was filed. When the present appeal came up for hearing before another Division Bench, realising that if the judgment and decree in O.S. No. 4 of 1987 were to become final, the present appeal might be barred by res judicata, an application - C.M.P. No. 16099 of 1994 - was filed seeking condonation of delay of several years in preferring an appeal against O.S. No. 4 of 1987, but the same was dismissed on 14-2-1995. The result of the dismissal of the application for condonation of delay is that the judgment and decree in O.S. No. 4 of 1987 attained finality.

9. Sri Anantha Babu, learned Counsel for the respondent-Tirumala Tirupati Devasthanams, at the threshold stage, raised an objection that the appeal must be dismissed as it is barred by res judicata. Where a Court tries jointly two suits and disposes them of by a common judgment and if no appeal is preferred against one suit, the appeal preferred against the other suit must fail at the threshold stage as barred by res judicata. As there was common trial in both the suits-issues were clubbed together, defence was common and arguments were common - and the finding that the plaintiffs in O.S. No. 4 of 1987 (appellants 2 to 7 herein) are in possession of the suit land as trespassers and so are liable to be evicted having become final, the appellants herein should not be permitted to unsettle that position indirectly by arguing the present appeal on merits. The test to determine the application of the principle of resjudicata is whether two inconsistent decisions will come into being and that would be the situation if this Court were to decide the present appeal on merits. Although, appellant No. 1 - the descendant of the lessor, Kurathalwar, alleged to be the owner, was not a party to O.S.No.4 of 1987, it makes no difference as to the legal consequence flowing from the application of

the principle of resjudicata since the lessors had no independent rights but were only fighting the battle of their landlords and they were in full charge of the litigation. Whether or not the Court which disposed of the two suits had jurisdiction cannot be gone into once the bar of res judicata is attracted. The statutory authorities under the Inams Abolition Act are not empowered to grant the reliefs claimed in the suit filed by the Tirumala Tirupati Devasthanams, from out of which the present appeal arises and, therefore, Section 14 of the Inams Abolition Act containing the bar of suit has no application.

10. In opposition to these submissions, Sri MX. Narasimham, learned Counsel for the appellants, has contended that the trial Court had no jurisdiction to go into the question whether the suit land was an inam land in view of the bar contained in Section 14 of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act 1956 (Act No. 37 of 1956) (for short 'the Inams Abolition Act'). The question of determination of inam lands is a matter exclusively within the domain of the statutory authorities contemplated under the Act. The Civil Court, by virtue of Section 14 of the Inams Abolition Act, has no jurisdiction except where the decision of the statutory authorities was obtained by 'misrepresentation, fraud or collusion of parties'. As the nature of the suit land was not determined by the competent authority under the Inams Abolition Act, the suit - O.S. No. 146 of 1987 - itself was not maintainable. Even the suit O.S. No. 4 of 1987 filed by the appellants 2 to 6 was also not maintainable since the suit land is an inam land. So far as the merits of the case are concerned, the only contention urged by Sri M.L. Narasimham for the appellants is that Ex. A-20, photostat copy of the title deed, ought not to have been received in evidence since the same was not filed along with the plaint. The only course open, according to the learned Counsel for the appellants, is that the matter must now be remitted to the statutory authorities to determine the nature of the land under the Inams Abolition Act.

11. The central question for consideration is: whether the appeal is barred by resjudicata?

12. The principle of resjudicata is a rule of evidence. Section 11 of the Code of Civil Procedure does not incorporate all the facets of the rule of resjudicata.

Section 11 applies in terms to a case where the matter in issue was already dealt in a former suit as an issue. Every matter decided in a former suit does not (sic) within the prohibition of res judicata in a subsequent suit. The essential conditions for invoking the principle of resjudicata as laid down by a Full Bench of this Court in Veeranna v. Sayamma, 1958 ALT 354 (F.B.). are:

- '1. The matter directly and subsantially in issue in the subsequent suit or issue must be the same matter which was directly and substantially in issue either actually or constructively in the former suit.
2. The former suit must have been a suit between the same parties or between parties under whom they or any of them claim.
3. The parties must have litigated under the same title in the former suit.
4. The Court which decided the former suit must have been a Court competent to try the subsequent suit or the suit in which such issue is subsequently raised.
5. The matter directly and substantially in issue in the subsequent suit must have been heard and finally decided by the Court in the first suit.'

13. In Raj Lakshmi Dasi v. Banamali Sen, AIR 1953 SC 33 at 40, it was held by the Supreme Court:

'When a plea of res judicata is founded on general principles of law, all that is necessary to establish is that the Court that heard and decided the former case was a Court of competent jurisdiction. It does not seem necessary in such cases to further prove that it has jurisdiction to hear the later suit. A plea of res judicatn on general principles can be successfully taken in respect of judgments of Courts of exclusive jurisdiction, like revenue Courts, land acquisition Courts, administration Courts etc. It is obvious that these Courts are not entitled to try a regular suit and they only exercise special jurisdiction conferred on them by the statute.'

