Supreme Court of India
Cochin Devaswom Board, Trichur vs Vamana Shetty And Ors on 2 March, 1966
Bench: P.B. Gajendragadkar, Cj, K.N. Wanchoo, M. Hidayatullah, J.C. Shah, S.M. Sikri

PETITIONER:
COCHIN DEVASWOM BOARD, TRICHUR

Vs.

RESPONDENT:
VAMANA SHETTY AND ORS.

DATE OF JUDGMENT:
02/03/1966

BENCH:

ACT:
The Travancore-Cochin Kanam Tenancy Act (24 of 1955)-If applies lo Devaswoms.
Constitution of India, 1950, Art. 14-Act applicable only to Cochin ,area of the Kerala State-If Act, ultra vires.

HEADNOTE:
In 1910, the Ruler of Cochin issued a Proclamation publishing Ruler. -to secure the better administration of Devaswoms. Clause 9 of the Proclamation authorised the Diwan of the State to make Rules to carry out the main object and scheme of the Proclamation. In exercise of the authority conferred upon him, the Diwan published rules on March 21, 1910 regulating the procedure in the matter of collection Paattam, Michavaram, renewal fee and other dues payable to Devaswoms. These Rules applied to all tenants--ordinary as well as Kanam. In 1955, the legislature of the Part B State of Travancore Cochin enacted the Travancare-Cochin Kanam Tenancy Act conferring full proprietary rights on Kanam tenants in the Cochin area of the State, subject only to the payment of Janimikaram as a result of which, the Kanam-tenant was declared proprietor of the land and the right of the Jemni was only to receive the Jamnikaram. After the enactment of the Act, the Cochin Devaswom Board claimed to recover michavaram from the Kanam tenants at the rates settled under the Rules made under the Proclamation of 1910. The Kanam-tenants petitioned the High Court for an appropriate writ quashing the notices of demand issued by the Board, and the High Court allowed the petitions and directed the Board not to proceed to enforce the notices. In appeal to this Court, it was contended that; (i) the Act applied only to land held under a contract of tenancy and not to, Devaswom lands in respect of which the michavaram and renewal fee, were governed by Rules

framed under the Proclamation (ii) the Act was discriminatory and void.
HELD : (i) The Travancore-Cochin Kanom Tenancy Act governs lands held from Devaswoms in the Cochin region of the State Kerala.
The Scheme of the Rules published by the Diwan under the Proclamation was that an offer of Pattah on the terms specified in a 'tough draft was to be made to the tenant and after the terms were settled a final Pattah was to be given and the Kanam-tenant had to execute a Kychit (undertaking) in favour of the State. Though the quantum of Michavaram and the renewal fee was determined by-the Rules under the proclamation the terms of the Pattah and Kychit evidenced the contract which determined the rights of the Kanam tenant and the Devaswom. Therefore, the definitions of 'holding', 'michavaram', 'Kanam', 'Renewal fee' and 'Janmikaram' in s. 2 of the Act applied to all lands held by Kanamtenants whether they were Devaswom or non-Devasom. Further, though the Rules under the Proclamation are not expressly repealed by the Act, the Act must be deemed to have partially superseded the Proclamaton and the Rules in so far as the latter related to the rights and obligations of the Kanam-tenants in the three religions, the Act is not discriminatory. Board. [732 B-D; 733 A-B]
725
(ii)The Act does not infringe the guarantee of equal protection of the laws in Art. 14 of the Constitution.
Though the Act only applies to the Cochin area of the State of Kerala which consists of the three regions of Travancore, Cochin and Malabar, since there is a difference between the relations governing the Jenmies and
the Kanam-tenants in the three religions, the Act is not discriminatory. [734 C-E]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 11-18 of 1964.

Appeals from the judgment and orders dated November 7, 15, 1960 of the Kerala High Court in Original Petitions Nos. 269, 284, 129, 250, 285 and 265 of 1957, and 102 and 269 of 1958 respectively.

