Supreme Court of India
Raja Rameshwar Rao And Another vs Raja Govind Rao on 28 March, 1961
Equivalent citations: 1961 AIR 1442, 1962 SCR (1) 618
Author: K Wanchoo
Bench: Wanchoo, K.N.

PETITIONER:
RAJA RAMESHWAR RAO AND ANOTHER

Vs.

RESPONDENT:
RAJA GOVIND RAO

DATE OF JUDGMENT:
28/03/1961

BENCH:
WANCHOO, K.N.
BENCH:
WANCHOO, K.N.
GAJENDRAGADKAR, P.B.

CITATION:
1961 AIR 1442 1962 SCR (1) 618

ACT:
Jagir-Grant made by Nizam-Adverse possession-Claim of limited right as permanent lessee-Maintainability-Indian Limitation Act, 1908 (9 of 1908), art. 144.

HEADNOTE:
Although title to a limited interest in property can be acquired by adverse possession, no limited interest in the nature of a permanent lease can be ordinarily acquired in a jagir which must initially be presumed to enure for the life-time of the grantee unless the grant itself shows otherwise.
Sankaran v. Periasami, (1890) I.L.R. 13 Mad. 467, Thakore Fatehsingji Dipsangji v. Bamanji Ardeshir Dalal, (1903) I.L.R. 27 Bom. 5I5, Shrimat Daivasikhamani Ponnambala Desikar v. Periayanan Chetti, (1936) L.R. 63 I.A. 261 and Gulabdas,Jugjivandas v. The Collector of Surat, (1878) L.R. 6 I-A 54, referred to.
Although in the former State of Hyderabad a son might in normal course be allowed to succeed to the father's jagir, it could not be said that jagirs granted by the State were therefore permanent and hereditary in character, for the State generally .had the right to resume the grant.
Raje Vinaykrao Nemiwant Brahmin v. Raje Shriniwasrao

Nemiwant Brahmin, I.L.R. [1942] Nag. 526 and Ahmad-un-Nissa Begum v. State, A.I.R. 1952 Hyd. 163, referred to.
Where, therefore, a grant was continued in a family from generation to generation, each grantee must be taken to hold it for his life and limitation against each must start from the date of his title.
Since a jagirdar could not grant a lease beyond his lifetime unless specifically empowered by the sanad or the law of the State, the period of adverse possession against one jagirdar could not be tacked to that against another for the purpose of art. I44 Of the Indian Limitation Act. In this respect a jagirdar stood on a different footing from that of the manager of a temple.
Jagdish Narayan v. Nawab Saeed Ahmed Khan, A.I.R. 1946 P.C. 59, referred to.
Shrimat Daivasikhamani Ponnambala Desikay v. Periyannan Chetti, (1936) L.R. 63 I.A. 26i, distinguished.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 399 of 1957. Appeal from the judgment and decree dated July 27, 1954 of the High Court of Judicature at Hyderabad in Civil Appeals Nos. I and 2 of 1954-55.

S. T. Desai, C. Krishna Reddi, T. Ramachandra Rao and M. S. K. Sastri, for the appellants.

Sadashiv Rao, J. B. Dadachanji and S. N. Andley, for the respondent.

