

APPELLATE CIVIL.

Before Mr. Justice Munro and Mr. Justice Abdur Rahim.

1908.
August
24, 52.
September
11.

SUBBAROYA CHETTY AND OTHERS (DEFENDANTS
Nos. 1, 3 AND 4), APPELLANTS,

v.

AIYASWAMI AIYAR AND ANOTHER (PLAINTIFF AND
SECOND DEFENDANT), RESPONDENTS.*

Inam enfranchisement of lands farming—Enfranchisement, no resumption and fresh grant—Adverse possession, right acquired by, can be inherited or conveyed—Lapse of time does not change character of state.

Where a service inam, which consists of land and not the assessment only thereon, is enfranchised, such enfranchisement only disannexes the land from the office and converts it into ordinary property releasing the reversionary right of the Crown in the inam. It has not the effect of a resumption and fresh grant so as to affect the rights of other persons existing at the time of the enfranchisement.

Pingala Lakshmiipathi v. Bommireddipalli Chalamayya, [(1907) I.L.R., 30 Mad., 434], referred to.

A person holding property adversely for less than the statutory period, acquires, as against every one but the true owner, an interest capable of being inherited, devised and conveyed; and, where such an interest in service inam land is inherited by the widow, she takes only a widow's estate, which is not enlarged by subsequent enfranchisement; nor is it by continued possession for more than the statutory period, converted into an absolute estate. Mere lapse of time will not change the character of such estate, in the absence of evidence to show that she claimed an absolute interest in such properties.

SECOND APPEAL from the decree of A. F. Pinhey, District Judge of Madura, in Appeal Suit No. 282 of 1906 presented against the decree of R. A. Krishnaswami Aiyar, District Munsif of Dindigul, in Original Suit No. 263 of 1905. Suit to recover land.

The facts necessary for the report of this case are sufficiently set out in the judgment.

The Hon. Mr. V. Krishnaswami Aiyar and T. V. Gopataswami *Mudaliar* for appellants.

T. V. Seshagiri Aiyar and K. B. Ranganatha Aiyar for respondents.

JUDGMENT.—The suit lands were formerly service inam lands attached to the office of karnam. One Venkatasubba Aiyar who

* Second Appeal No. 1004 of 1907.

held that office was dismissed in 1878, and his cousin Viswanatha Aiyar was appointed in his place. Viswanatha Aiyar got a decree for the inam but failed to get possession from Venkatasubba Aiyar. Venkatasubba Aiyar died in 1886, and thereafter his widow Sivakami was in possession till 1894, when the inam was enfranchised in her name. Sivakami continued in possession till 1902, when she sold the lands under exhibit X to the first defendant. Sivakami died in 1904. The suit is by the plaintiff as reversioner to recover the lands. The plaintiff succeeded in both the Courts below.

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The points pressed in second appeal are that the lands were the absolute property of Sivakami from the date of the enfranchisement, and that, in any case, she had at the date of exhibit X acquired title by adverse possession.

As to the first point it is contended that, as the lands themselves constituted the inam, there was at the enfranchisement a resumption and fresh grant by the Government to Sivakami. This contention is opposed to the latest decisions of this Court. In *Gunnaiyan v. Kunachi Ayyar*(1), the suit lands, as in the present case, and not the assessment formed the emoluments of the office and it was held that the enfranchisement did not operate as a resumption and fresh grant by the Government. This was approved by the Full Bench in *Pingala Lakshmiipathi v. Bommi-redipalli Chalamayya*(2), where it was laid down, "that the enfranchisement disannexes the inam from the office, converts it into ordinary property, and releases the reversionary right of the Crown in the inam, but that it does not confer on the persons named in the title-deed any right in derogation of those possessed by other persons in the inam at the time of the enfranchisement." It follows that the title of Sivakami was in no way enlarged by the enfranchisement. If her estate at the time of the enfranchisement was that of a widow, the enfranchisement did not make it anything more.

In 1886 when her husband Venkatasubba Aiyar died, Sivakami took as his widow the interest he had in the suit property. No doubt Venkatasubba Aiyar had not acquired any title as against the true owner, as he had been in adverse possession only.

(1) (1903) I.L.R., 26 Mad., 339. (2) (1907) I.L.R., 30 Mad., 434.

MUNRO AND from 1878, but his possession gave him, as against every one but
 ABDU the true owner, an interest capable of being inherited, devised or
 RAHIM, J.J. conveyed—vide *Narayan Row v. Dharmachar*(1). In 1894, when
 SUBBAROYA conveyed—the inam was enfranchised, the widow's estate which Sivakami took
 CHETTY in 1886 remained a widow's estate, and the enfranchisement did
 v. not convert into her absolute property.
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As to the second point there is no foundation for the contention that Sivakami had obtained an absolute right to the property by adverse possession in 1902 when she executed exhibit X. It is not shown how her original widow's estate changed into something else. Mere lapse of time would not change the character of that estate. In exhibit XVII, dated the 16th October 1893, and in exhibit XIII, dated the 8th March 1901, Sivakami referred to the suit properties as the properties which she acquired from her husband and which she had been enjoying with patta in her name. In exhibit X, the only other document to which we have been referred, Sivakami, no doubt, said she had been enjoying with absolute right, but we are not referred to any evidence that she ever set up such a right to the properties before, or any right other than as the widow of her husband.

We dismiss the second appeal with costs.

APPELLATE CIVIL.

*Before Sir Arnold White, Chief Justice, and Mr. Justice
 Abdul Rahim.*

GURUMURTHI REDDI, MINOR BY HIS MOTHER AND NEXT
 FRIEND LINGAMMAL (PLAINTIFF), APPELLANT.

v.

GURAMMAL AND ANOTHER (DEFENDANTS NOS 2 AND 4),
 RESPONDENTS.*

*Hindu Law—Collateral succession—Property not taken from 'ancestor'
 does not devolve with incidents of ancestral property.*

Property inherited by one from a collateral relation, as a brother, uncle, etc., is not taken as, and subject to the incidents of, ancestral property, and his male descendants are not coparceners with him in respect of such property.

* Second Appeal No. 1465 of 1905.

(1) (1903) I.L.R., 26 Mad., 514 at p. 516.