14. The appellants herein were defendants 1 to 6 in O.S. No. 146 of 1987 filed by the Tirumala Tirupati Devasthanams for declaration and other reliefs mentioned

supra and appellants 2 to 6 herein were the plaintiffs in O.S. No. 4 of 1987 instituted by them for perpetual injunction and also for mandatory injunction in respect of the very same plaint schedule property. In O.S. No. 4 of 1987, appellants 2 to 6 herein rested their claim for possession on the ground that appellant No. 1 herein is the lawful owner of the suit property. The question as to appellant No. 1's title to the suit property had to be incidentally considered in O.S. No. 4 of 1987 for the purpose of adjudicating the reliefs sought therein. The plaint in O.S. No. 4 of 1987 was founded on the averment that the suit property constituted the personal property of Kurathalwar Iyyengar and his wife Thangammal and that a lease deed was executed for a period of 55 years by Kurathalwar in favour of one Sagarmal Sait benami for one Kasthurichand, the father of the first plaintiff (appellant No. 2). The allegation was that the officers of the Tirumala Tirupati Devasthanams were threatening to demolish some of the structures on the land and attempted to enter upon the vacant portion of the land. The plaintiffs (appellants 2 to 6), therefore, sought a permanent injunction restraining the Tirumala Tirupati Devasthanams and their officers from trespassing upon the plaint schedule lands and for a mandatory injunction directing the Tirumala Tirupati Devasthanams to remove the illegal encroachments like stands, angles and other erections. The reliefs sought are clearly of a civil nature; there was no embargo under any law depriving them of the right to approach the Civil Court under Section 9 of the Code of Civil Procedure for the aforesaid reliefs. The contention of Sri M.L. Narasimham, learned Counsel for the appellants, is that because the Tirumala Tirupati Devasthanams in their written statement had taken the plea that the suit land is an inam land granted for the support of the pagoda of Kurathalwar Devasthanams managed by the Tirumala Tirupati Devasthanams and, therefore, the Tirumala Tirupati Devasthanams are the lawful owners and also filed the second suit-O.S. No. 146 of 1987-claiming title to the suit land on the ground that it is an inam land, the trial Court ought to have dismissed both the suits on the ground of want of jurisdiction since the suits raised the question as to whether the suit land is an inam land, which is a matter falling within the exclusive jurisdiction of the statutory authorities under the Inams Abolition Act. We do not agree.

15. The Madras (Estates Abolition and Conversion into Ryotwari) Act, 1948 was passed by the Composite Madras State providing for abolition of all estates as defined in the Act and their conversion into ryotwari tenure. All major inams fell under the purview of the aforesaid Estates Abolition Act. Inams are minor estates outside the purview of the Estates Abolition Act. In order to provide for conversion of all inams other than estates into ryotwari tenure, Act No. 37 of 1956 - the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act - was enacted. It came into force on 14th December, 1956. Section 2(c) of the Inams Abolition Act excludes inams constituting an estate under the Estates Abolition Act. An inam village, by clause (d) of Section 2, is one which is designated as such in the revenue accounts of the Government. Section 3 deals with determination of inam lands. It confers power on the Tahsildar to enquire, either suo motu or on application, (i) whether a particular land in his jurisdiction is an inam land; (ii) whether such inam land is in ryotwari, zamindari or inam village; and (iii) whether such inam land is held by any institution. An aggrieved party may prefer an appeal to the Revenue Court, whose decision is made final by Sub-section (5). Section 4 deals with conversion of inam lands into ryotwari lands. Sub-section (1) of Section 4 says that in the case of an inam land in a ryotwari or zamindari village, a person or institution holding such land as inamdar on the date of the commencement of the Inams Abolition Act shall be entitled to a ryotwari patta in respect thereof. Sub-section (2) deals with inam lands in inam villages; it provides for three classes of cases - (i) inam land held by an institution on the date of the commencement of the Act; (ii) inam land held by a person other than an institution and is in his actual occupation on the said date; and (iii) inam land held by an inamdar other than an institution on the date of the commencement of the Act but the land is in the occupation of a tenant on the said date. The grant of a ryotwari patta is provided for in Section 7. The Tahsildar, suo motu and shall, on an application by a person or an institution, is required to determine the persons or institutions entitled to ryotwari pattas in accordance with the provisions of Section 4. Against the order of the Tahsildar, an appeal is provided to the Revenue Court. Section 8 deals with the right of permanent occupancy of the tenants in occupation of inam lands in inam villages held by an institution. Section 9 incorporates the procedure for evicting the tenants having rights of permanent occupancy. Section

12 makes every person or institution receiving ryotwari patta liable to pay to Government, the ryotwari assessment. Section 13 confers powers of a Civil Court on the Tahsildar and the Revenue Court in respect of certain matters-summoning of documents, enforcing of attendance, receiving evidence on affidavits etc. Section 14, which bars the jurisdiction of Civil Courts, is in the following terms:

'Section 14. Bar of jurisdiction of Civil Courts:- No suit or other proceedings shall be instituted in any Civil Court to set aside or modify any decision of the Tahsildar, the Revenue Court, or the Collector under this Act, except where such decision is obtained by misrepresentation, fraud or collusion of parties.'