M.K. Nambyar, P. K. Krishnan Kutty Menon, B. Dutta, J.B. Dadachanji, 0. C. Mathur and Ravinder Narain, for the appellant.

Niren De, Additional Solicitor-General, A. G. Pudissery and M. R. K. Pillai for the respondent the State of Kerala (In C. As. Nos. 17 and 18 of 1964).

The Judgment of the Court was delivered by Shah, J. Two questions fall to be determined in these appeals:

(1) Whether the Travancore-Cochin Kanam Tenancy Act 24 of 1955 governs lands held from Devaswoms (religious institutions) in the Cochin region of the State of Kerala; and (2)Whether the Act infringes the guarantee of equal protection of the laws and is on that account void? Kanam tenure has a feudal origin. Broadly stated it is a customary transfer which partakes of the character of a mortgage and of a lease: it cannot be redeemed before a fixed number of years-normally twelve-and the (Kanamdar) mortgagee-lessee is entitled on redemption to compensation for improvements. The annual payments to the (Jenmi) mortgagor-lessor are regulated by what remains of the fixed share of the produce after deducting interest. If the land is not redeemed on the expiry of 12 years, a renewal fee becomes payable to the jenmi. The Cochin State Manual contains the following description of the kanam tenure in the Cochin region:

"The Verumpattam (simple lease) becomes a kanam lease when the janmi (landholder) acknowledges liability to pay a lump sum to the tenant on the redemption of his lease. In the old days his liability was created in most cases as a reward to the tenant for military or other services rendered by him, but in more recent times, kanam encumbrances were generally created by the janmi borrowing money from his tenant to meet any extraordinary expenditure by the conversion of the compensation payable to Kuzhikanam (lessee who had a right to make improvements) holders into a kanam debt, or by the treatment of the amount deposited by the tenant for the punctual payment of rent and husband-like cultivation as a charge on the land. In kanam leases the net produce, after deducting the cost of seed and cultivation, is shared equally between the landlord and the tenant, and from the share of the former the tenant is entitled to deduct interest on the kanam amount at five per cent. The overplus, that is payable to the janmi after making these deductions, is known as michavaram. The kanamdar is entitled to the undisturbed enjoyment of the land for twelve years, but formerly it was for the life time of the demisor. At the end of this period, the lease may be terminated by the janmi paying the kanam amount and the value of the improvements effected by the tenant, or it may be renewed on the latter paying a premium or renewal fee to the landlord."

After the expulsion in 1762 of the Zamorin of Calicut who had invaded Cochin, the Ruler of Cochin divested the chieftains who had supported the invader of their administrative powers and confiscated their properties and the Devaswoms under their management. Managers of the major Devaswoms who had welcomed the invader were also deprived of their powers, and administration of a large majority of Devaswoms was assumed by the State. Some minor Devaswoms were later taken over by the State, because of incompetent or dishonest management, and a scheme was devised by the State for maintenance of accounts of the Devaswom properties and for administration of the affairs of the Devaswoms according to the existing usage. The Devaswoms, revenues and expenditure whereof were thus completely merged in the general revenues, were called 'Incorporated' Devaswoms. Some time after the incorporation of these Devaswoms, management of two wellknown endowed temples was surrendered to the Ruler, but administration of these Devaswoms was not amalgamated with the "Incorporated" Devaswoms and their expenditure continued to be met from the receipts from the temples. Later the State assumed

management of some more Devaswoms and treated them in the same manner as the two major temples. These institutions which were later acquired were treated as independent of each other as well as of the "Incorporated" Devaswoms and were called "Unincorporated" Devaswoms.

