Raja Ram Chandra Reddy & Anr vs Rani Shankaramma & Ors on 11 February, 1956

Equivalent citations: AIR 1956 SUPREME COURT 319, 1957 ANDHLT 127, 1956 SCJ 459, ILR 1956 HYD 398

Bench: N.H. Bhagwati, B. Jagannadhadas, B.P. Sinha, S.J. Imam

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           CASE NO.:
Appeal (civil)  193 of 1955

PETITIONER:
RAJA RAM CHANDRA REDDY & ANR.

RESPONDENT:
RANI SHANKARAMMA & ORS.

DATE OF JUDGMENT: 11/02/1956

BENCH:
S.R. DAS & N.H. BHAGWATI & B. JAGANNADHADAS & B.P. SINHA & S.J. IMAM

JUDGMENT:
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JUDGMENT 1956 AIR (SC) 319 The Judgment was delivered by : JAGANNADHADAS JAGANNADHADAS, J. : This is an appeal against the judgment of a Division Bench of the High Court of Hyderabad dated 12-8-1952, on leave granted by that court under Art. 133(1) of the Constitution on 8-10-1952. These proceedings arise out of a dispute between the late Raja Durga Reddy's widow, Rani Lakshmayamma, and his daughter Rani Shankaramma, which commenced in or about the year 1930 and has been pending for over 25 years.

Raja Durga Reddy die on 2-4-1900, possessed of properties including a Jagir Samashtanam, Papannapet. Hew left behind him surviving, his widow, Rani Lakshmayamma (the present 2nd appellant before us) then aged about 16 yeas and a daughter, Rani Shankaramma (the 1st respondent before us) then aged about one year. On Raja Durga Reddy's death, management of his entire estate was taken over by the Court of Wards under orders of the Government.

The supervision of the Court of Wards was established by Government Notifications published in the Hyderabad Gazettee dated 21-5-1900, and 4-6-1900. This was followed by Virsat (succession) proceedings relating to the Jagir Papannapet Samasthanam which resulted in a Firman of the Nizam dated 29-5-1903, sanctioning the Virasat in favour of the daughter, Rani Shankaramma, the material portion of which is as follows :

> "***As regards succession, ***It should be sanctioned in favour of Durga Reddy's duaghter. The boy that may be born of his daughter will be recognised as entitled to

> the Samasthan after her, provided Durga Reddy's daughter is married to a boy by the sanction of the Government.
>
> Till Durga Reddy's daughter attains her age of discretion, his widow be regarded as the legal guardian of her daughter; but supervision over the revenue and expenditure of the Samasthan will be exercised by the Court of Wards. The Court of Wards will however have the power to allow the widow to take part in the management of the Samsthan when and to the extent it thinks fit."

Six years later, Rani Shankaramma was married to one Venkata Pratap Reddy, the brother of Rani Lakshmayamma, with the sanction of the Nizam, by his Firman dated 15-10-1909. Rani Shankaramma attained majority in the year 1920. An application was made on her behalf on 22-1-1920, for release of the estate from the Court of Wards. On that application, the Nizam issued a Firman dated 24-12-1920, continuing the supervision of the Court of Wards, which runs as follows :

> "There is nothing in the Firman of his last Highness (presumably referring to the Firman of 1903) which would necessitate the release of the estate from the supervision of the Court of Wards as a matter of course after the late Durga Reddy's daughter's attaining majority. Although the girl's age is now 21 years and she has been also married by sanction of Government, as she had no. issue, very recently it was necessary to remove from the estate such self-interested persons as Abdul Hai etc., it is not at all advisable to raise the supervision of the Court of Wards from the estate in its present state. The supervision be allowed to continue. The case may be considered in future if Durga Reddy's daughter begets a son."

This was again affirmed by a later Firman dated 9-11-1922, issued on a memorial by Rani Lakshmayamma for release of the estate in favour of her daughter who by then was about 24 years old. This firman runs as follows :

> "So long as no. son in born to the daughter of Durga Reddy, and he attains majority, the Samasthan cannot be released in favour of a woman. The supervision of the Court of Wards is to maintain as before. Therefore the orders issued prior to this by my deceased father in this connection point to the same effect. Hence the applicant be informed of my order and the proceedings be closed."

It appears from the record that later on the question of handing over of all estates whose administration was being continuously kept by the Court of Wards even after the respective wards attained majority was referred to a special Commission by a general Firman of the Nizam dated the 5-5-1927. The opinion of the Commission dated 17-4-1928, was that all the estates in which the minor had become a major including the Samasthan Panpannapet should be released.

Meanwhile, however, Venkata Pratap Reddy the husband of Rani Shankaramma died after a short illness on 19-3-1928, leaving no. issue. Thereupon the mother of Rani Shankaramma conveyed her desire that the Samasthan should, for the time being, be retained under the Government

supervision. Following on this, a Firman dated 6-8-1928, was issued by the Nizam as follows :

> "Durga Reddy's estate be, for the time being, retained according to custom under the supervision of the Court."

Thereafter the prospect of a son by the daughter having disappeared, both the ladies Rani Lakshmayamma and Rani Shankaramma, filed a joint application dated 22-7-1947, for taking a boy in adoption with the following prayer.

> "That for the sake of continuing of this old Samasthan, which the Government has preserved and maintained for the last eight generations, through adopted sons, your Honour will be pleased to award permission for adoption in accordance with the provisions of Dharam Shaster, when a boy will be searched for and produced, so that the Government may, after interview and selection, award sanction.
>
> It may be stated at this stage that according to the Atiyat law of Hyderabad (the special law relating to Crown Grants including Jagir Grants) the roots of title is the grant of recognition by the Nizam.
>
> It appears further from the record - and it is not disputed - that any adoption, if it should be available for recognition by the Nizam in the matter of succession to Jagir property, is to be sanctioned by him at every stage, i.e. (I) permission to make adoption must be given to the intending adopter; (2) the selection of the boy has to be approved (3) permission has to be granted for the performance of the adoption; and (4) the actual adoption, when duly performed, has to be recognised. It was in consonance with this practice that the above mentioned joint application was made.

It was after that differences arose between the two ladies, the mother and the daughter, which unfortunately appear to have assumed a great deal of irreconcilable acuteness and have continued up-to-date. In spite of suggestions from this Court during the hearing that this long pending litigation might well be brought to a final termination by private settlement between the parties, it has unfortunately not been found possible for the parties or their counsel to avail themselves of this opportunity, even at this stage.

2. Between the years 1929 to 1934 there was conflict between the two ladies as to who was to obtain the permission to adopt and as to whether the adoption made was to be recognised and confirmed by the Nizam. The relevant material of this period which has been placed before us is voluminous. In addition to the Firmans of the Nizam it consists of petitions counter-petitions, appeals, notes opinions and recommendations of the various officers who had to deal with this matter, some supporting the case of one party and some of the other.

Some of them contain either direct or incidental expression of views as to the nature of the right of Rani Shankaramma in the Jagir Papannapet Samasthan and the nature of the right that the boy to be adopted would have thereto. It is not necessary for the purposes of this case to go through all that

material. It is enough to notice a few land-marks. The first step, in this stage, is the joint petition for permission to adopt, already mentioned above. After exchange of opinions from officer to officer on this application, a Firman was issued by the Nizam on 19-2-1931, as follows :

"

Lakshmayamma, the widow of the late Raja Durga Reddy be given permission to adopt.