There was some doubt as to whether all inams stood abolished on the date of coming into force of the Inams Abolition Act. A Special Bench of five judges of this Court in *Bujanna v. Tahsildar, Rapur Taluk*, 1980(1) ALT 107. after examining the provisions of the Inams Abolition Act, expressed the view:

'Although the object of the Act is to abolish and convert inam tenures into ryotwari tenures, there is no specific provision in the Act expressly stating that the abolition and conversion of the inam land into ryotwari tenure will take place on the date of the commencement of the Act or on any other date.'

Taking note of the fact that by Section 11, the provisions of the Andhra Tenancy Act are made applicable to lands in respect of which ryotwari pattas are granted under Section 4, the Special Bench observed that 'inam land continues until it is finally decided as to who is entitled to a ryotwari patta under Section 7 of the Act'. Rejecting the contention that inams stood abolished on the date of the commencement of the Inams Abolition Act and that all inam lands lost their character as inams, the Special bench observed:

'The legislative intention appears to be clear that there should be no time lag between the abolition and conversion of inam lands into ryotwari and that they should take place simultaneously. In other words, the intention is to abolish inam tenure by conversion into ryotwari tenure, and until conversion into ryotwari tenure takes place, the inam tenure continues. The scheme and object of the Act, coupled with the various provisions of the Act, indicate that the abolition of the

inam tenure of the inam land would take place simultaneously or contemporaneously with the conversion of the inam lands into ryotwari tenure.'

16. The trial Court had taken note of the fact that no enquiry was held under the Inams Abolition Act for determination of the nature of the suit land and for consequent abolition of the inam and conferment of a ryotwari tenure. Under Section 4 of the Inams Abolition Act, the entitlement to a ryotwari patta in the case of an inam land had arisen on the date of commencement of the Act. The special Bench in *Bujjdanna's case*³ while rejecting the contention that on the commencement of the Act, the inams stood abolished, observed:

'The expression 'on the date of commencement of the Act' only determines the person or institution in possession of the inam land on that date who is entitled to get a ryotwari patta. The right to get a patta cannot be equated to the grant of a patta. The person or institution declared entitled to the ryotwari patta under Section 4 of the Act has to work out his rights in accordance with the procedure laid down by the Act and obtain a ryotwari patta.'

Therefore, even if the contention of Sri M.L. Narasimham, learned Counsel for the appellants, that the nature and character of the suit land itself was indispute was to be accepted, the result would be that the Tirumala Tirupati Devasthanams would continue to be the inamdar entitled to possession until a ryotwari patta was issued. As it was not the case of the appellants herein that the suit land was either an inam land or they were the tenants, the Tirumala Tirupathi Devasthanams, as an institution holding the inam land on the date of commencement of the Inams Abolition Act, would have obtained a ryotwari patta under Section 4(1). As an inamdar, the Tirumala Tirupati Devasthanams would be entitled to protect and safeguard their possession and that is what they did by filing O.S. No. 146 of 1987 when appellant No. 1 herein claimed to be the owner of the suit land and appellants 2 to 6 herein, leasees of the suit land through the first appellant, put up constructions. The reliefs of permanent injunction, delivery of vacant possession, damages for use and occupation and declaration of title are all matters which are totally outside the purview of the statutory functionaries under the Inams Abolition Act. Same is the situation with regard to the reliefs sought in O.S.No.4 of 1987 filed

by appellants 2 to 6 - permanent injunction restraining the Tirumala Tirupati Devasthanams from interfering with the suit property and mandatory injunction directing the Tirumala Tirupathi Devasthanams and their officers to remove all articles and structures from the suitland. These reliefs are clearly beyond the purview of the statutory functionaries under the Inams Abolition Act.

17. In respect of inams, the prohibition contained in Section 14 of the Inams Abolition Act is not total. It is confined only 'to set aside or modify any decision of the Tahsildar, the Revenue Court or the Collector under this Act except where such decision is obtained by misrepresentation, fraud or collusion of parties.' Thus it is clear that only when the decision rendered by a statutory authority under the Inams Abolition Act - the Tahsildar, the Revenue Court or the Collector - is sought to be challenged, the bar comes into play. Even in such cases, the exceptions provided are where the decisions of the statutory authorities were obtained by misrepresentation, fraud or collusion of parties.

18. In *Peda Govindayya v. Subba Rao*, 1969 (2) ALT 336., the Ancestors of the plaintiffs dedicated the suit land - land and tamarind tope - for the benefit of the public and the title deed was granted by the Tnams Commissioner in favour of the ancestors of the plaintiffs as the trustee of the charitable tope free of tax. When the usufruct of the tamarind tope was cut and carried away by the defendants, a suit was instituted for framing a scheme for the management of the trust property, which comprised nearly Ac.20-00 of tamarind tope. The case of the defendants was that their ancestors dedicated only the usufruct for the benefit of the villages and the obligation to distribute the tamarind fruit ceased as a result of levy of full assessment on the land under the provisions of the Inams Assessment Act and that they became ryotwari owners after a patta was granted in their favour under the provisions of the Inams Abolition Act. One of the objections raised was that the suit itself was not maintainable. A Division Bench of this Court while holding that 'a charitable tope can be regarded as an institution by itself', held that the Tahsildar had no jurisdiction under Section 3 of the Inams Abolition Act to treat the suit land as an inam land held by an institution. 'The enquiry under Section 3 is only confined to the question whether the inam land is held by the institution'. After examining the provisions of the Inams Abolition Act including Section 14, the