1961. March 28. The Judgment of the Court was delivered by WANCHOO, J.-This is an appeal on a certificate granted by the former High Court of Hyderabad. A suit was brought by the respondent in 1920 with respect to village Timmapet. The case of the respondent was that the village had been granted to his ancestor Harinarayan alias Raja Nemiwant Bahadur by the Nizam in 1787. On the death of Raja Harinarayan, the village was conferred by another sanad on his son Raja Govind Narayan in 1811. Ever since then the village had continued in the possession of the descendants of Raja Govind Narayan. In 1817, Raja Govind Narayan granted this village on Tahud (i.e., lease) to Raja Rama Krishna Rao, ancestor of the defendants. Inam inquiries with respect to this village started in 1901 and then an objection was made on behalf of the appellants that the village had been granted to their ancestors by the Nizam and the respondent was only entitled to the pan mukta of the village and no more. Pan mukta means a fixed sum which is payable in perpetuity for any land granted by the Ruler or the jagirdar to any person. The respondent's case further was that the lease money was being regularly paid, though some time before the suit there was some default. The respondent had to file a suit to recover the lease money which was decreed and the decretal amount was recovered. In 1917 disputes arose between the parties and consequently in 1918 the respondent asked the appellants to vacate the village. They, however, refused to do so. Thereupon the present suit was filed in 1920 and the respondent's case was that the lease granted to the appellants was not a permanent lease and could only enure for the lifetime of the grantor and therefore the respondent

was entitled to possession of the village, particularly as the appellants had begun to assert a title adverse to the respondent. The suit was resisted by the appellants, and their main defence was that the village had been granted as bilmakta with a fixed pan makta in their favour by the Nizam and therefore the respondent was only entitled to the fixed pan makta per year and could not claim to dispossess them from the village. As an alternative, defence of limitation was also pleaded, though the written statement did not make it clear whether the bar of limitation was under art. 142 or art. 144 of the Limitation Act. There were other defenses also with which we are however not concerned in the present appeal. The trial court framed a large number of issues, which were answered in favour of the respondent and the suit was decreed and the plaintiff was held entitled to obtain possession of the village as well as to recover mesne profits at the rate of Rs. 931-12-0 0. S. per year. On the two main defenses, the trial court held that the village had not been granted by the Nizam to the appellants as claimed by them and the appellants were liable to ejectment as they could not claim the rights of a permanent losses under the lease granted to their ancestor by the respondent's ances- tor. Further on the question of limitation, the trial court held that the suit was not barred by art. 142. It does not appear that the case of adverse possession was put forward in the trial court.

There were two appeals to the High Court; one of them was by the appellants and the other by the respondent. The respondent's appeal was confined only to the rate of mesne profits while the appellants reiterated their two main contentions as to the nature of their right and limitation. The appeals were heard by a Division Bench of the High Court, the Judges composing Which however differed. Schri Ran, J., agreed with the trial court as to the nature of the rights of the 'respondent as well as on the question of limitation and was of the opinion that the appeal of the appellants should be dismissed. It appears that in the High Court a plea of adverse possession was also raised in the matter of limitation; but that plea was also negatived by Schripat Rau, J. Further Schripat Rau, J., was of the View that the appeal of the respondent -should be allowed and the amount of mesne profits per year should be _ raised to Rs. 4,381-12-11. The other learned Judge, Khalilulzaman Siddiqu, J., seems Lo have held in favour of the appellants both on the questions of title and adverse possession and was of the view that the suit should be dismissed in toto. There was then a reference to a third learned Judge, Ansari, J. He agreed with Schripat Rau, J., on the questions of title and limitation; but as by the time he came to deliver judgment the Hyderabad (Abolition of Jagirs) Regulation, No. LXIX of 1358-F had come into force from 1951 and possession could not be granted to the respondent, Ansari, J., held that the respondent would be entitled to the compensation payable on the abolition of jagirs.

As Ansari, J., had per force to differ from Schripat Rau, J., as to the part of the relief to be granted to the respondent because of the abolition of jagirs, the case was referred to a Full Bench of three Judges in view of s. 8 of the Hyderabad High Court Act. The Full Bench held that as Ansari and Schripat Rau, JJ., were in agreement on the questions of title and limitation these matters did riot fall-to be decided before them and would be concluded by the judgment of Ansari, J. But on the nature of relief on which Ansari, J., per force had to differ from the view of Schripat Rau, J., the Full Bench upheld the view of Ansari, J. Thereafter the appellants applied for a certificate for leave to appeal to this Court, which was granted; and that is how the matter has come up before us.