"

Thereupon Rani Lakshmayamma, with the help of a special committee nominated for the purpose, selected Ramachandra Reddy, the 1st appellant before us, who was then as young boy. She applied on 5-12-1931, for permission to adopt the said boy and to perform the ceremony of adoption.

Rani Shankaramma came forward with an application dated 18-12-1932, contesting the right of her mother to make the adoption and requesting that the permission granted to her may be revoked and sanction be given to herself to make the adoption on the ground that she was the Maashdar of the Jagir. Thereupon the Nizam directed by a Firman dated 13-7-1933, that the dispute between the mother and daughter as to who is to be entitled to adopt should be formally enquired into by the Atiyat (Crown Grants) department and their opinion forwarded to him.

The Atiyat Committee reported in favour of the mother Rani Lakshmayamma in pursuance of its decision dated 4-1-1934. An application by Rani Shankaramma for review was also dismissed by the said committee on 14-2-1934. Before the matter reached the Nizam Rani Shankaramma presented a memorial to the Nizam as against the report of the Atiyat Committee. Taking all this material into consideration the Nizam gave his final decision and issued his Firman dated 22-3-1934, as follows :

"

In this connection the opinion of the Nazim-e-Atiyat is approved. Rani Lakshmayamma be given permission to adopt, the sanction for which has already been accorded by my order dated 19-2-1931. However, Rani Shankaramma, through the Court of Wards, can independently obtain permission to adopt for the spiritual benefit of her husband, which will have no. connection with the Atiyat Shahi (Crown Grant) ".

The formal adoption accordingly took place and Rani Lakshmayamma executed on 6-4-1934, a deed of adoption in favour of Ramchandra Reddy, the 1st appellant, who as stated in the deed, was a boy of 12 years at the time. Proceedings thereafter followed for a formal recognition of this adoption by the Nizam, at which stage again there were petitions and counter-petitions.

There was a regular enquiry by the Subedar Medak who took evidence, followed by an appeal to the Nazim Atiyat and a further appeal to the Executive Council (Atiyat Appeals Branch). This ultimately resulted in a further Firman by the Nizam dated 26-8-1934, whereby the adoption of the 1st appellant, Ramchandra Reddy, as regards Crown Grant Maash, was recognised in the following

terms :

"

The adoption of Ramachandra Reddy made by Rani Lakshmayamma after performing religious ceremonies is sanctioned as regards Crown Grant Maash on condition of payments of one year's income in accordance with the opinion of the Subhedar Medak and Committee Atiyat.

"

The 1st appellant, Ramachandra Reddy, attained majority in 1947. We are directly concerned in this case only with the events subsequent to his attaining majority. But before passing on to those events it is desirable to allude briefly to the position of affairs up to that date.

3. After the adoption was recognised in 1934, Rani Lakshmayamma made attempts to assert the rights of the adopted son by two applications. One was dated 21-4-1937, and asked for restarting of the succession enquiry to her deceased husband, Durga Reddy, and to release the estate in her favour (presumably as guardian of the minor adopted son).

The other application was dated 12-6-1937, and requested that Inam enquiry into the Maash of late Raja Durga Reddy be started vis-a-vis the petitioners - Rani Lakshmayamma and Ramchandra Reddy - and the Muntaqabs be prepared in her name. This apparently had reference to certain earlier proceedings taken by the Revenue Department under which on 128-12-1927, the office of the Nazim Atiyat had issued a notification as follows :

"

It is hereby notified that Rani Shankaramma, daughter of Raja Reddy, holder of Papannapet Samasthan of Medak Taluq, had applied for an Inam inquiry and restoration of grant in respect of Sovereign Grants situate in Government and Jagir territory, (I) Pargana Haweli Medak, (2) Pargana Takmal, (3) Paragana Utlar, (4) Pargana Sirpur Patti of Medak district and (5) Pargana Aman Bole of Nalgunda district (a village-wise detailed statement of which is herewith enclosed with the notification).

Therefore, whosoever has any plea for the grant claimed, could produce with the documents for objections within six months from the date of this Notification. Otherwise, the Inam inquiry would be started against the claimant referred to above, and judgment be passed and Muntakab be formally issued with the restoration of the grant and no. plea would then be entertained.

"

It does not appear from the record what happened on this notification. It appears probable that the Muntakabas relating to these properties were issued in favour in Rani Shankaramma. The application above mentioned dated 12-6-1937, by Rani Lakshmayamma and Ramchandra Reddy

presumably related to the properties mentioned in this notification.

On the objection filed by Rani Shankaramma, these matters were elaborately gone into by the Nizam Atiyat who dismissed the claims by his judgment dated 20-10-1937. An appeal therefrom by Rani Lakshmayamma and Ramchandra Reddy was dealt with the Appeal Committee and was dismissed on 27-2-1938.

4. Rani Shankaramma was also making parallel attempts during this period (1934 to 1948) to obtain release of the estate from the Court of Wards and kept up her agitation throughout. None of her attempts were successful. Two Firmans of his period throw light on the situation relating to the management at this date. The first was dated 24-11-1934 and was in the following terms :

"

In views of the facts detailed in the Arzdasht the opinion of the council is right that the estate should be under the supervision of the Court of Wards in the presence of special circumstances. But the Court of Wards will consult Rani Lakshmavamma in important matters pertaining to the adopted son and his interests.

"

The second Firman was dated 22-4-1936, and was to the following effect.

"

Hence in my opinion the distribution of the items of the budget followed from a long time should continue as before. It is proper.

The position thus till after the 1st appellant, Ramachandra Reddy, became a major was that notwithstanding the competing claims and attempts of Rani Shankaramma and Ramachandra Reddy to obtain actual possession of the property and of the Jagir from the Court of Wards, the properties were not released and the administration of Court of Wards was being indefinitely continued.

5. The police action in Hyderabad took place in September, 1948. After its termination a series of legislative measures were enacted by the Military Governor by virtue of power conferred on him by a Firman of the Nizam dated 20-9-1948.

One of these measures is the Hyderabad (Abolition of Jagirs) Regulation , 1358F. (Regulation No. LXXIX of 1358 F.) which came into force on 15-8-1949. By this Regulation, broadly speaking, all Jagir lands were incorporated into State lands as from the appointed day and the administration of all the Jagirs was to stand transferred to a Jagir Administrator to be appointed by the Government (Ss. 5 and 6).

From that date the Jagirdars or Hissedars or maintenance holders were only to get cash payments out of the net annual income of the Jagirs worked out in accordance with the provisions of that Regulation (S. 6). This was to be by way of interim maintenance allowance until commutation for Jagirs is determined (S. 14).

It was specifically provided that if a Jagirdar or Hissedar dies, his share in the net income shall devolve in accordance with his personal law (S. 6(8)) abrogating thereby the previous law that the succession to the Jagir right dependent entirely on the recognition or regrant thereof by the Nizam. Such share however was not alienable without previous sanction of Government (S. 6(7)).

It was also provided after the commencement of the Regulation no. person shall be appointed to be, or be recognised as, a Jagirdar whether in succession to a deceased Jagirdar or otherwise (S. 4). Thus in effect the original Jagir tenure as such was abolished and under this Regulation a hereditary but inalienable personal right to receive a portion of the net income thereof by way of interim maintenance was substituted.