On February 11, 1910, the Ruler of Cochin issued a Procla- mation publishing rules to secure better administration of the Incorporated and Unincorporated Devaswoms. The rules provided that the endowments attached to and the income derived from the Devaswoms, whether "Incorporated" or Unincorporated", shall be constituted into a Common Trust for all administrative purposes, that accounts shall be maintained as directed and that the surplus after defraying the expenses shall be appropriated in the manner prescribed. By cl. 9 the Diwan of the State was given authority to frame rules for carrying out the main object and the scheme of the Proclamation, and the rules so framed were to have the same force and validity as the Proclamation, and were to regulate the renewals, prescribe the mode of collection of rents as well as rates of rents payable by tenants, and to provide for such other matters as may be necessary for securing efficiency and uniformity in the administration of the landed properties belonging to all Devaswoms. The Diwan of Cochin promulgated on March 21, 1910, rules regulating procedure in the matter of collecting Paattam, Michavaram, renewal fee and other dues payable to Devaswoms and other religious institutions. The rules provided for maintenance of public registers in respect of landed properties, payment of rent due by the tenants to the Devaswom Officer and prescribed methods for recovery of arrears by sequestration of property either temporarily or permanently. These rules applied to all tenants-ordinary and kanam. On November 8, 1910, some more rules were published by the Diwan. These rules were designed to regulate the principles and procedure to be observed in fixing the rates of rents, renewal of holdings and for securing efficiency and uniformity in the administration of landed properties of all the Devaswoms. By cl. 5 the principles to be followed in the classification of lands and for fixing rents were prescribed. It was directed by cl. 8 that the lands shall.' be carefully examined and classified with reference to soil, situation, productiveness, drainage and irrigation facilities and other relevant considerations. By cl. 13 all Devaswom lands held under kanam, and other tenures of a cognate nature were to be charged full rent fixed in accordance with the provisions of Part II of the Rules,, but from the full rent so charged, deductions were to be made on account of interest on kanam etc. By cl. 16 it was provided that holdings of land under kanam and other tenures were subject to, renewal periodically once in fifteen years, at each of which occasion. the tenant was liable to pay renewal fee calculated at the customaryrates revailing in each Devaswom.

On July 12 ,1911, supplementary rules were published to regulate the administration of lands belonging to Devaswoms and for maintenance of accounts connected therewith. By cl. 3 rights and obligations under a Pattah to be issued by the Devaswom were prescribed and these obligations under the Pattah were to be embodied in a kychit (undertaking) which each Devaswom tenant receiving a Pattah had to execute.

On October 24, 1914, the Maharaja of Cochin Promulgated the Cochin Tenancy Act II of 1090 M. E. (1914 A.D.). The ex- pression "Kanam tenant" was defined by s. 2 (c) as meaning a tenant who holds lands on payment of consideration in money or in kind or partly in money and partly in kind to the landlord for his holding, and on a demise made or renewed by a landlord on a tenure that is subject

to renewal after a fixed period on payment of a renewal fee. "Michavaram" was defined in s. 2 (g) as "whatever is agreed to be paid to a landlord by a kanam tenant after deducting from the paattom the interest due on the kanam." Provision was made in Ch. III for renewals of kanam holdings and ejectment of kanam tenants and for other incidental matters. On May 29, 1949 the Rulers of Travancore and Cochin States ,entered into a covenant for the formation of the United State of Travancore-Cochin. On January 26, 1950 the State of Travancore Cochin became a Part 'B' State within the Union of India. By s. 62 of Act 15 of 1950 effect was given to Art. 8-D of the covenant and it was provided that the administration of "Incorporated" and "Unincorporated" Devaswoms and Hindu religious institutions which were under the management of the Ruler of Cochin immediately prior to the first day of July, 1949, and all their properties and funds and the estates and all institutions under the manage- ment of the Devaswom Department of Cochin, shall vest in the Cochin Devaswom Board. By s. 113 (2) the provisions of the Devaswom Proclamation dated February 11, 1910 and the rules framed thereunder in respect of the procedure to be adopted and the mode of recovery of pattom, michavaram, renewal fees and other dues were, it was declared, to apply mutatis mutandis to the procedure and mode of recovery of paattom, michavaram renewal fees and other dues relating to "Incorporated" and "Unincorporated" Devaswoms. The Legislature of the State of Travancore-Cochin enacted Act 24 of 1955 called the Travancore-Cochin Kanam Tenancy Act 24 of 1955 with the object of conferring full proprietary rights on kanam tenants in the Cochin area subject only to the payment of janmikaram and to provide for the settlement, collection and payment of janmikaram and for matters incidental thereto. By s. 3(1) of the Act it was provided :

"From and after the commencement of this Act the Jenmi shall not have any right, claim or interest in any land in a holding except the right to receive the jenmikaram thereon and the kanam-tenant shall be deemed to be the owner of the land subject only to the payment of the jenmikaram. Explanation (1).....