Division Bench held:

'.....the sole object of the Act is to alter and abolish the inam tenure, and ryotwari pattas are granted to individuals for the sole purpose of collecting the land revenue thereon. The enquiries under the Act are stated to be summary and the scope of the enquiries and the remedies provided under the Act are not as adequate and effective as the ordinary remedies open before a Civil Court. The Revenue authorities are not entrusted with the duties of adjudicating upon the title of persons in possession under general law. Even if the Revenue authorities decide the disputes of rival claimants, the said decisions cannot operate as *res judicata* between the parties in a Civil Court. As there is no express provision in the said Act that decisions of Revenue authorities under the Act are binding on a Civil Court, the finality attaching to the decisions of the Revenue authorities under the Act is always understood as being final only before the Revenue authorities and for the purposes of the Act and nothing more.'

19. The learned Counsel for the appellants has invited our attention to an unreported decision of another Division Bench of this Court in A.S. No. 71 of 1973 dated 1-4-1976 in *The Vattichenikuru Village Panchayat v. Nori Venkatrama Deekshitulu and Ors.* and contended that by virtue of the later decision, the view taken in *Peda Govindayya's case* (4 *supra*) must be deemed to have been overruled. We unhesitatingly reject this contention. One Division Bench of the High Court cannot overrule the law laid down by another Division Bench unless it is on the ground that the earlier decision was *per incuriam*, i.e., decision rendered in ignorance of a binding precedent or a relevant statutory provision. See: *Union of India v. Raghubir Singh*, : [1989]178ITR548(SC) . Neither appears to be the case here. In the *Vattkherukuru Village Panchayat's case*, the plain tiff was the gram panchayat and the suit was instituted for recovery of possession of the plaint schedule lands on the averments that there was a public tank in the village for the maintenance and preservation of which, A Schedule lands comprising Ac.29-18 cents were granted as 'dharmadayam' and with the income from the A schedule lands, the trustees purchased B schedule properties at a later point of time and after the passing of the Gram Panchayats Act, the public tank became vested in the Gram Panchayat and along with it, its endowment. The defendants, it was

alleged, managed to get pattas under the Inams Abolition Act and as they were not effecting any repairs to the tank and misappropriating the income, the Gram Panchayat sought a decree for recovery of possession. Contesting the suit, the defendants pleaded that the inam was a 'dasabandhanam inam' - personal grant burdened with service - and it was annexed to the tank. After the Inams Abolition Act came into force, an enquiry was held in which it was decided that the grant was not to an institution but to an individual and consequently, a patta was granted to the defendants, and therefore, the suit was barred under Section 14 of the Inams Abolition Act. The trial Judge agreeing with the contentions of the defendants dismissed the suit. In the appeal, the Division Bench held:

'.....where the very question to be decided between the parties was decided inter parties in a proceeding under the Inams Abolition Act and that was a question which fell for the decision of the Revenue authorities under Section 3(1) of the Act, it must be held that the civil Court's jurisdiction is barred by Section 14 of the Act.'

This statement of law, in our considered view, is unexceptionable. The learned Judges agreed that the question that arose for consideration in Peda Govindayya's case (4 supra) was not within the competence of the authorities constituted under the Inams Abolition Act and, therefore, the jurisdiction of/the Civil Court was not ousted. But the Division Bench while referring to certain observations made in Peda Govindayya's case (4 supra), especially the passage extracted supra, observed:

'In the face of Section 14, we find it difficult to understand what exactly was meant by the learned Judges.'

The later Division Bench expressed the view that questions of title under the Inams Abolition Act also can be gone into by the Revenue authorities. 'When the statute expressly authorises the Revenue authorities to decide a particular question of title, it is difficult to see how we can say that the Revenue authorities are not entrusted with the task of adjudicating upon questions of title. The basis for this conclusion is found in the following reasoning of the Division Bench.

'It is true that the ultimate object of the Act is to abolish Inam Tenure and replace it by Ryotwari Tenure. But, in the process of achieving that object, several questions fall to be decided under the Act and the Revenue authorities have been given exclusive jurisdiction to decide those questions.'

The later Division Bench, therefore, categorically expressed the view that questions of title are within the jurisdiction of the Revenue authorities under the Inams Abolition Act in respect of inam lands. With great respect to the learned Judges, we are not inclined to agree with this view. The object of the Inams Abolition Act is not to confer jurisdiction on the Revenue authorities to decide questions of title in respect of inam lands. Even incidentally, that question cannot be adjudicated upon by the Revenue authorities. The Special Bench in Bujjanna's case (3 supra) has discussed very clearly about what is meant by a ryotwari tenure and in what manner it is different from an inam tenure:

'.....in the case of inam lands, they are held either free of assessment or are liable to pay quit rent, jody or other amount of like nature, which is much less than the assessment payable in respect of similar ryotwari lands. Thus the essential incident of an inam tenure is the grant of a land either rent free or at low quit rent or jody or other amount of like nature. It is this benefit of holding the land either rent free or at low quit rent or jody or other amount of like nature that is taken away by conversion of inam tenure into ryotwari tenure and full assessment under the ryotwari system is levied.'