This was followed a few months later by the Hyderabad Jagirs (Commutation) Regulation 1359 F. (Regulation No. XXV of 1359 F.) which became law on 25-1-1950. This provided for payment of compensation by way of the commuted value of the Jagir to be determined by the Jagir Administrator in accordance with certain provisions of the said Regulation.

The share of the Jagirdar or the Hissedar in the commutation sum was specifically declared inalienable save with the previous sanction of the Government. As a result of these two Regulations taken together the Jagir holder was given the right to receive a commuted sum in lieu of his right to enjoy the Jagir under the previous law.

Anticipating these statutory measures which, presumably were in the offing from after the police action, the 1st appellant made two applications dated 24-3-1949 and 26-4-1949 to the Revenue Member of the State. The first of these recited the fact of his adoption of Raja Durga Reddy and recognition thereof by the Firman of the Nizam and mentioned the likelihood of compensation having to be paid in the event of the proposal to take over the Jagirs and Samasthans in the State is finally decided upon and prayed.

> "that such compensation as may be held to be payable to the holder of his Samasthan may be paid over to him and to him alone. In the event of the Samasthan still being under the Court of Wards when the compensation falls to be paid then the said compensation may be paid into the Court of Wards to the exclusive credit and benefit of the petitioner alone."

The second application, while also reiterating his adoption and the recognition thereof, prayed.

> "(a) that the Virasat of Raja Durga Reddy may be ordered to be sanctioned in his name; and (b) that it is proposed to release the estate the same may be refeased in his name."

In between these two applications Rani Shankaramma filed an application on 11-4-1949, to the Revenue Member of the State narrating the previous history and stating that she, having attained majority long ago and being aged about 52 years by then an being capable of managing her estate, the estate may be released from the Court of Wards and prayed that the Samasthan of Papannpet be released in her possession forthwith and all her properties ancestral or purchased from the nucleus of her estate, be restored to her with accounts :

> The application of the 1st appellant Ramchandra Reddy, dated 24-3-1949, for payment of compensation wad endorsed over by the Revenue Secretary to the Revenue Member with the following remark.
>
> "No action by Court of Wards is necessary on this application. We are not competent to decide the question at issue. It will be decided by the Atiyat department."

The Revenue Member rejected the application by endorsing" I agree. The applicant be informed accordingly"

> . Thereupon on 22-6-1949, the appellant Ramachandra Reddy filed a formal plaint in the Court of Nazim, Atiyat, describing himself as the plaintiff and Rani Shankaramma as the defendant and mentioning his claim to the Virasat of the late Raja Durga Reddy.
>
> He therein referred to the two prior applications dated 24-3-1949 and 26-4-1949, and to the fact that the first of the applications was returned with the endorsement that he should approach the Atiyat Department and stated that he was accordingly submitting that plaint and annexing copies of the previous applications along with it.
>
> His prayer was that the Virasat of the late Raja Durga Reddy be sanctioned in his name and that possession of the estate be granted to him. This application of the appellant dated 22-6-1949, was decided against him by the Nazim Atiyat on 1-2-1950, after hearing him. The following paragraph in his judgment in instructive.
>
> "The Firman of H. E. Highness is clear. Not only is the succession sanctioned in the name of Shankaramma absolutely, but it is also mentioned in the sanction that after her the claims of any son born to her will also be considered.
>
> Shankaramma has at present no. children nor can she get any children in future. Who will be entitled to succession after Shankaramma will be decided at the proper time. In particular, the succession proceedings to Durga Reddy cannot be initiated now because sanction has been accorded to it already by H. E. Highness.
>
> No question of amendment to the Takhat Virasat can arise because there is neither any mistake nor is it against sanction. Nor has any condition or restriction imposed in the sanction (sic). Succession to Shankaramma cannot, be decided during the

lifetime of Shankaramma.

Therefore absolutely the petition does not lie under the provisions of any law or regulation. Proceedings may be closed."

As against this decision Ramachandra Reddy filed two identical appeals on the same date, i.e. 23-2-1950, one "to the Atiyat Committee" and the other "to the Revenue Minister, Atiyat - Intezami", contesting the conclusion of the Nazim Atiyat.

While these proceedings were thus being agitated from authority to authority by the appellant Ramchandra Reddy, the petition filed by Rani Shankaramma dated 11-4-1949, to the Revenue Member was reinforced by another application virtually for the same purposes to the Nazizm, Court of Wards on 22-11-1949.

Both these were probably put up before the Revenue Board Member. He thereupon passed an order on 19-12-1949, "I would like to hear the parties. Fix a date".

Subsequently, the question was taken up and the Board Member appears to have recommended the release of the estate in favour of Rani Shankaramma. The Revenue Member (of the Government) endorsed thereon on the 13th March, 1950 that he "agreed with the recommendation."

Before however any such release actually took place it appears that on an application submitted by the senior Rani Lakshmayamma objecting to the release, the Revenue Member passed orders on 12-6-1950, to call for both the parties and to fix a date for counsel's arguments.

Thus by the early part of 1950 two matters came up for consideration, viz

(a) relating to an alleged amendment of the Virasat of the Jagir of late Raja Durga Reddy on the basis of two simultaneous appeals (1) to the Atiyat Committee, and (2) to the Revenue Minister, and (b) relating to the release of the estate by the Court of Wards in favour of Rani Shankaramma.

At some intermediate date, the Revenue Membership ceased and Revenue Minister came in his place by constitutional changes. The Revenue Minister accordingly took up both the matters together for consideration and passed an elaborate order dated 19-6-1951, the purport of which will be presently stated.

It is this order of the Revenue Minister which was under challenge before the High Court. The appeal which the1st appellant, Ramachandra Reddy, filed to the Atiyat Committee on 23-2-1950, was rejected by it on 24-11-1950, by an order in which they noticed that the parties had already argued the matter, by then, before the Revenue Minister and "that in any case they had no. jurisdiction and that the file accordingly be closed."

The Revenue Minister after making his order, above mentioned, by 19-6-1951, submitted the file to the Chief Minister for his orders. Both parties appear to have submitted their written

representations against this order to the Chief Minister and asked for an opportunity to be heard.

It does not appear, however, that there was any hearing by the Chief Minister who passed an order on 4-10-1951, in the following terms :

> "Having perused the judgment of the Revenue Minister and the representation made by Rani Shankaramma and Ramachandra Reddy, I see no. reason to interfere with the orders passed by the Revenue Minister which are hereby confirmed."

Thereupon Rani Shankaramma applied to the High Court under Art. 226 of the Constitution for a writ to quash the order of the Revenue Minister on the ground that it was without jurisdiction and also for a writ of mandamus directing the Government to release the estate in favour of the petitioner.

The High Court by its judgment and order dated 12-8-1952, quashed the Revenue Minister's order and directed the Government to release the entire estate in favour of Rani Shankaramma. The present appeal is against this order of the High Court.

6. It is necessary now to set out what was the decision of the Revenue Minister which is under challenge and what was decided by the High Court in the writ application to it.

It may be recalled that the proceedings before the Revenue Minister related both to Atiyat property and not-Atiyat property and that the Jagir was the main Atiyat property.

