

## APPELLATE CIVIL.

*Before Sir Basil Scott, Kt., Chief Justice, and Mr. Justice Batchelor.*

1909.  
November 6.

RAMRAY GOVINDRAO (ORIGINAL PLAINTIFF), APPELLANT, v. THE SECRETARY OF STATE FOR INDIA IN COUNCIL AND ANOTHER (ORIGINAL DEFENDANTS), RESPONDENTS.\*

*Revenue Jurisdiction Act (X of 1876), section 4, sub-section (a)†—Act XI of 1852—Land held as Saranjam—Decision of the Inam Commissioner—Finality—Suit for declaration of title and possession—Exclusion of jurisdiction of Civil Courts.*

In the year 1858 the Inam Commissioner decided that a certain estate was Saranjam of P. and not his Sarv Inam. On P.'s death in 1899 Government resumed the estate on the ground that it was Saranjam and re-granted it to V., one of P.'s grandsons. Subsequently the plaintiff, another grandson of P., brought a suit against the Secretary of State for India and V. for declaration of title and possession on the ground that the immoveable property in suit was plaintiff's Sarv Inam property and could not be taken from his possession by Government or its officers or re-granted to any one else.

*Held,*

1. That the decision of the Inam Commissioner was, by virtue of the provisions of Rule 2, Schedule A of Act XI of 1852, final as regards the land and interests concerned in the decision.

\* First Appeal No. 21 of 1909.

† Section 4, sub-section (a), of the Revenue Jurisdiction Act (X of 1876) runs thus :—

4. Subject to the exceptions hereinafter appearing, no Civil Court shall exercise jurisdiction as to any of the following matters :—

(a) Claims against Government relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874, or any other law for the time being in force, or of any other village-officer or servant ; or

Claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service ; or

Suits to set aside or avoid any order under the same Act or any other law relating to the same subject for the time being in force passed by Government or any officer duly authorized in that behalf ; or

Claims against Government relating to lands held under treaty, or to lands granted or held as Saranjam, or on other political tenure, or to lands declared by Government or any officer duly authorized in that behalf to be held for service,

2. That after such final decision, the title and continuance of the estate must be determined under Schedule B, Rule 10 of the Act, under such rules as Government may find it necessary to issue from time to time.

3. That in accordance with those rules the estate was, on P.'s death, resumed by Government who re-granted it to V.

*Held*, further, that the suit having been against Government relating to land as Saranjam was excluded from the jurisdiction of the Civil Courts by the provisions of sub-section (a) of section 4 of the Revenue Jurisdiction Act (X of 1876).

APPEAL from the decision of T. D. Fry, District Judge of Dharwar, rejecting the claim in Original Suit No. 3 of 1907.

Suit for a declaration of title and for possession of property.

The property in suit formed part of the estate known as Hebli estate in the Dharwar District. A question having arisen as to whether the estate was Saranjam or Sarv Inam, Major Gordon, the Inam Commissioner, decided in the year 1858 that it was Saranjam and not Sarv Inam. One Pandurangrao had a fourth share in the estate. On his death in 1899 the share was resumed by Government on the ground that it was Saranjam. After the resumption Government passed an order in the year 1902 re-granting the share to one Narsingrao. The Secretary of State for India, however, cancelled the said order and re-granted the share to Vithalrao, a minor grandson of Pandurangrao. Owing to the minority of the grantee, his property was managed by the Collector of Dharwar as guardian.

On the 15th August 1907 the plaintiff, another grandson of Pandurangrao, brought the present suit against the Secretary of State for India as defendant 1 and Vithalrao as defendant 2, for declaration of title and possession, alleging that the property was Sarv Inam and was held by his grandfather, Pandurangrao, as full owner and that the re-grant to Vithalrao was illegal.

The defendants contended *inter alia* that the property was Saranjam and not Sarv Inam, that the plaintiff had no cause of action regarding the resumption and re-grant made under the Saranjam Rules and that the suit was barred by section 4, clause (a), of the Bombay Revenue Jurisdiction Act (X of 1876).

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The District Judge found that under the provisions of section 5 and Rule 2 of Schedule A of Act XI of 1852 it was not open to him to question the declaration made by Government in their Resolution No. 676, J. D., dated the 6th March 1863, that the property in suit was Saranjam, the said declaration being final, and that he had no jurisdiction to entertain the suit under section 4 (a) of the Bombay Revenue Jurisdiction Act (X of 1876). He, therefore, dismissed the suit.

The plaintiff appealed.

*K. H. Kelkar* for the appellant (plaintiff).

*G. S. Rao* (Acting Government Pleader) for the respondents (defendants).

SCOTT, C. J.:—One Pandurangrao, the grandfather of the plaintiff and the second defendant, was the owner of one-fourth share of the Hebli estate in the Dharwar District. On his death in 1899, Government, on the ground that the property was Saranjam, resumed Pandurangrao's one-fourth share and granted it to Narsingrao. That order was cancelled by the Secretary of State and by his orders the property was granted to Vitthalrao, the second defendant.

The Collector of Dharwar, as the guardian of Vitthalrao, has taken the property into his possession, and the plaintiff, who claims to hold as one of the heirs of Pandurangrao on the footing of the estate being a Sarv Inam of Pandurangrao, sued the Secretary of State and Vitthalrao for a declaration of title and for possession. He seeks to have it declared that the immoveable property in suit is the Sarv Inam property of the plaintiff and cannot be taken from his possession by Government or its officers or re-granted to any one else.

The question whether the Hebli estate was Sarv Inam or Saranjam, was decided by the Inam Commissioner, Major Gordon, in July 1858, under the provisions of Act XI of 1852. The Inam Commissioner then recorded his decision that the claimant's title (the claimant being an ancestor of the plaintiff) to hold Kasba Hebli in Sarv Inam was invalid, and he held that it was in fact a Saranjam property.

The decision of the Inam Commissioner is, by virtue of the provisions of Rule 2 of Schedule A of Act XI of 1852, final as regards the land and interests concerned in the decision. But once it has been decided finally by the Inam Commissioner that the Hebli estate is Saranjam, the title to and continuance of the estate must be determined, under Schedule B, Rule 10 of the Act, under such rules as Government may find it necessary to issue from time to time.

On the 17th of May 1898, Government passed rules for the regulation of the continuance and resumption of Saranjam estates, and those rules apply to the Hebli estate as well as to other Saranjams. In accordance with those rules, the estate was, upon the death of Pandurangrao, resumed by Government and re-granted, and as a result of the revision effected by the Secretary of State the share of Pandurangrao in the Hebli Saranjam has been re-granted to Vithalrao, the second defendant.

This, then, is a suit against Government relating to land held as Saranjam, and is therefore excluded from the jurisdiction of the Civil Courts by the provisions of sub-section (a) of section 4 of the Revenue Jurisdiction Act (X of 1876). The District Judge was therefore right in holding that he had not jurisdiction to entertain the suit.

It has been suggested that the plaintiff has acquired certain occupancy rights in the estate of which he cannot be deprived by any decision of Government under the Saranjam Rules. This is obviously an after-thought suggested by the decision of this Court in *Ganpatrav Trimbak v. Ganesk Baji Bhat*<sup>(1)</sup>. It was a point which was not raised in the plaint but is mentioned in the memo of appeal for the first time. It is a question which, we think, ought not to be decided in this suit, and we, therefore, abstain from expressing any opinion upon it.

We confirm the decree of the District Judge dismissing the suit, and we dismiss this appeal with costs.

*Decree confirmed.*

G. B. R.

(1) (1885) 10 Bcm. 112.

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