The extinguishment of the rights of the inamdar takes place by operation of the Inams Abolition Act only when 1/3rd portion of the inam land in occupation of the tenant is actually given to the inamdar but not otherwise, is the view taken by the Special Bench in Bujjanna's case (3 supra). We, therefore, cannot agree with the statement of law so widely laid down in the Vattichemkuru Village Panchayat's case that questions of title also can be decided by the Revenue authorities under the Inams Abolition Act in respect of inam lands. The Judgment in Peda Govindayya's case (4 supra), in our view, is sound and we respectfully agree with the same.

20. Another Division Bench of this Court in *K. Ramana Reddy v. The State of A.P.* 1973 (1) APLJ 388, reiterated the view that under the Inams Abolition Act, 'it is obvious that suits of a specified nature only are barred, namely, the suits which involve a direct attack on the decisions of the Revenue Tribunal or the Tahsildar; that is to say for setting aside or modifying the orders of the Revenue authorities under the Act, subject to the exceptions stated in case of misrepresentation, fraud or collusion of parties. If the purpose of the suit is not directly to set aside or modify the order of the Revenue authorities, it is always open to the Civil Courts to consider all questions in a suit instituted praying for reliefs which cannot be granted by Revenue authorities.' The ruling in *Veerayya v. Punnamma*, 1958(2) An.W.R. 134. rendered by a Division Bench of this Court to the effect that the Inams Abolition Act being a special Act, unless the procedure set out in the Act is followed, no remedy can be asked for in the suit, in no way lays down a different principle contrary to the view taken in *Peda Govindayya's case* (4 supra).

21. It is a well accepted principle of law that ouster of jurisdiction of Civil Courts cannot be presumed lightly; any provision of law which divests the jurisdiction of the Civil Courts must be interpreted strictly. See: *Abdul v. Bhawani*; : [1966]3SCR617 . If the relief sought in a civil suit is outside the purview of the authorities constituted under the special enactment, the legal position is not in doubt the Civil Courts can be approached for necessary relief, See: *Kankaiyalal v. Dr. D.R. Banaji*; : [1959]1SCR333 . In *Dhulabhai v. State of M.P.* : [1968]3SCR662 . a Constitution Bench of the Supreme Court speaking through the learned Chief Justice Hidayatullah, laid down the following propositions as to under what circumstances the jurisdiction of the civil Courts is divested:

'1. Where the statute gives a finality to the orders of the special tribunals, the civil Court's jurisdiction must be held to be excluded if there is adequate remedy to do what the Civil Courts would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.

2. Where there is an express bar of the jurisdiction of the Court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the Civil Court.

Where there is no express exclusion, the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in Civil Courts are prescribed by the said statute or not.³ Challenge to the provisions of the particular Act as ultra vires cannot be brought before Tribunals constituted under that Act. Even the High Court cannot go into that question on a revision or reference from the decision of the Tribunals.

4. When a provision is already declared unconstitutional or the constitutionality of any provision is to be challenged, a suit is open. A writ of certiorari may include a direction for refund if the claim is clearly within the time prescribed by the Limitation Act but it is not a compulsory remedy to replace a suit.

5. Where the particular Act contains no machinery for refund of tax collected in excess of constitutional limits or illegally collected a suit lies.

6. Questions of the correctness of the assessment apart from its constitutionality are for the decision of the authorities and a civil suit does not lie if the orders of the authorities are declared to be final or there is an express prohibition in the particular Act. In either case, the scheme of the particular Act must be examined because it is a relevant enquiry.

7. An exclusion of the jurisdiction of the Civil Court is not readily to be inferred unless the conditions above set down apply.'

22. A mere plea that invocation of the remedy of approaching the statutory authorities is burdensome because of the statutory requirement to comply with

certain conditions cannot be a sufficient ground for invoking the jurisdiction of the Civil Court bypassing the statutory authorities. See: *Srikant K. Jituri v. Corporation of Vie City of Balgaum*; : AIR 1995 SC288 .

23. Having regard to the nature of the reliefs claimed in the two suits, we find it difficult to hold that the trial Court had no jurisdiction to entertain the suits. The reliefs sought are beyond the competence of the statutory authorities under the Inams Abolition Act and, therefore, we cannot countenance the contention that the trial Court acted without jurisdiction in entertaining the suits. See: *State of W.B. v. The Indian I & S. Co.*; : [1971]1SCR275 . Reliance upon the decision of the Supreme Court in *Sushil Kumar Mehta v. Godind Ram Bohra* : (1990)1SCC193 , an authority for the proposition that a decree passed by a Court with out jurisdiction is a nullity and, therefore, its invalidity could be set up even at the stage of execution or collateral proceedings, is of no assistance to the appellants.

24. For the above reasons, we reject the contention of the learned Counsel for the appellants that the Court below should have dismissed both the suits as not maintainable and remitted the matter to the statutory authorities under the Inams Abolition Act.