As regards the jagir the dispute was virtually as to who was to get the compensation money from the Government under the Hyderabad Jagirs (Commutation) Regulation.

So far as the not-Atiyat property was concerned the question was, in whose favour if any, the properties in the possession of the Court of Wards were to be released. For a decision of both the questions, a determination of the dispute about the title of the adopted son Ramchandra Reddy, was considered by the Revenue Minister as material and necessary.

However, in his order it was recognised that so far as non-Atiyat property was concerned he would have no. power to decide finally the question of title between the parties. But as regards Atiyat property he proceeded on the footing that he had the jurisdiction and competence to enquire into the matter as between the parties.

Proceeding on this view he went elaborately into the question of adoption and the legal effect thereof and into the construction of the various apparently conflicting orders and views and Firmans relating to the rights of the two contestants, Rani Shankaramma and the appellant, Ramachandra Reddy. He discussed the matter with reference to the Atiyat law as well as the personal law of the parties and finally came to his conclusion in the following terms.

"The result of the above discussion is that Ramchandra Reddy, the adopted sons of Lakshmayamma, has to be recognised as the person who is legally entitled to be the successor to late Raja Durga Reddy.

It follows naturally from the above finding that he is entitled to receive the commutation of the Jagir villages comprised in the Samasthana formerly, as well as to be in possession and management of the estate of Raja Durga Reddy minus the Jagir villages that have been integrated with the diwani.

But as I have pointed above throughout the lengthy discussion of the case. Rani Shankaramma has undoubtedly acquired a very strong vested interest in the property left by her father .....

Her mother has been in receipt of Rs. 250 p.m., and she has been receiving Rs. 200 p.m. as mevakhori, or a sort of stipend for pocket expenses .....

From this point of view, I am of the opinion that the widow of the late Raja Durga Reddy and the daughter of the late Raja Durga Reddy are both entitled to an allowance for life to the extent of 1/3 of the net income of the Atiyat property comprising both the commutation amount as well as the income of the maqta lands and the rusum of deshsmukhi which is realised from the different tahsils, including ex-jagir and sarf-e- khas villages .....

I am sure the decision that I am giving in this long drawn outcome is just and fair to all parties. So far as the Atiyat property is concerned, it is completely within my jurisdiction, subject to confirmation by the Hon'ble Chief Minister, who was exercise the powers of His Exalted Highness, so far as final orders in Atiyat cases are concerned.

With regard to non-atiyat property consisting of building and cash securities, etc. I have given the descision with the fullest expectation that the parties to the cases who are, I am sure, completely exhausted by the protracted litigation without leading to any final result will accept my decision and give a quietus to this dispute."

In his order he recognised that as a result of his view, the estate could be released from the Court of Wards in favour of the adopted son Ramachandra Reddy. But having regard to certain difficulties mentioned in his order he "deferred the release of the estate from the Court of Wards for the present."

The Revenue Minister himself summarised the result of his judgment as follows :

"The result of my judgment is that - (a) the petition of Ram Shankaramma requesting for the release of the estate in her favour is rejected (b) the appeal preferred by Ramachandra Reddy is accepted.

> The Nazim Atiyat is directed to prepare an amended succession statement of Raja Durga Reddy by incorporating the present decision recognising the adopted son Ramachandra Reddy as the successor to Raja Durga Reddy and holding both the Ranis to be entitled each to an allowance for their life of the net income after deduction of expenditure."

He wound up his order by saying :

> " This will place the case in conformity with Firman of 18-2-1913, and will entitle the adopted son to enjoy the possession of Maash immediately as directed above in this judgment.
>
> The file may now be submitted to the Hon'ble Chief Minister for orders"

.

As stated already, the Chief Minister confirmed this order of the Revenue Minister by his order dated the 4th October, 1951. Thus what the Revenue Minister has done by his order is, to determine the title as between the contesting parties to the Atiyat as well as to non-Atiyat property and to subject the same to confirmation by the Chief Minister, intending the determination to become final as regards the Atiyat property and to be tentative as regards to non-Atiyat property.

Whether or not his decision was within his jurisdiction, there can be no. doubt that the Revenue Minister tried to do what appeared to him to be a fair solution of the tangled situation. Rani Shankaramma challenged this decision of the Revenue Minister as being entirely beyond his jurisdiction and claimed that he was under an obligation to release the entire estate in her favour.

On these grounds she applied to the High Court for a writ under Art. 226 of the Constitution to quash the Revenue Minister's order and to issue a mandamus for release of the property in her favour.

In her writ application in the High Court. Rani Lakshmayamma and Ramachandra Reddy were made respondents 6 and 7 respectively, while the State of Hyderabad, the Hon'ble Revenue Minister of Hyderabad, the Jagir Administrator, Hyderabad, the Nazim Saheb, Atiyat Department, the Nazim, Court of Wards were implemented as respondents 1 to 5 respectively.

The High Court, on the writ application, went elaborately both into the questions raised on the merits of the case and also into the question of jurisdiction of the Revenue Minister to deal with the dispute raised before him.

They held that the Revenue Minister had no. jurisdiction to pass the order he did and that he was bound to direct the Court of Wards to release the estate in favour or Rani Shankaramma.

They held also, on the merits of the competing claims, that on the material before the Court Rani Lakshmayamma had not made out her husband's authority to adopt and that therefore the adoption could not be valid according to Hindu law and that since the Virasat stood sanctioned in the name of Rani Shankaramma, Ramachandra Reddy could not, during her lifetime, be entitled either to the commutation amount or to the other non-Jagir property.

The High Court, however, added that their findings on the merits would not in any way prejudice the rights of the parties, if any proceedings are taken in any court of law. As a result of this view, the High Court quashed the order of the Revenue Minister and issued a direction to the Court of Wards to release the entire estate in favour of Rani Shankarama.

It is against this order of the High Court that the present appeal to this Court has been brought by Ramachandra Reddy and Rani Lakshmayamma as 1st and 2nd appellants, impleading Rani Shankaramma as the 1st respondent and the Government and its officers as respondents 2 to 6.

7. The learned Attorney General appearing for the appellants urges, and in our opinion rightly, that the High Court quite unnecessarily went into the question of validity of the adoption and that it should have confined itself only to the two questions germane to a writ application, viz., (1) whether the order of the Revenue Minister was with or without jurisdiction, (2) whether there was any obligation on the part of the Court of Wards or the Revenue Minister to release the estate in favour of Rani Shankaramma which justified a 'mandamus' being issued against them.

The learned Attorney General urges that the decision of the High Court on both these points is erroneous and that therefore the order of the Revenue Minister has to be restored leaving affected parties to such remedies as they may have in the regular courts with reference to the questions to title and other incidental matters that arise therefrom.

The learned Advocate General of Hyderabad appearing for respondents 2 to 6, while disclaiming any interest in the issue as to title maintains that the order of the Revenue Minister was not without jurisdiction and that the judgment of the High Court quashing it and issuing a mandatory order is erroneous.

Mr. Engineer appearing for the 1st respondent, Rani Shankaramma, on the other hand urged that the Revenue Minister's order was (1) without jurisdiction, and (2) vitiated by errors apparent on the face of the record.

He maintains that the order of the High Court quashing the same was correct and that the High Court was right in issuing a 'mandamus' for the release of the estate in favour of Rani Shankaramma.