Learned counsel for the appellants has urged only two points before us. In the first place, lie submits that on the evidence it has been proved that the Nizam granted a bilmakta sanad to the appellants which included this village also and therefore the appellants were entitled to the possession of the village permanently subject only to the payment of pan makta to the respondent. In the second place, he submits that even if it be held that the Nizam did not grant a bilmakta sanad including this village, the appellants had perfected their title by adverse possession to the limited right of being permanent lessees under the respondent subject to payment of a fixed amount of rent per year. The first question therefore that arises is whether the appellants' case that this village is included in the bilmakta sanad granted to them by the Nizam and therefore by virtue of that sanad they are entitled to hold this village permanently subject only to the payment of a certain sum annually to the respondent, is proved. It is now no longer in dispute that the village was granted in jagir to the ancestors of the respondent. It is also not in dispute that in 1817 Raja Govind Narayan granted a kowl in favour of the appellants' ancestor. Under the terms of that kowl the village was granted on Tahud (lease) for the fixed sum of Rs. 1027-10-0 per year to the appellants' ancestor. No term is mentioned in the kowl as to its duration; but after reciting that the village had been granted on Tahud for a certain fixed amount annually, the kowl goes on to say that the grantee should with entire confidence rehabilitate old and new riots and pay the amount of Tabud annually as per fixed installments, in every crop season. As one reads the kowl, on its plain terms it cannot be read to confer on the appellants' ancestor a permanent lease on a fixed sum which was not liable to be varied at all. But the appellants claim that they had been in uninterrupted possession since 1817 for over 100 years. on the same rent when the suit was filed and this shows that the village must have been granted to them as a permanent lease. We cannot accept this contention and the fact that the appellants and their ancestors have continued in possession over 100 years on the same rent would not make the kowl of 1817 a permanent, lease in the face of its plain terms. The courts below were therefore right in the view that the kowl does not show a grant of a permanent lease on a fixed annual payment to the appellants.

The appellants however relied on what happened soon after the kowl was granted to them. It appears that soon after 1817 the appellants' ancestor made a vajab-ul-arz (i.e., application to the Nizam) with various prayers. One of the prayers was for grant of bilmakta sanad. This was obviously with respect to certain Government lands, which the ancestors of the appellants held. In para 6 of the vajab-ul-arz it is said that "in these days your devotee has regularly paid Government dues and expects that he should receive sanads of bilmakta with the seal of Diwani". In para 3 it is said that "from out of the Government Talukas whichever is entrusted on Tahud, your petitioner will pay the Tahud amount and will look after and improve the Taluka". On a fair reading of the vajabul-arz there can be little doubt that the ancestor of the appellants was praying that he should be granted a bilmakta sanad of lands held by him from the Government. To this vajab-ul-arz was appended a list of villages which apparently the ancestor of the appellants hold. This list contained 88 villages. There is no difficulty about 85 of these villages which were apparently field by the ancestor of the appellants from the Government; but about three villages there was a special mention in the list. These were:(1) Timmapet, Jagir Raja Nemivant, Makta of Zamindar of Sugur. It may be mentioned that the ancestor of the appellants was the Zamindar of Sugur and that is how he prayed for a sanad of bilmakta; (2) the village Korotkal, attached to Jagir Bahrami, makta Zamindar Sugur; and (3) Palmur, including hamlet Gattalpalli. These three villages were obviously not of the same kind as the