Explanation (2)..... Explanation (3).....

The jenmi's right as well as the kanam tenant's right were declared Heritable and transferable by sale, gift or otherwise. By s. 5, Jenmikaram was made a first charge on land. Under the customary kanam-tenure the jenmi was either a lessor or a mortgagor having rights of ownership in the land, but by Act 24 of 1955 the relationship was fundamentally altered; subject to payment of jenmikaram the kanam-tenant was declared a proprietor of the land and the right of the jenmi was only to receive the jenmikaram. After the enactment of Act 24 of 1955 the Cochin Devaswom Board (which was constituted under s. 62 of the Travancore- Cochin Hindu Religious Institutions Act 15 of 1950) claimed to recover Michavaram at the rates settled under the rules made in exercise of the power conferred by cl. 9 of the Proclamation of 1910. The kanam-tenants thereupon petitioned the High Court of Kerala for a writ of certiorari, prohibition or other writ quashing the notices of demand issued by the Board and all proceedings taken by the Assistant Devaswom Commissioner. It was claimed by the kanamtenants that on expressing their readiness to pay jenmikaram settled under the rules framed under Act 24 of 1955, they were entitled to hold the lands in their occupation as proprietors and the Board could not demand any amount in excess of the jenmikaram. The Board presented in their turn two petitions praying for the issue of writs of certiorari or other appropriate writ quashing notices issued by the Jenmikaram Settlement Officers under the provisions of the

Kanam Tenancy Act 24 of 1955 in respect of the lands owned by "Unincorporated" Devaswoms and for a writ of prohibition against those Officers from enforcing the provisions of Act 24 of' 1955 and the rules framed thereunder. The Board claimed that the provisions of Act 24 of 1955 did not apply to land held by its kanam tenants, and that in any event the proceedings taken by the. Jenmikaram Settlement Officer for settlement of the jenmikaram payable by its kanam-tenants and the rules framed thereunder "were illegal and ultra vires of their powers."

The High Court of Kerala held that by the enactment of Act 24 of 1955, the Board's fundamental rights under Art. 31(2) or under Art. 14 of the Constitution were not infringed, and that the Board could not demand payment of Michavaram as regulated by the Proclamation of 1910, because the provisions settling the Michavaram under the Proclamation were superseded by Act 24 of 1955. The High Court accordingly rejected the petitions filed by the Board and directed the Board in the petitions filed by the tenants "not to proceed further under the notices issued" against the kanam-tenants.