Now, leaving aside for the moment, the question as to he whether the order of the Revenue Minister is vitiated by errors apparent on the face of the record, it is necessary first to examine the grounds on which the jurisdiction of the Revenue Minister has been challenged on the one side and supported on the other.

As already stated this question of jurisdiction arises only as regards the Atiyat property which mainly consists of the Jagir Samasthan Papannapet. The conflict of title arises from the fact that on the death of Raja Durga Reddy, Virasat for the Jagir had been sanctioned in the name of Rani Shankaramma by Firman of 1903 and that by the Nizam's Firman dated 26-8-1934 the adoption of Ramachandra Reddy by Rani Lakshmayamma was sanctioned by the Nizam as regards Crown Grant Maash.

What exactly the phrase "as regards Crown Grant Maash" was intended to convey has not been specifically stated in this Firman. The contention on the side of Rani Shankaramma is that she was, by the original Firman of 1903, constituted the Jagirdar for her life and that there could be no. question of any succession to the Jagir during her lifetime and that the recognition of the adoption by the Nizam as regards Crown Grant Maash cannot in any way affect her rights.

It is also her contention that for want of requisite authority from the husband, there was no. valid adoption which could affect her rights.

The contention on the side of Ramachandra Reddy is that the grant in favour of Rani Shankaramma, a female, by the Firman of 1903, was definitely and clearly intended to be provisional, i.e. until the emergence of a male heir who could succeed to Raja Durga Reddy's estate.

It is urged that on the emergence of a male heir by the recognition of his adoption by the Nizam in 1934, the Jagir was meant to be passed on to the adopted son and that therefore he obtained a vested right thereto.

In the course of the somewhat lengthy arguments before us, we were taken through the voluminous material which show the varying constructions put upon, the orginal Firman of 1903 in favour of Rani Shankaramma and the subsequent Firman of 1934 in favour of Ramachandra Reddy, and the different views held as to the right of the daughter and the adopted son, emerging from the various intermediate or subsequent Firmans and opinions of the high authorities who had occasion to deal with these matters.

We do not, however propose to embark on a consideration of this conflicting material or to decide which portion of this material is admissible or as to whose claim has to be accepted in the light of the admissible material.

We are concerned here not with the question whether conclusion which the Revenue Minister has come to was right or wrong but with the question whether he had the jurisdiction to embark on this enquiry and come to a bona fide conclusion thereupon.

8. In view of the fact that the Hyderabad (Abolition of Jagirs) Regulation abolishing the Jagirs themselves had already come into force by that time, his jurisdiction to deal with the matter has been questioned by the 1st respondent. But it has been maintained on the side of the appellants on two cumulative grounds. (1) That the questions raised before the Revenue Minister were matters which arose from a pending enquiry falling within the proviso to S. 21 (2), Hyderabad (Abolition of

Jagirs) Regulation, and (2) that the questions at issue related to the Intazami side of the Atiyat administration. To determine the points thus raised it is necessary to notice S. 21(2) of the Abolition of Jagirs Regulation which is as follows :

> "21. (1) .....
>
> (2) All claims relating to a jagir or to any share in the income thereof, whether arising under this Regulation or otherwise, shall, subject to this Regulation but notwithstanding any existing law, be filed in, and decided by, the appropriate civil court :
>
> Provided that any proceeding pending at the commencement of this regulation before an Atiyat Court or before a Commission or any other authority shall be completed in accordance with the existing law as if this Regulation had not been enacted."

In the same Regulation" existing law"has been defined by S. 2(b) as follows :

> " Existing law"

means law in force at the commencement of this Regulation, including Atiyat law, Custom or usage having the force of law, and including also orders made under existing law.

> "

Now, it has to be recalled as to how the matters in question came up before the Revenue Minister. As already stated, the appellant, Ramachandra Reddy, presented on 22-6-1949, an application to the Court of Nazim Atiyat praying that the Virasat of late Raja Durga Reddy be sanctioned and that possession of the estate be granted to him.

This application would obviously have been one which would fall under S. 21(2), jagir Abolition Regulation excluding the proviso therein if it had been made subsequent to 15-8-1949, and would have to be dealt with in the ordinary civil Courts.

The application was however, made earlier though decided against him later by the Nazim Atiyat on 1-2-1950. Against this decision Ramachandra Reddy filed two simultaneous appeals on 23-2-1950, one to the Atiyat Committee and the other to the Revenue Minister, Atiyat Intezami.

The appeal which was filed to the Atiyat Committee was rejected by them on 24-11-1950, on the ground that they had no. jurisdiction. It was the appeal filed to the Revenue Minister, that was taken up for consideration by him in or about August, 1950.

This was an appeal arising out of the application of Ramachandra Reddy dated 22-6-1949, which was pending by the date of the jagir Abolition Regulation and would fall 'prima facie' within the provision to S. 21 (2).

The High Court, however, was of the opinion that the order of the Nazim Atiyat dated 1-2-1950, arose out of an application by the appellant Ramachandra Reddy dated 24-10-1949, and not out of the application dated 22-6-1949, and that therefore it was not a pending proceeding.

The High Court relied on a note by the Assistant Nazim, Atiyat, in the file in which he discussed the question raised on the application of Ramachandra Reddy dated 22-6-1949, and virtually recommended its dismissal on the ground of its not being maintainable.

The Nazim Atiyat endorsed thereupon under date 11-9-1949, as follows :

> "'Prima facie' the application is not under any law".

The High Court treated this as a disposal of the application or Ramachandra Reddy dated 22-6-1949. Accordingly it treated the subsequent application dated 24-10-1949, as a new application with reference to which the Nazim passed his judgment on 1-2-1950.

This view however appears to us to be based on a misconception. Ramachandra Reddy's application dated 24-10-1949, itself shows why the endorsement of the Nazim Atiyat dated 11-9-1949, was not to be taken as a dismissal of the prior application.

The purpose of the application of 24-10-1949, is therein stated to be to request that orders may be passed on the application dated 22-6-1949, after hearing the parties.

The judgment of the Nazim Atiyat dated 1-2-1950, itself places the matter beyond any doubt. It opens with the sentence"

> the petition of Ramachandra Reddy dated 22-6-1949, is now pending for disposal "and states that permission was granted for a hearing on the petition in order that the petitioner may point out the provision of law or order under which the petition lies.
>
> The contention of the Petitioner at the hearing before the Nazim Atiyat, as also in subsequent stages, was that though the application purports to be for sanction of the succession, in the succession proceedings of Raja Durga Reddy, the petition must be treated to be one for amendment of Takhta Virasat.
>
> Whether or not this contention is tenable, there can be no. doubt that the judgment of the Nazim Atiyat dated 1-2-1950, was given on the footing that it was the petition of the 22nd June, 1949, which was by then treated as pending.
>
> An appeal as against the judgment, therefore, to the Revenue Minister would be an appeal in a pending proceeding if the appeal was competent.
>
> We are, therefore, unable to agree with the view taken by the High Court that there was no. pending proceeding falling within the proviso to S. 21 (2) by the time when

the Revenue Minister took up the matter in August, 1950, for his consideration.