other 85 villages. Village Timmapet was in the jagir of the ancestor of the respondent and Could not therefore ordinarily be granted to the ancestor of the appellants. Village Korotkal was an attached jagir which has handed over to one Bakhshi Ismail Khan while village Palmur had been granted to the ancestor of the appellants. Village himself in lieu of seri. Strictly speaking these three villages which stood apart should not have been included in the list of villages for which bilmakta sanad was prayed for. Anyhow the order of the Government on this vajab-ul-arz was that a sanad with seal of Niabat Diwani be granted. The actual sanad which was granted by virtue of this order has not been strictly proved, though a copy of it appears in a judgment copy of which has been filed. We do not therefore propose to refer to this copy. It appears however that in 1880 a bilmkta sanad was again granted by the Nizam himself to the ancestor of the appellants on the death of the previous holder. The amount of bilmakta (i.e., fixed annual payment) was fixed at Rs. 1,05,412. This amount is made up of the revenue of 85 villages out of the 88 villages which were included in the list along with the vajab-ul-arz. The remaining three villages which we have mentioned above, were also shown in the schedule to this sanad under the heading "Deduct 3 villages of separate Jagir". The three villages under this heading are Timmapet, Korotkal and Palmur. It is the meaning of these words under the heading of which these villages appear which; required interpretation in the present suit. The contention of the respondent was that the heading showed that the bilmakta sanad granted by the Nizam excluded these villages, for the revenue of these villages amounting to Rs. 2,101 was not included in the bilmakta amount of Rs. 1,05,412. It is further contended on behalf of the respondent that the, reason why these three villages were mentioned in this manner in the schedule attached to the bilmakta sanad was that the appellants' ancestor had wrongly included these' villages in his list filed with the vajab-ul-arz and ever, since then these villages were included in the schedule to the sanads but were always shown as deducted from the bilmakta. We are of opinion that this contention of the respondent is correct and the courts below were right in accepting the respondent's contention in this behalf. The very fact that the revenue of these villages is not included in the bilmakta amount of Rs. 1,05,412 shows that they could not be part of the bilmakta grant by the Nizam. We cannot accept the argument on behalf of the appellants that the revenue of these villages was not included because the ancestor of the appellants had to pay the amount of this revenue in the case of Timmapet and Korotkal to the jagirdars and the revenue of Palmur was given to him free in seri. The very fact that these three villages appear under the heading "'deduct three villages of separate jagir" along with the fact that their revenue is not included in the bilmakta grant of Rs. 1,05,412 shows that they were not part of the bilmakta sanad. It is true that they have been mentioned in the schedule, and strictly speaking they should not have been so mentioned there; but the reason for that in our opinion is that the appellants' ancestor had included them in his list and they seem to have been put down in the schedule to the sanad from that list. But the way in which they were put in the schedule to the sanad shows that they were not part of the sanad granted by the Nizam. Our attention was also drawn to the Avarja said to have been prepared in 1836 in which also these three villages are included. But Avarja is merely a paper in which a note of the sanads issued each day is mentioned. The fact therefore that these; three villages were mentioned in the Avarja can be easily explained by the fact that they were mentioned in the sanads which were prepared from the list of villages supplied by the appellants' ancestor along with his vajab-ul-arz. The presence of these three villages in the Avarja would not establish that the villages were granted as bilmakta by the Nizam to the appellants' ancestor, unless the sanads granted by the Nizam establish it. We have already examined the sanad of 1880 which is on the record and have no difficulty in agreeing with

the courts below that the bilmakta sanad excluded these villages and was only confined to the remaining villages for which the appellants' ancestor paid Rs. 1,05,412 to the Nizam as the fixed annual amount.