The two questions raised in the appeals may now be consider- ed. Counsel for the appellants says that whereas under the Proclamation of 1910 and the rules framed thereunder there is a statutory fixation of Michavaram and the renewal fee in respect of the lands held by kanam-tenants belonging to the Devaswoms which later came to be vested in the Board, Act 24 of 1955 only applies' to kanam-tenants holding lands under contracts with jenmis. The relation between the jenmi and the kanam-tenant in respect of lands Devaswom "Incorporated" or "Unincorporated" is, it is urged, governed by the terms of the Proclamation and the rules framed thereunder relating to fixation of Michavaram and renewal fee, whereas Act 24 of 1955 deals with liability to pay jenmikaram in respect of land held under an engagement by a kanam-tenant with a jenmi. In support of this contention, reliance is placed primarily upon the definitions in s. 2 of the Act of "Jenmikaram", "Jenmi" -"Renewal fee" "Holding", "Kanam" and "Michavaram. The ,expression "Jenmikaram" was defined by S. 2 (13) as the amount "payable in respect of that holding or land under the provisions of this Act by the kanam-tenant to the jenmi every year in lieu of all claims of the jenmi in respect of the holding, or land and shall be the sum total of the michavaram and the fractional fee"; "kanamtenant" was defined by s. 2 (12) as a person who holds land on kanam tenure; and a "Jenmi" was defined in s. 2 (3) as "a person immediately under whom a kanam-tenant holds". "Renewal fee" was defined in S. 2 (I 1) as fee or fees payable by a kanam- tenant to his jenmi under the contract of tenancy for the renewal of the legal relationship under which the kanam- tenant has been holding any land. "Holding" was defined by s. 2 (2) as a parcel or parcels of land held under a single engagement by a tenant as a kanam from a jenmi and shall include any portion of a holding as above defined which the jenmi and kanam-tenant have agreed to treat as a separate holding. By s. 2 (4) "Kanam" meant a demise with the incidents specified therein. "Michavaram" was defined by S. 2 (6) as meaning the balance of money or produce or both payable periodically under the contract of tenancy to the jenmi after deducting from the pattom the interest due on the kanam amount and purankadam, if any. Relying upon these definitions it was urged that the Act applies only to land held under a contract of tenancy and not to land in respect of which the Michavaram and the renewal fee are governed by rules framed under the Proclamation of 1910. It was claimed that the definitions in the Act disclosed clearly an intention not to interfere with the relation between the kanam-tenants and jenmis in respect of the Devaswom lands- "Incorporated" or "Unincorporated".

This argument in substance canvasses the plea that the relations between kanamtenants of the Devaswom lands were not governed by contracts.

This plea is, in our judgment, without substance. It is true that by Part II of the Rules dated November 8, 1910 'Issued in exercise of the powers under cl. 9 of the Proclamation of 1910 rules were framed for fixation and collection of "michavaram", "paattom" renewal fee and other dues in respect of Sirkar Devaswoms and other religious institutions. By cl. 13 of the Rules, rent in respect of all Devaswom lands held under kanam tenure was to be fixed in accordance with the provisions of Part 11 of those Rules and the kanam-leases are to be renewed every fifteen years as provided in cl. 16. By cl. 25 it was provided that before the introduction of the new rates of rent, a rough Pattah will be furnished to each tenant, showing the details of his holding, rent to be paid, the kanam amount, interest deductions and renewal fees fixed on the kanam holding, if any, Provision was then made in cls. 27, 28 & 29 for lodging objections relating to the draft Pattah and determination thereof, and for the issue of a final Pattah in Form C under the signature of the Devaswom Commissioner setting out the particulars of his holding, the rent due from him in kind as well as in money including miscellaneous items, the kanam amounts, interest deductions and renewal fees on kanam lands held by him and the number of instalments in which the rent was payable. Clause 29 further provided that the Pattah so issued shall be considered to be sufficient acknowledgment by the Government of the tenant's right to occupy the land or lands comprised in his holding on the conditions specified in the Pattah and that the tenant's obligations on these conditions shall be embodied in a corresponding kychit. By paragraph-s of the supplementary rules dated July 17, 1911 which were intended to regulate the administration of lands belonging to Sirkar Devaswoms the rights and obligations under the Pattah were prescribed, and by sub-paragraph (f) of that paragraph it was provided that the obligations under a Pattah shall be embodied in a kychit in Form Appendix II which each Devaswom tenant receiving a Pattah shall execute. The Form in Appendix II was as follows :

"Kychit executed by Pattadar No of Desam Village Taluk relating to Devaswom properties in group of Cochin State before the Devaswom Katcherry (Office).

granted from the Devaswam relating to properties in my possession and which are Devaswam Janmam lands, the Paattam Michavaram (annual rent) Puravka (customary dues) etc. will be paid by me after necessary cleaning the quantity of paddy according to kist mentioned in the Patta.