9. The question, however, is whether having regard to the nature of the dispute relating to the Atiyat property which was brought up on the appeal, the Revenue Minister had the jurisdiction to deal with it or whether notwithstanding that the Atiyat Committee declined jurisdiction therein the real jurisdiction in the appeal at the time was only of the Atiyat Committee.

The contention on behalf of Ramachandra Reddy, as already stated, even before the Nazim Atiyat was that the application made by him and the appeal arising out of it were to amend to Takhta Virasat falling on the Atiyat Intezami side and that therefore the Revenue Minister had the jurisdiction to deal with it by virtue of Gashti (Circular) No. 19 of 1332 F. dated 19-3-1923. Now this was a circular relating to the organisation of Atiyat (Crown Grants) Department of the Hyderabad Government and is as follows :

"

1. As ordered previously, the object of formation of the directorate of Atiyat (Crown Grants) is only that the cases of Atiyat (Crown Grants) be enquired into and disposed of as speedily as possible according to the procedure obtainable in courts of law, therefore, it is ordered that only the business of the disposal of cases will be the concern of the Director (Nazim) and Additional Director (Nazim) of the Atiyat (Crown Grants) department.

The rest of the work, whatever it may be will be the sole concern of the Revenue Department in accordance with the practice in vogue at present and in the past.

That is to say, the Atiyat (Crown Grants) Department, will not be a department separate from the Revenue Department but will be considered as an integral portion of the latter.

Both the Directors of the Atiyat (Crown Grants) department and the Revenue Department will continue to discharge their respective duties in the Revenue Department only under the powers conferred on them, in accordance with the sanctioned regulations.

2. All administrative work concerned with the Atiyat will continue, as at present, to be presented through the Revenue Secretary to the Minister to be dealt with according to the prescribed procedure.

On this subject, two schedules, 'A' and 'B' have been annexed hereto in which details of the nature of the work relating to Atiyat (Crown Grants) and Revenue Departments have been stated which has received the sanction of H.E.H. the Nizam. Consequently these orders shall accordingly by complied with.

"

Schedule 'A', an item in which has been relied upon, consists of 15 items, of which our attention has been drawn to items 1 to 4 and 6 and 7 as having a possible bearing, which are as follows :

"

1. Inam EnquiryIt will pertain to the Nazim (Director) Atiyat, (Crown Grants).

2. Succession EnquiryDo.

3. Sanction of adoptionDo.

4. Ascertainment of shareIf during the course of the enquiry in Atiyat, or else in the Revenue Department.

6. Issue of Muntakhab (decree)Will be connected with Intezami Atiyat (Administration Branch).

7. Amendment of MuntakhabDo It is item 7 herein which relates to amendment of Muntakhab that is relied on as showing that the proceeding relating thereto takes place in the Revenue "Department, i.e., Intezami Atiyat, which of course would be under the Revenue Minister.

The case for the appellant is that what was in substance asked for was only an amendment of the Muntakhab, i.e., an amendment of the decree which originally followed the Virasat proceedings in 1903, by substituting the name of Ramachandra Reddy in the place of Rami Shankaramma in the events that have happened and that this would be the result of a proper construction of the various Firmans relating to the successive events.

That is also apparently the view accepted by the Revenue Minister when he accepted jurisdiction to hear the appeal, stating as follows :

"

As the order passed by Atiyat is on the Nazim Intezami side an appeal lies to the Revenue Minister and as such I am competent to hear it.

"

We are, however, unable to agree that either the wording of the petition filed by Ramachandra Reddy on 22-6-1949 or substance of the claim raised therein and the proceedings following thereon, can by any logic be said to be for a mere amendment of the Takhta Virasat or of the "Muntakhab" falling within item 7 of Schedule 'A' of Gashti 19 of 1332 F. above quoted.

The actual import of the various entries in Schedule 'A' is somewhat obscure and could not be satisfactorily elucidated before us by learned counsel on either side.

But it appears to us reasonably clear that the intention of the circular was that what may be called judicial matters which raise serious issues between parties involving their legal rights were to be taken out of the hands of the mere administrative machinery and had to be dealt with by the Directorate of Atiyat under judicial procedure and that it is only what may really be called administrative matters relating to Atiyat grants that could be dealt with as Atiyat Intezami by the ordinary Revenue departmental Machinery.

This appears also to be confirmed by another copy of Circular No. 19 of 1332 F. supplied to us wherein as against entry No. 7 relating to amendment of Muntakhab of schedule 'A' it is specifically stated"

> in case of any dispute the Revenue Minister will send the same to the Commissioner ".

Whether this copy is correct or not, there can be no. doubt that in this case so far as Jagir property was concerned the question raised was a serious question of title between the parties.

What in substance was asked for was the reopening of the Virasat proceedings which were originally taken on the death of Raja Durga Reddy and the reconsideration of the same with reference to the subsequent adoption which, it was claimed, dated back to Raja Durga Reddy's death and divested the title of Rani Shankaramma.

A careful perusal of the Revenue Minister's order relating to this part of the case clearly shows that this was in fact the contention which was accepted. Notwithstanding strenuous arguments to the contrary by the learned Attorney General, we feel unable to accept the contention that the question raised before the Revenue Minister was one merely on the administrative side of the Atiyat department so as to vest the jurisdiction in him to deal with it.

We are, therefore of the opinion that so far as the dispute as to Atiyat property was concerned and determination of the question involved in the case was outside the authority and competence of the Revenue Minister however 'bona fide' his assumption of jurisdiction in this behalf may be.

10. The learned Attorney General next urges - and this is the crucial point in the case - that, assuming the Revenue Minister's order to be beyond his competence as regards Atiyat property S. 13(2) of the Atiyat Enquiries Act, 1952, which came into force on 1-4-1952, saves it from ineffectiveness by reason of its having been confirmed by the Chief Minister.

Now, the Atiyat Enquiries Act, as shown by its preamble, was an Act to amend and consolidate the law regarding Atiyat grants, in respect of Atiyat enquiries, enquiries as to claim to succession to or any rights, title or interest in Atiyat grants and matters ancillary thereto.

It was in substitution of Circular No. 10 of 1338 F. as shown by the fact that S. 15 of the Act repealed that circular. The scheme of this Act appears to be, to reconstitute the Atiyat Courts previously organised under Circular No. 10 of 1338 F. to the extent that it may be necessary for further

enquiries relating to Atiyat matters, to substitute a more appropriate procedure in the light of the new set-up, and incidentally to obviate the requirement of the Nizam's Firman in such cases.

This Act establishes a gradation of new Atiyat Courts providing the Board of Revenue as the highest court whose decision is to be final. Sections 12 and 13 of the Act are important, and they are as follows :

"

12. In so far as questions of succession, legitimacy divorce or other questions of personal law are concerned, the final decision of a Civil Court shall be given effect to by the Atiyat Court established under this Act on the decision being brought to its notice by the party concerned or otherwise respective of whether the decision of the Atiyat Court was given before or after the decision of the Civil Court.

13. (1) Except as provided in this Act the decision of an Atiyat Court shall be final and shall not be questioned in any Court of law.

(2) The orders passed in cases relating to Atiyat Grants including Jagirs on or after the 18th September, 1948, and before the commencement of this Act by the Military Governor, the Chief Civil Administrator or the Chief Minister of Hyderabad or by the Revenue Minister by virtue of powers given or purporting to be given to him by the Chief Minister shall be deemed to be the final orders validly passed by a competent authority under the law in force at the time when the order was passed and shall not be questioned in any court of law.