It was urged on behalf of the appellants that the Nizam was an absolute Ruler and -it Was open to him to take away any land from a jagirdar and grant it to any other person. That is undoubtedly so; but even where an absolute Ruler takes away some land from a jagirdar and gives it to another person, it seems to us clear that he would inform the jagirdar that he had taken away in whole or in part what he had granted to him and would also make it clear by proper words in the sanad granted to the other person that he was giving him the land taken away from the jagirdar. In any case where the land was granted earlier to the jagirdar, there must be a clear indication in the sanad to another person that what had been granted to the jagirdar had been taken away and was being granted to this other person. As we read the sanad of 1880 we find no clear indication in it that the village of Timmapet which was granted along with other villages as jagir to the respondent's ancestor was being taken away-at any rate in part-and that in future the respondent's ancestor would only be entitled to a fixed sum from the appellants' ancestor with respect to this village and no more. On the other hand, in the recital of the sanad unfortunately there is nothing clear for the words "etc." appear therein in more than one place as to the land granted. We have therefore to turn to the schedule for whatever help we can get from it. The schedule shows that these three villages were under the heading "deduct three villages of separate jagir". From that the only inference can be that these three villages were not being included in the bilmakta sanad. In any case we cannot infer from that the Nizam was intending to take away a part of the rights of the respondent's ancestor in village Timmapet and confer them on the appellants' ancestor. Further there is nothing to show that the respondent's ancestors were ever informed that the Nizam had taken away part of their rights in village Timmapet. If anything, as late as 1918 village Timmapet along with others was conferred perpetually in favour of the respondent as zat jagir subject to the payment of 2 per centum of haq malkana. At that time the appellants' ancestor had raised some dispute about his right- as bilmaktadar of Timmapet but that was left undecided. On a review therefore of the evidence in this case the conclusion is inescapable that the appellants' ancestor was never granted bilmakata sanad by the Nizam which included the village of Timmapet. Their rights in this village therefore depend entirely on the kowl of 1817, which, as we have already pointed out, did not confer a permanent lease. The case of the appellants therefore based on their title on the sanads granted to them by the Nizam must fail.

We now turn to the question of limitation. The case put forward before us in that connection is that the appellants have prescribed for the limited right of being permanent lessees of this land by adverse possession and the genesis of this is traced to what happened in 1875. It appears that there was trouble between the then ancestors of the parties about this village about that time. The ancestor of the respondent appears to have made an application to the Government and the Revenue Member had issued orders for delivery of possession of this village to him. Thereupon the ancestor of the appellants made a representation to the Prime Minister against that order in which it was said that the ancestor of the respondent had conferred the said village on the ancestor of the appellants by way of bilmakta (i.e., on a fixed amount) more than eighty years ago and the ancestor of the appellants had been in possession all along and had been regularly paying the amount due;

the ancestor of the appellants therefore prayed that the order of delivery of possession of the land to the respondent's ancestor be set aside. It is remarkable that in this representation the case put forward was that the village had been granted bilmakta,by the ancestor of the respondent to the appellants' ancestor and not by the Nizam or the Government to the appellants' ancestor. However that may be, the Prime Minister ordered that as the ancestor of the appellants had been in possession for a long time, no order could be passed dispossessing him. The ancestor of the respondent then tried to get this order of the Prime Minister changed but failed and in consequence the appellants' ancestor remained in possession thereof. It is urged that this shows that the ancestor of the appellants asserted that he was entitled to possession as a permanent lessee against the respondent's ancestor and this claim was resisted by the respondents ancestor and the resistance failed. Therefore it must be held that adverse possession of this limited kind was asserted to the knowledge of the respondent's ancestor and in consequence twelve years after 1875 the adverse title would be perfected and art. 144 would bar the present suit for ejectment.

There is no doubt that there can be adverse possession of a limited interest in property as well as of the full title as owner: see Sankaran v. Periasami(1); Thakore Fatehsingji Dipsangji v. Bamanji Ardeshir Dalal (2); and Shrimat Daivasikhamani Ponnambala Desikar v. Periayanan Chetti (9). The present however is a case where the original kowl was granted by a jagirdar and the question arises whether in the case of a jagir there can be adverse possession of a limited interest in the nature of a permanent lease. In that connection one has to look to the incidents of a jagir, and the first incident of a jagir is that it must be taken Prima facie as an estate granted, for life: Gulabdas Jugjivandas v. The Collector of Surat. (4) In the present. case also the indication is that the jagir that was granted to Raja Harinarayan in 1787, was for life, for we find that on the death of Raja Harinarayan a fresh sanad was granted to his son Raja Govind Narayan in 181 1. Similar conclusion can be drawn from the fact that as late as 1880 a bilmakta sanad was granted to Raja Rameshwar Rao, an ancestor of the appellants on the death of his father in spite of certain sanads in favour of previous holders of bilmakta. But the appellants contend that after 1811 no fresh sanads were granted to the descendants of Raja Govind Narayan and therefore it must be held that the jagir became hereditary and -was not merely for the lifetime of the grantee after Raja Govind Narayan's death. There is no doubt that there are no sanads on the record which might have been granted to the descendants of Raja Govind Narayan; but there is equally no evidence on behalf of the appellants that no such sanads were in fact granted to the descendants of Raja Govind Nara- yan, due to change in State Policy. Reliance has been (1) (1890) I.L.R. 13 Mad. 467. (2) (1903) I.L.R. 27 Bom.