25. By reason of the judgment and decree in O.S.No.4 of 1987 becoming final, can it be said that this appeal is barred by res judicata? We think, the answer is in the affirmative. In *Sheodan Singh v. Daryao Kunwar*, : [1966]3SCR300 , four suits were consolidated and tried together with the consent of the parties. By a common judgment, the civil Court disposed of the four suits but separate decrees were drawn up in each suit. Five issues were common in all the suits, and there were other issues in each case separately. One of the common issues related to the respective rights of the parties to the suit property. Against the decrees in the four suits, two appeals were preferred to the High Court and two appeals to the District Court and later the appeals were transferred from the District Court to the High Court to be heard along with the other two connected appeals. Two of the four appeals were dismissed by the High Court - one on the ground of limitation and the other on account of failure to apply for translation and printing of the record as required by the rules of the High Court. The question was whether the dismissal of

the two appeals would constitute res judicata in so far as the other two surviving appeals were concerned. A Full Bench of the Allahabad High Court took the view that the surviving two appeals must fail on the ground of res judicata. Affirming that view, the Supreme Court held:

'It is well settled that where a decree on the merits is appealed from, the decision of the trial Court loses its character of finality and what was once res judicata again becomes res sub Judice and it is the decree of the appeal Court which will then be res judicata. But if the contention of the appellant were to be accepted and it is held that if the appeal Court dismisses the appeal on any preliminary ground, like limitation or default in printing, thus confirming in toto the trial Court's decision given on merits, the appeal Court's decree cannot be res judicata the result would be that even though the decision of the trial Court given on the merits is confirmed by the dismissal of the appeal on a preliminary ground, there can never be res judicata.'

On that reasoning, the Supreme Court concluded:

'We are therefore of opinion that where a decision is given on the merits by the trial Court and the matter is taken in appeal and the appeal is dismissed on some preliminary ground, like limitation or default in printing, it must be held that such dismissal when it confirms the decision of the trial Court on the merits itself amounts to the appeal being heard and finally decided on the merits whatever may be the ground for dismissal of the appeal.'

26. The common question in controversy in both the suits in question was whether the suit land was an inam land or private land belonging to appellant No. 1's ancestor, from whom it was taken on lease by the second appellant's father. Although the first appellant was not a party to O.S. No. 4 of 1987, the rest of the appellants were fighting the battle of the first appellant's rights as a landlord. They had no independent rights and they were fully incharge of the entire litigation. It is not the specific language in which the issues were framed but the substance of the same must be taken into consideration in deciding the question of res judicata. As observed by the Supreme Court in *Gulabchand v. State of Gujarat* , : [1965]2SCR547 , the provisions of Section 11 of the Code of Civil Procedure are

not exhaustive with respect to an earlier decision operating as *res judicata* between the same parties on the same matter in controversy in a subsequent regular suit and that on the general principles of *res judicata*, any previous decision on a matter in controversy, decided after full contest or after affording fair opportunity to the parties to prove their case by a Court competent to decide it, will operate as *res judicata* in a subsequent regular suit.

27. What was the 'matter in controversy' in both the suits in question? Undoubtedly, the controversy pertained to the nature of the suit land. The finding given is that it is an inam land granted for devadayam purpose to Kurathalwar temple and that appellants 2 to 5 herein are encroachers. Appellant No. 1 had no title and no evidence, whatever, was brought on record by him to establish the title of his ancestors. Issue No. 3 in O.S. No. 146 of 1987 - whether the plaintiff-Tirumala Tirupati Devasthanams is entitled to injunction as prayed for - and issue Nos. 1 and 2 in O.S. No. 4 of 1987 - (i) whether the plaintiffs are entitled to perpetual injunction, and (ii) whether the plaintiffs are entitled to a mandatory injunction as prayed for - practically cover the same ground. If this appeal is to be heard and decided on merits, there is a likelihood of inconsistent decrees coming into existence since the very source of the title in both the suits as put forward by the appellants herein is identical and such a situation is precluded by the principle of *res judicata*. As observed by the Supreme Court, 'one of the tests for deciding whether the doctrine of *res judicata* applies to a particular case or not is to determine whether two inconsistent decrees will come into existence if it is not applied. See: *Venkateswara Prabhu v. Krishna Prabhu*; : [1977]2SCR636 .

28. The result of the decree in O.S. No. 4 of 1987 is that the appellants 2 to 6 herein who were claiming their rights from appellant No. 1 are trespassers, they have no title and that they are liable to be evicted. That decree which attained finality cannot be disturbed indirectly by adjudicating the very same questions in the present appeal. The decisions relied upon by Sri ML. Narasimham, learned Counsel for the appellants, in *Nannu Prasad v. Nazim Husain*, AIR 1928 All. 274, *Man Mohan v. Shib Chandra*, AIR 1931 Cal. 353 and *Ram Sarup v. Saranu Mal* , AIR 1938 Lahore 114. , are not in point. *Nannu Prasad's* case relates to a second appeal which arose out of one suit from which two appeals were filed. Both the

appeals were decided by a common judgment and two decrees were prepared. One party had not preferred an appeal but the other party had preferred a second appeal. The Allahabad High Court held that the second appeal was not barred by res judicata following an earlier Full Bench decision in *Ghansham v. Bhola Singh*, AIR 1923 All. 490. The Supreme Court in *Sheodan Singh's case* (14 supra) distinguished *Ghansham's case*, AIR 1923 All. 490, on the ground that it was a case of one suit from which two appeals had arisen but not two suits.