"

There can be no. doubt that the deeming provision in S. 13 (2) of the Atiyat Enquiries Act is a strong one and invests the orders of the various authorities specified therein with the attributes of competency, validity and finality in cases relating to Atiyat Grants including Jagirs, and expressly provides that they shall not be questioned in any court of law.

It has been assumed on both sides - it appears to us rightly - that what the Revenue Minister has dealt with is "a case relating to Atiyat grants including Jagirs."

It is to be noticed, however, that the apparent intendment of this provision is not to validate an invalid order of the Revenue Minister as such. The only kind of order of the Revenue Minister which this provision contemplates is that which is passed by him by virtue powers delegated to him by the Chief Minister.

No such delegation has been relied on in this case. But the contention of the learned Attorney General is, that the various proceedings have culminated in the order of the Chief Minister himself, which falls within the scope of the above provision.

The suggestion - as we understand it - is that the Chief Minister by his order of confirmation must be taken to have adopted the Revenue Minister' as his own and that, therefore, it was the Chief Minister's order, in terms of that of the Revenue Minister, which was the final and effective order in the case.

On the other hand Mr. Engineer urges that if, as we have held, the Revenue Minister's order is without jurisdiction, a mere confirmation of his order by the Chief Minister does not turn the Revenue Minister's order into that of the Chief Minister, thereby bringing about virtually the validation of the Revenue Minister's order, which is not what is contemplated under the above provision.

He points out that the situation between 18-9-1948 and 1-4-1952, was that in Atiyat cases it was the pre-existing machinery of Atiyat courts that was functioning. But all such decisions lacked the imprimatur of the Nizam's Firman to give them validity and finality, the Nizam being unable to exercise the pre-existing prerogative of issuing such Firmans.

It is urged that S. 13(2) above noticed was intended to supply this lacuna in respect of matters dealt with under the old law. His contention is that viewed in this light the provision would apply only to decisions in Atiyat cases which were validly reached, up to the stage when they had to be presented under the previous law to the Nizam for the issue of his Firman but which in fact were ultimately approved by the Chief Minister, purporting to function 'de fecto' for the Nizam in such matters.

The contention, therefore, of Mr. Engineer on this part of the case is two-fold.

(1) On the finding that the Revenue Minister's order is without jurisdiction the Chief Minister's order which is merely that of confirmation had no. separate legal individuality so as to fall within the scope of S. 3(2).

(2) In any case what could be validated under S. 13(2) is the Chief Minister's order following upon the competent and valid orders of other established authorities in Atiyat cases.

11. In view of the language of S. 13(2), we are unable to accept these contentions.

12. Doubtless, what falls within the ambit of the deeming provision is the Chief Minister's order and not somebody else's order. But what is cured thereby is not merely the incompetence any invalidity, if any, inhering in the Chief Minister to pass such an order. The language used is wide enough and strong enough to cure the incompetence and invalidity arising from similar lacuna in the precedent proceedings of which the Chief Minister's order is the culmination.

It does not appear to us that in any other view full effect can be given to the language used. Even, on the view suggested by Mr. Engineer, the Chief Minister's order in such cases was to be taken as a substitute for the Nizam's Firman and the purpose of S. 13(2) was to obviate the possible objection that the Nizam's Firman in Atiyat case was an exercise of his prerogative and could not be delegated.

If, as contended, that true purpose of S. 13(2) was to supply the lack of the imprimatur of the Nizam's Firman, it is difficult to see why the operation of this provision should be confined to such of the Chief Minister's orders as are preceded by recommendations of competent authorities.

No such limitation could have been imported into the effect of the Nizam's Firman, at the time when the Nizam was in a position to issue the Firmans. We have no. doubt, therefore, that if the intended effective order in a particular case was the Chief Minister's order, such an order would be validated by S. 13(2) irrespective of the competence of the preceding authorities who dealt with the case.

13. It is necessary then to consider whether Mr. Engineer's contention is right, viz., that since the Chief Minister's order is merely by way of confirmation, the intended effective order was only that of the Revenue Minister.

The question whether in cases of this kind the intended effective order was that of the Chief Minister himself or of the preceding authority whose order it purports to confirm, is one that has to be decided on the facts each case.

It may be mentioned at this stage that this aspect of the case does not appear to have received adequate attention in the High Court. The 1st respondent herein, Rani Shankaramma, filed an application to the High Court for a writ on the basis that it was the Revenue Minister's order which was the effective order and which required to be quashed as being without jurisdiction.

While no. objection appears to have been taken specifically to such a course, the question as to the applicability of S. 13(2) to the order of the Chief Minister was in terms raised.

The fact that, though the final order in the case was the confirming order of the Chief Minister, the application for the writ was only against that of the Revenue Minister was also noticed.

But these matters do not appear to have been sufficiently dealt with there, presumably in view of a concession made by the Government Advocate before them as shown by the following passage in their judgment.

"

Shri Anand Swarup Choudhury, Advocate, on behalf of the Government very candidly conceded before us that if it is held that the Revenue Minister had no. jurisdiction, then in that case the sanction of the Chief Minister would not be valid.

"

Such a concession would obviously not bind the appellants in this case. It is necessary for us, therefore, to deal with it.

Now, it is true that where the responsibility for the passing of a particular kind of order is by statute vested in a specified authority but such an order was passed by a different authority, the fact, that the proper appellate authority affirmed the original invalid order does not cure the invalidity thereof. See - 'Suraj Narain v. N.W.F. Province', 1942 FC 3(AIR v. 29) at p. 6. (FC) (A).

It is also true that the fact that the decision of a tribunal requires the sanction of a higher authority would not necessarily make it any the less an effective order amenable to the writ jurisdiction of courts in appropriate cases. See - 'The King v. Electricity Commrs.', 1924-I KB 171(B) and - 'Bharat Bank Ltd. v. Employees of Bharat Bank Ltd', 1950 SC 188 (AIR v. 37) at pp. 190, 191 and 198 (PC) (C).

But there are cases where the intended effective order according to the scheme of the statutory provisions relating thereto was the original order itself and not the appellate or confirming order. In the present case the position is different.

The case was taken up by the Revenue Minister by virtue of S. 20(2) of the Hyderabad (Abolition of Jagirs), Regulation as being in a pending case. It was to be decided with references to "the existing law" as defined in that Regulation.

Under that law in a case of this kind the only effective order would be that of the Nizam himself and not of any subordinate authority. As already pointed out the whole intendment of section 13(2) of the Atiyat Enquiries Act was to invest the Chief Minister's order in such cases with the a tributes of the Nizam's Firman.

This was indeed realised by the Revenue Minister himself who in his order specifically stated as follows :

"

So far as Atiyat properties are concerned it is completely within my jurisdiction subject to confirmation by the Hon'ble the Chief Minister, who now exercises the powers of His Exalted Highness so far as final orders in Atiyat cases are concerned.

"

This clearly shows that though he considered the matter to be within his jurisdiction or competence for the purposes of the enquiry, he was alive to the situation that the effective order in the case could only be that of the Nizam himself before the police action, or of the Chief Minister at the date of the order in question by virtue of what was then assumed to be his validly delegated authority in this behalf.