After payment in kind and cash I shall take a receipt for the same. In case of default for any instalment, I shall pay the proper interest for such sum. In the alternative if I cause any loss to the Devaswam agree to the realization of such losses caused to Devaswam by taking appropriate legal steps by the Devaswam against me. Besides I am bound by all the orders of the Dewan from time to time made under the Royal Proclamation of 29th Makaram 1085 (11-2-1910)."

The scheme of the Rules clearly was that an offer of a Pattah on the terms specified in a rough draft was to be made to a tenant. The tenant was entitled to raise objections thereto and after the objections were heard and disposed of, a final Pattah was to be given to the tenant and the kanam-tenant had to execute the kychit in favour of the State. The terms of the Pattah and kychit

evidenced the contract which determined the rights of the kanam-tenant and the Devaswom. It is true that under the Proclamation of 1910 and the rules framed thereunder, the quantum of Michavarwn and renewal fee was determined in accordance with the rules. But the kychit constituted an engagement with the Board, and land held by a kanam-tenant under the Kychit was a holding within the meaning of Act 24 of 1955. The Pattah constituted a demise within the meaning of sub-s. (4) of s. 2, Michavaram defined in s. 2 (6) was deemed payable under the contract of tenancy, and renewal fee under s. 2 (11) was payable under that contract of tenancy. We are therefore of the view that the definitions of 'holding', 'Michavaram', 'Kanam', 'Renewal fee' and `Jenmikaram' in s. 2 of Act 24 of 1955 applied to all lands held by kanam- tenants whether the lands held were Devaswom or non- Devaswom.

It is true that the Proclamation of 1910 and the rules framed thereunder have not been repealed by the Act. But they could not be repealed for reasons which are obvious. The machinery for grant of Pattah and the execution of kychit was prescribed under those rules. The repeal of the Proclamation and the rules framed thereunder would have necessitated a fresh enactment under which the terms which were to govern the relations between the jenmi and the kanam-tenant were determined. Again repeal of the Proclamation would have necessitated re-enactment of cls. 2 & 3 thereof which set up a Common Trust and prescribed the management through the Devaswom Department. Again the rules framed by the Diwan set up machinery for fixation of rent and other dues and for recovery thereof in respect of lands held on kanam and other tenures as well. No inference may therefore arise from the notifications issued by the State after enactment of Act 24 of 1955 in pursuance of the rules and Proclamation of 1910 that the Act was not intended to apply to kanam-tenants holding lands from Devaswoms. The notifications dated February 4, 1958, and July 1, 1958 issued by the Kerala Government in exercise of the powers conferred by cl. 9 of the Cochin Proclamation amended the supplementary rules regulating the administration of lands belonging to Sirkar Devaswoms and thereby enabled tenants from whom paddy demand was due according to Pattah to deliver the same in kind or pay the value of paddy calculated at the average nirak rate published by the Government. The notifications are in general terms and could apply to tenures other than those governed by the statute enacted by the Legislature. The Act must be deemed therefore to have partially superseded the Proclamation and the rules framed in so far as the latter related to the rights and obliga- tions of the kanam-tenants in respect of land held by them from the Devaswom Board.

The plea about infringement of the fundamental rights of the Devaswom Board by the enactment of Act 24 of 1955 needs no elaborate discussion. In the High Court the plea was sought to be sustained on the grounds that the Act infringed the fundamental rights under Art. 14 and also under Art. 31 (2) of the Constitution. Before us no argument has been advanced in support of the plea that the Act infringes the right under Art. 31 (2) and nothing more need be said about it. Before dealing with the plea of infringement of the right of equality before the law, it is necessary to set out the case of the Board as pleaded in their affidavit in reply to the tenants' claim. In paragraphs of the counter-affidavit filed. by the Board in reply to the tenants' petition, it was submitted "The Jenmies of the erstwhile Cochin area where alone the Kanom Tenancy Act has been made applicable have been denied equality before the law and equal protection of the laws in enacting the Kanom Tenancy Act. The Legislature discriminates the Jenmies of the Cochin area as against Jenmies similarly situated in the Travancore and Malabar areas of the State. The classification made is unreasonable and there