515. (3) (1936) L.R. 63 I.A. 261; (1936) I.L.R. 59 Mad. 800. (4) (1878) L.R. 6 1.A. 54.

placed on behalf of the appellants on a publication of the Government of Hyderabad called "Jagir Administration", Vol. I, at P. 3, where the following passage appears.--

> "Zaot or personal grants-were originally tenable for lifetime only. If, however, the Sanad conferring such grant contains any words indicative of permanency the grant was treated as one in perpetuity. Formerly on the death of the grantee, the Jagir was attached and re- issued in favour of his eldest son by another Sanad."

It is urged on the basis of this that the system of attachment of jagir and reissue of new sanads in favour of the eldest son fell into disuse in Hyderabad and therefore jagirs became hereditary. In the first place this passage does not show when the system of attachment of jagir and re- issue of another sanad came to an end. In the second place, even this passage shows that jagirs were tenable only for life unless there was something in the terms of jagir grant to show that it was perpetual. The jagir grant of Raja Govind Narayan is on the record and there is nothing in it to show that it was granted perpetually, Therefore, it must be held to be a grant for life-time only; at any rate it is clear that the system of granting sanads on each succession was certainly in force when Raja Govind Narayan succeeded, for he was granted a fresh sanad. In his case it must therefore be held that the jagir was granted to him only for life. Reliance was also placed on Raje Vinaykrao Nemiwant Brahmin v. Raje Shriniwasrao Nemiwant Brahmin (1) where a letter of 1877 from the Government of India, Foreign Department,, is quoted as saying that-

> "The Governor-General in Council also accepts the view that these inams are held in accordance with the custom of the Hyderabad State, which permits the continuance of such jagheers to posterity, notwithstanding the absence of specific provision on the point, but at the same time reserves to the State the right of resuming such grants at pleasure."

(1) I.L.R. [1942] Nag. 526.

But even this letter shows that the State has got the right to resume the grant at pleasure and if that is so it cannot be said that the jagirs granted in Hyderabad were permanent and hereditary, though it may be that a son was allowed to succeed to "'the father in the normal course. The State however had always the right to resume the grant at pleasure. The nature of jagirs in Hyderabad came to be considered by a bench of five judges of the former High Court of Hyderabad in Ahmad-un-Nissa Begum v. State (') . Ansari, J., after referring to two cases of the Privy Council of the former State of Hyderabad as it was before 1947 and certain firmans of the Ruler observed as follows as to the nature of jagirs in Hyderabad:-

> "The cumulative effect of the authorities referred to above is that the jagir tenures in this State consisted of usufructuary rights in lands which were terminable on the death of each grantee, were inalienable during his life, the heirs of the deceased holder got the estate as fresh grantees and the right to confer the estate was vested in the Ruler and exercisable in his absolute discretion. Nevertheless, the Jagirdars had during their lives valuable rights of managing their estates, enjoying the usufructs and other important privileges which conferred considerable monetary benefits on them."