The submission of his order to the Chief Minister was in terms only "for orders" and not for bare confirmation. Now, there can be no. doubt that the Nizam himself in the period prior to the police action was competent to exercise the power not merely of accepting or vetoing, but of coming to his

own independent conclusion, and of making any kind of disposition of the Jagir property (or its money substitute) such as the one contemplated by the order of the Revenue Minister in this case and overriding any supposed rights therein under his prior Firman.

If so the Chief Minister could also do the same in purported exercise of the delegated authority (subject only to the objection as to the validity of such delegation). It is to be noticed the in the interval between the order of the Revenue Minister and that of the Chief Minister, both the parties sent representations to the Chief Minister for a hearing by counsel before passing any orders.

The Chief Minister if he chose to accede to the request could well have come to an independent conclusion on a fresh consideration of the entire material. When, therefore, in spite of such a request by both the parties in spite of such a request by both the parties for being heard, the Chief Minister confirmed the Revenue Minister's order and specifically said that he saw no. reason to interfere, it must be taken that he adopted the Revenue Minister's order as his own.

That the Revenue Minister's order was elaborate and that of the Chief Minister is summary does not affect this position. We are therefore, clearly of the opinion that the Chief Minister's order must be taken to be a competent, valid and final order in so far as it relates to the Atiyat and Jagir property and that, in the events that have happened and by virtue of S. 13(2) of the Atiyat Enquiries Act., there has emerged a valid and final determination of the respective rights therein of the three contending parties, viz., Ramachandra Reddy, Rani Lakshmayamma and Rani Shankaramma.

The measure of their respective rights is as specified and directed in the Revenue Minister's order. What becomes final and conclusive under S. 13(2) of the Atiyat Enquiries Act is the determination of the rights and not the reasoning or the steps leading thereto. It is needless to add that this does not affect any rights in or questions relating to non-Atiyat property.

14. In the view we have taken of the Chief Minister's order of confirmation, it appears to us that the further argument advanced by Mr. Engineer as to whether the Revenue Minister's order had errors apparent on the face of the record justifying the issue of a writ of 'certiorari' quashing it does not call for consideration. That question would have arisen only if the Revenue Minister's order was itself intended to be the final and effective order in the case and was within his competence.

15. In the above view, the order of the High Court quashing the Revenue Minister's order as regards the Atiyat property becomes unsustainable.

16. The next question that arises for consideration is whether the High Court was right in its view that a mandatory order was to issue to the Revenue Minister and to the Court of Wards for the handing over of the entire estate to Rani Shankaramma.

The first observation that requires to be made as against the validity of this order is that there is no. clear proof before us that Rani Shankaramma had title, if any, to the entire estate - a matter about which we express no. opinion.

Her title 'prima facie' was only to the Jagir at the start and it may be a matter of contest between the parties as to whether there were any other properties of Raja Durga Reddy which he died possessed of and whether the subsequent accretions are accretions to the Jagir estate or to the non-Jagir property, it any, of Raja Durga Reddy or whether they are her absolute property.

Even if the continuing title of Rani Shankaramma to the Jagir property were assumed it may not follow that the entire estate under the control of the Court of Wards is being held on behalf of Rani Shankaramma. This is a matter which may require further investigation.

The High Court had no. material before it to assume that the entire estate belonged to Rani Shankaramma and to direct the handing over of it to her.

Apart however from his preliminary observation, the right of Rani Shankaramma to obtain possession of the estate is not as clear as the learned Judges have assumed it to be.

Mr. Engineer for Rani Shankaramma has drawn our attention to voluminous material in this case bearing on her alleged right to obtain release in her favour, which according to him, has been accepted by a number of officers on prior occasions.

But the fact remains that in spite of such expressions of opinion the estate was not fact handed over and some of the Firmans of the Nizam himself (in particular the Firmans dated 22-1-1920, 9-11-1922 and 24-11-1934, set out in an earlier part of this judgment) show a definite expression of intention to the contrary.

We cannot treat the right of Rani Shankaramma to obtain possession and the obligation of the Court of Wards to hand over possession as beyond dispute. Mr. Engineer relies upon S. 53 of the Hyderabad Court of Wards Act 1350 F. (Act 12 of 1350 F) which runs as follows :

"

53. Save as provided by section 56, the Court shall release from its superintendence and management the person and property of a ward when :

(a) the ward becomes a major.

(b) the Civil Court decides, that the disability has ceased to exist.

(c) if the Estate has been taken under superintendence under section VII, clause (1) para. (a), a firman is issued.

(d) Government revokes the notification under which it has declared any person disqualified :

Provided that the Court under the sanction of Government can at any time release from its superintendence any person or proparty or both which has been taken charge of under section 12 ".

He says that sub-s(a) of this section applies and urged that the word, i.e. Rani Shankramma having become a major long ago, the Court was bound to release the person and property of the ward from its superintendence and management under this section.

But the learned Attorney General rightly points out that in this case it is clause(c) of S. 53 that applies an not clause (a). Section 7, cl. (1) para (a) referred to in S. 53 (c) is as follows :

"

For the purposes of this Act the following properties shall be deemed to be disqualified to manage or superintend their property.

(a) Proprietors whose property or person and property have been taken under the protection, management and superintendence of the Court of Wards in pursuance of a Firman of H.E.H."

As stated at the outset of this judgment the property was taken possession of immediately after the death of Raja Durga Reddy and the supervision of the Court of Wards was established, by notifications of the Government published on 21-5-1900 and 4-6-1900.

It was thereafter that the Virasat in respect of Jagir Samasthan Papannepet was sanctioned in the name of Rani Shankaramma by a Firman of the Nizam dated 29-5-1903. That Firman specifically committed the care of the property and the person of Rani Shankaramma to the Court o f Wards.

Subsequent proceedings have treated the supervision of the Court of Wards over the property as having been established by the Firmans of the Nizam. If therefore, S. 53 of the Court of Wards Act is to be applied to this case it would require another Firman of the Nazim for the supervision of the Court of Wards to be released and the fact that Rani Shankaramma attained majority would not by itself be enough.

This indeed was the assumption to be found in some of the latter Firmans of the Nizam relating to this matter. It is true that clause (c) of S. 53 is inapplicable in the altered circumstances at any rate after 1950, since admittedly a Firman of Nizam can have now no. constitutional validity. But we have not been shown whether this clause has been adapted or modified by the President under Art. 372 of the Constitution nor has it been urged before us that in the altered circumstances we can treat it as either abrogated or as suitably adapted.

It is, therefore, enough to say that we have not been shown that the Court of Wards was under a statutory obligation is this case to hand over to Rani Shankaramma possession of the properties

which are in their control. We are accordingly unable to maintain also the portion of the order of the High Court directing the estate to be handed over to her.

17. This undoubtedly leads to a very anomalous situation and may have the effect of indefinitely continuing the administration of the Court of Wards over the property until such time as one party or the other goes to the Court and obtains release or until the Court of Wards releases the same on its own responsibility or by filing an interpleader suit. These are matters however which do not concern the Court in an application for issue of a writ.

18. In the result, therefore, the order of the High Court is set aside and the appeal is allowed. In all the circumstances of the case we direct that the costs of all the parties in the High Court and in this Court should come out of the estate.