29. In *Man Mohan's case* (18 supra), there were two suits instituted by the same parties against each other. Both were tried together and one of the parties preferred an appeal from the decision in which he was the defendant and not from the other suit instituted by him. It was held that the latter would not operate as res judicata. The Calcutta High Court in coming to that conclusion followed the Madras High Court's view in *Panchanan v. Vaidyanatha*, (1906) 29 Mad. 333., and the Allahabad High Court's view in *Ghansham Singh*, AIR 1923 All. 490, which as already noticed was distinguished by the Supreme Court in *Sheodan case* (14 supra). It, therefore, follows that the Calcutta High Court's view is no longer a good law. *Ram Samp's case* (19 supra) was decided on the basis of a Full Bench judgment of the Lahore High Court reported in *Mt. Lachhmi v. Mt. Bhulli*, (1927) 14 AIR Lahore 289., and this decision was held to be 'incorrect' by the Supreme Court in *Sheodan Singh's case* (14 supra). We, therefore, hold that A.S.No.462/1991 filed against O.S.No.146 of 1987 is liable to be dismissed on the ground of general principles of res judicata.

30. Even though we have held that the appeal is barred by res judicata, we are inclined, in order to avoid a possible remand in the event of the apex Court not agreeing with our view on the application of the principle of res judicata, to discuss the contention urged on the merits by the learned Counsel for the appellants. Sri M.L. Narasimham, learned Counsel, says that the Court below ought not to have accepted Ex.A-20 photostat copy of the title deed which was marked subject to objection. If Ex.A-20 is eschewed from consideration, according to the learned Counsel, there is nothing to support the case of the respondent-Tirumala Tirupati Devasthanams. We do not agree. P.W.2, a surveyor in the employment of the Tirumala Tirupati Devasthanams since 1987 produced Ex.A-20. He stated in his

evidence that 'the then vicharana kartha who was managing the Tirumala Tirupati Devasthanams received the title deed on 14-3-1889. The original title deed is not available. Ex.A-20 is the photo- stat copy of the title deed. (Ex.A-20 marked subject to objection by the learned Counsel for the defendants regarding non-production of the original)'. The original title deed was of the year 1889 and as it was not available, secondary evidence was adduced by filing a photostat copy Ex.A-20. In the cross- examination,P.W .2 stated that he produced Ex.A-20 from the office record sand he did not know as to whath appened to the original. He denied the suggestion that the documents - Exs. A-14 to A-20 - were brought up for the purpose of the suit. Having regard to the nature of the title deed, which was of the year 1889 and the little possibility of obtaining the original in a reasonable time, the admission of Ex. A-20 as secondary evidence is permissible, in our view, under Section 65(c) of the Indian Evidence Act. Further, it is pertinent to notice that although a formal objection was taken at the time of marking of Ex.A-20, no arguments appeared to have been advanced before the trial Court on this aspect at the time of the final hearing of the suits.

31. After considering the entire evidence on record including the village accounts, Inam Register and the Inam Fair Register (Exs.A-1 and A-2), the learned trial Judge recorded the finding that the widow of late Kurathalwar Srinivasa Charyulu was acting only as a manager for the time being of the temple and that she had no individual capacity and that the documentary evidence clearly establishes 'that the suit land was devadayam religious inam granted in favour of a religious institution viz., Kurathalwar Devasthanams situated in Sri Govindaraja Swamy temple, Tirupati for its support' and the plea of the defendants that it is the private ancestral property of D.W. (Defendant No. 1) and his predecessors was totally falsified by the documentary evidence adduced by the plaintiffs. The first defendant in his evidence admitted that he was not having any title deed to show the source of the title of himself and his ancestors and he tried to explain it by saying that the title deeds and copies were lost in the cyclone and he did not even choose to file any registration copy of the title deeds. His assertion that in the village accounts, the suit land was registered in his name was falsified by Exs.A-6 and A-7, certified copies of the village accounts. Considering these aspects, the learned trial Judge observed, 'thus, admittedly, D.W.I (defendant No. 1) is not

having any documents evidencing the title of himself or of his fore-fathers to show that the property is their personal absolute property'. Adverting to the assertion of the defendants that there was previous litigation between themselves and the municipality in which their rights in the suit property were recognised, the learned trial judge,,after discussing the evidence, held that there was nothing to show that the alleged ownership rights of the first defendant were upheld in any of the previous proceedings.

32. So far as the merits of the case are concerned, the entire argument is advanced by the learned Counsel for the appellants only for the purpose of obtaining a judgment that the matter should be enquired into by the statutory authorities under the Inams Abolition Act. About this aspect, we have, in extenso,discussedsupraholding that the reliefs claimed in both the suits cannot be granted by the statutory authorities under the Inams Abolition Act.

33. On 30th January, 1995, three miscellaneous petitions were filed by the appellants in this appeal. C.M.P. No. 1232 of 1995 was for dismissal of the suit with costs on the ground that fraud was played by the respondent-Tirumala Tirupati Devasthanams by filing Ex.A-20, a forged document, C.M.P. No. 1233 of 1995 also is for the same relief on the ground that there was no title deed of the natureof Ex.A-20 and that the entire suit was founded on a forged document and, therefore, the same should be dismissed with costs. C.M.P. No. 1234 of 1995 was for reception of additional evidence. The document sought to be brought in as additional evidence is said to be the original title deed in possession of the appellants.