This view of Ansari, J., as to the nature of jagirdari tenure was accepted by the other learned Judges composing the Bench. Therefore the mere fact that sanads granted to the successors of Raja Govind Narayan have not been produced in this case or even the fact that no such sanads were granted lo them would make no difference to the nature of the jagirdari tenure in Hyderabad. It is only in 1918 for the first time that we know that this village along with other villages was conferred in perpetuity

on the respon- dent. There is nothing to show that before that the respondent's ancestors had permanent hereditary rights in the jagir. The initial presumption therefore that jagirs are only for the lifetime of the grantee must prevail in the present case till we come to the sanad of 1918. Therefore upto that time it must be (1) A.I.R. 1952 Hyd. 163, 167.

held that the jagirs were held by various ancestors of the respondent only for their lives. In such a case where a grant is continued in a family from generation to generation and each grantee holds it for his life the limitation against any one grantee starts to run from the date his title arose. This was recognized by the Privy Council in Jagdish Narayan v. Nawab Saeed Ahmed Khan (1), where it was observed that where each grantee holds an estate for his lifetime the limitation would start to run against an heir from the date when his title accrued on the death of the previous heir. From the very fact that the grant of a jagir is only for the life-time of the grantee and that his son when he gets the jagir gets a fresh grant, it follows that it was not open to a jagirdar to make an alienation which would enure beyond his lifetime and thus a jagirdar could not grant a permanent lease, unless he was specifically entitled to do so, under the sanad or the law of the State. Similarly in such cases limitation would only run against an heir from the date when his title accrued on the death of the previous heir. Consequently the appellants cannot take advantage of what happened in 1875 in the time of Raja Ramarao as the starting point of adverse possession against the respondent. So far as the respondent is concerned, he apparently succeeded to the jagir in 1910 and in his case limitation would start from 1910. The present suit was brought in 1920 and therefore so far as the respondent is concerned, there is no question of perfecting even the limited title by adverse possession as against him.' Learned counsel for the appellant drew our attention in this connection to the case of Daivasikhamani (2), where the Privy Council held that the suits were barred under Art. 144 of the Limitation Act. That was however a case where a permanent kowl of temple lands was granted by a manager. It was held in view of certain facts proved in that case that the lessee had acquired permanent rights by adverse pos- session, even though the manager of a temple has no authority, except in certain circumstances, to grant a permanent lease. That case is in our opinion clearly (1) A.I.R. 1946 P.C. 59.

(2) (1936) L.R. 63 L.A. 261: (1935)) 1 [I.L. R 59 Mad 809 distinguishable from the facts of the present case. It is true that the manager of a temple has generally speaking no authority except in certain circumstances to grant a permanent lease of temple property; there fore a permanent lease granted by the manager of a temple may be voidable but is not void ab initio and so unless it is avoided by the succeeding manager, it may not be rendered inoperative. Further the temple in that case was the owner of the property and there was no question of any succession from father to son. In the case of a jagir on the other hand, the holder for the time being is not the owner of the property; his son when he succeeds holds the property as a fresh grantee and not on the basis of hereditary succession. A jagirdar has no right to make a permanent alienation of any part of the jagir granted to him; if he makes a permanent alienation even by way of permanent lease the same may be good in his lifetime, but it is void and inoperative after his death; the succeeding jagirdar need not avoid it; he can just ignore it as void. Therefore, while it may be possible in the case of a permanent lease granted -by a manager of a temple which is the owner of the property to prescribe for a limited permanent interest by adverse possession it would be impossible to do so in the case of a jagir, for the limitation in such a case would start to run against the heir from the date when his

title accrues on the death of the previous heir and no advantage can be taken of any running of time against the previous holder of the jagir. Besides, in the case of such temple grants, long lapse of time may sometimes give rise to the inference that the alienation was in such circumstances as would justify a permanent lease. No such inference is however possible in the case of permanent leases granted by jagirdars. In this view therefore the case of the appellants that they have prescribed for the limited interest of a permanent lessee against the respondent must fail.

The appeal therefore. fails and is hereby dismissed with costs.

Appeal dismissed.