is no reasonable nexus between the classification and. the object sought to be achieved by the Act. It is therefore submitted that the Kanom Tenancy Act, XXIV of 1955, offends Article 14 of the Constitution." In petition No. 102 of 1958 filed by the Devaswom Board, by paragraph 9 (e) it was submitted "The Kanom Tenancy Act offends Article 14 of the Constitution in that the Jenmies in the erstwhile Cochin State have been denied equality before law and the equal protection of the laws. It discriminates the Jenmies of the Cochin area as against the Jenmies similarly situated in Travancore and Malabar areas of the Kerala State. The grouping of Kanom tenants in Cochin area for purposes of legislation is not based on any reasonable classification or conceived in the interests of the general public." The argument raised on behalf of the Board in the two sets of petitions is that the Act only applies to the Cochin area and does not apply to the whole State of Kerala which consists of three regions, viz., Travancore, Cochin and Malabar and is on that account discriminatory. The argument assumes that the principal incidents of the kanam-tenure in the three regions of the Kerala State are identical and that when Act 24 of 1955 was enacted, without any rational ground a distinction was made between the Jenmies in respect of kanam lands in the Travancore and Cochin regions and after the reorganisation of the State in 1936 that discrimination was perpetuated even qua the Jenmies in the Malabar region. This assumption on the finding recorded by the High Court on an extensive review of the legislative history in the three regions has no basis in fact. The relation between the Jenmies and the kanamtenants in the Travancore region was governed by the Jenmi and Kudiyan Regulation No. 5 of 1071, as later modified by Regulation No. 12 of 1108. The incidents of the kanam-tenure in Travancore region were substantially different from those prevailing in Cochin. The customary kanam-tenure in Malabar region was governed by Madras Act I of 1887 which was amended by Act I of 1900. Later the Madras Legislature passed the Malabar Tenancy Act 14 of 1930 which was amended by Acts 33 of 1951 and 7 of 1954. From a review of the provisions of the Act, the High Court observed that no renewal fee could be levied from a kanamdar in the Malabar region and that fixity of tenure was conferred by s. 25 of Act 14 of 1930, that whereas in the Malabar region no renewal fee was required to be paid, in the Travancore region fractional fee was ,charged and that in the Cochin region a renewal fee calculated under s. 28 was payable under the Cochin Tenancy Act 15 of 1938. The Jenmies in the three regions were therefore not similarly circumstanced. If the Legislature with a view to agrarian reform selected the Cochin region and enacted an Act limited to that region, it could not be said, merely on the ground that it applies only to the Cochin region, that it is based on no intelligible differentia. The Board only pleaded that by the enactment of the Act there was discrimination between Jenmies in the three regions. In the absence ,of any plea and proof about relative fertility of the soil, nature of crops raised, extent of holdings, historical development of the kanam-tenure and the terms on which the kanam-tenants hold land from the Jenmies, it would be impossible to decide whether the Jenmies in the three regions are similarly Circumstanced and that the Legislature has made an unlawful discrimination by providing a different tariff of payments. A person relying upon the plea ofunlawful discrimination which infringes a guarantee of equalitybefore the law or equal protection of the laws must set out withsufficient particulars his plea showing that between the persons similarly circumstanced, discrimination has been made which is founded on no intelligible differentia. If the claimant for relief establishes similarity between persons who are subjected to a differential treatment it may lie upon the State to establish that the differentiation is based on a rational object sought to be achieved by the Legislature. In the present case the pleading of the Devaswom Board is wholly insufficient to discharge the onus of proving similarity of status between the Jenmies in the three regions, and the

findings recorded by the High Court which are not challenged before us clearly show that there is a difference between the relations governing the Jenmies and the kanam-tenants in the three regions. The plea about infringement of the fundamental right under Art 14 of the Constitution must therefore fail.

The appeals are dismissed with costs. One hearing fee in all the appeals.

Appeals dismissed.