34. In the common affidavit filed in support of the three applications, it is averred by the fourth appellant, Tarachand, that at the time of filingof the suits and during the trial of the suits, the appellants herein were not in a position to produce the original title deed granted 'to our predecessors'.'.....it could not be produced earlier because we thought that it was lost during the cyclone. Now after incessant search, we were able to find the original title deed which is now in our possession and which we crave leave of this Court to file as an additional document....' In his evidence, the first appellant as D.W.I said that he had no title deed and that it was

lost in the cyclone. It is a mystery how the present deponent - appellant No. 4 - could secure the so called original title deed. The affidavit is vague. How the deponent could get into possession of the so failed original title deed has not been stated. He is only a lessee. The first appellant who claims to be the descendant of the alleged original grantee has not filed the affidavit. Under Order 41 Rule 27 of the Code of Civil Procedure, the parties to an appeal are not entitled to produce additional evidence, but there are three exceptions engrafted to this rule.

'(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) the Appellate Court requires any document to be produced, or any witness to be examined to enable it to pronounce judgment or for any other substantial cause.'

Clause (a) and (aa) have absolutely no application. As we do not require this document to pronounce the judgment and as there is no other substantial cause, clause (b) also has no application. All the three C.M.Ps., are, therefore, dismissed.

35. C.R.P.No.1291 of 1991 was filed by the Tirumala Tirupati Devasthanams against the order of the learned Additional Subordinate Judge, Tirupati in I. A. No. 329 of 1991 directing amendment of the decree by deleting clause (2) of the operative portion of the decree and substituting the same with the following:

'That the plaintiff be at liberty to recover vacant possession of the plaint schedule property through due process of law i.e., by taking recourse to Sections 83 and 84 of Act No. 30 of 1987.'

The portion which was substituted read as follows:

'that the defendants do deliver vacant possession of plaint schedule property after removing the super structures therein failing which the plaintiff is at liberty to recover the possession of the plaint schedule property through due process of law.'

The learned trial Judge was of the view that the decree was not in consonance with the judgment. There was no reference in the judgment regarding the removal of the super structures on the plaint schedule property but that was added in the decree. The learned Judge also felt that it was necessary to clarify what is meant by 'due process of law' and, therefore, the learned Judge allowed the application for amendment of the decree.

36. The Tirumala Tirupati Devasthanams filed LA. No. 556 of 1991 seeking review of the aforesaid order but that application was dismissed by the learned Judge. The reasoning given by the learned Judge is that when in the judgment it was held that defendant Nos. I to 6 (appellants herein) were termed as encroachers, they should be dealt with according to the provisions of Act No. 30 of 1987 and therefore, the decree was clarified. Aggrieved by that order, C.R.P.No. 1292 of 1991 was filed by the Tirumala Tirupati Devasthanams. At the interlocutory stage, a learned single Judge of this Court by an order dated 12th July, 1991 directed that the Tirumala Tirupati Devasthanams should handover possession of the plaint B and C schedule properties to the tenants 'after obtaining acknowledgment from the tenants on or before 20th July, 1991 and also after obtaining an undertaking from the tenants that they will handover the same soon after the disposal of the appeal on or before 5th September, 1994, whichever is earlier. The relevance of the date -5th September, 1994- is that the lease period expired by that date. As the appeal was not disposed of, the appellants moved the Supreme Court in S.L.P. No. 15001 of 1994 to enable them to continue to be in possession of the suit property. On that application, the following order was passed on 5-9-1994 by the Supreme Court:

'Pending notice there will be an interim stay of dispossession during the pendency of the appeal pending before the High Court but this shall be subject to the condition that all arrears on account of damages and use and occupation upto

31st August, 1994 shall be paid within one month from today and from 1st September, 1994 shall be paid at the rate of Rs. 5,000/- per month. The amount shall be deposited with the Executive Officer of the Tirumala Tirupati Devasthanams, Tirupati, each month. If there is any failure to deposit the amount any month, the stay will stand automatically vacated.'

Accordingly, as per the aforesaid order of the Supreme Court, the appellants herein, it is represented, have been paying Rs. 5,000/- per month to the Tirumala Tirupati Devasthanams. Arguments in the appeal before us were completed on 29-3-1995 and the matter was reserved for judgment. Another order was passed in the aforesaid S.L.P. by the Supreme Court granting status quo for a period of one week after observing that as the judgment in the main appeal was reserved by the High Court, the petitioners/appellants can move the High Court for appropriate orders if the judgment was likely to be delayed. When the matter was brought to our notice, we passed an order on 13-4-1995 directing 'status quo to continue pending delivery of judgment in A.S. No. 462 of 1991'.

37. In view of the subsequent events, the civil revision petitions are closed as unnecessary since the appellants, by virtue of this judgment, have to hand over possession of the suit property to the respondent-Tirumala Tirupati Devasthanams as the lease period had expired.

38. In the result, the appeal is dismissed with costs.

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