M.R.,O. 1—82,400—23-11-30.

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 679	Press ~~Mis.~~
Dated 13 12 1859	

B No- 9-10 3/3

Not to be folded or roughly handled

No. 9. Read the following letter from THOMAS SYDNEY SMYTH, Esq., Advocate General; to the Chief Secretary to Government, Fort Saint George, dated 29th November 1859.

I have the honor to submit the following report for the information of the Honorable the Governor in Council.

2. Government are probably aware that in 1781, they purchased or agreed to purchase, and were put in possession of, land now forming portion of the Black Town Esplanade. The person with whom Government dealt was one Suncoo Chinniah Kistnamah Chetty. It would appear that though professing to Government to be the owner of the land, he was really only the Agent of one Naranamah, a widow, whose husband, it was said, was not the owner, but only the mortgagee, of the land. It would also appear that this Suncoo Chinniah Kistnamah Chetty had sold either the whole or portions of this same land to two or three other parties.

3. Disputes of course arose; the rival claimants sued each other and the Government and Government in the year 1800 filed a Bill of Interpleader against all of them, and paid into Court the purchase money, a sum of Pagodas 6,784 which, with accumulated interest, now amounts, according to the Accountant General's certificate dated the 13th day of May, to the large sum of Rupees 5,61,021-1-9.

4. Several of the claimants died; the suit abated; and nothing was done till 18th November 1830, when Suncoo Vencataram Chetty as representative of Suncoo Chinniah Kistnamah Chetty, filed a Bill of Revivor, which being irregular in many respects, was dismissed with costs in July 1831 on the motion of the Advocate General.

5. Since then nothing was done till last July, when Mr. Alexander Ritchie took proceedings to revive the suit, at the instance of one Juldoo Sashachella Chetty, as representative of the widow Naranamah; the cause came on to be heard on the 30th September last, and I appeared for the Secretary of State for India, and an order was made referring it to the Master to enquire who was entitled to the land in 1800, and who was or were now the legal representatives of such party which was the proper Order for the Court to make.

6. The decree was not served on the Government Solicitor till the —— October, and he soon after laid it before me, with a case to advise on, on behalf of Government, from which it appeared that Mr. Ritchie's client was objecting and endeavouring to exclude the Government Solicitor from attending upon the reference in the Master's Office, and in fact was trying to arrange with some other claimants, and to divide this large sum among themselves. To this there would have been no legal objection, if all the claimants had been brought before the Court, and before the Master, so as to be bound by the Order, the reference and the proceedings had therein, and by such Order as the Court might make thereon, so as to secure Government from any further claims by any of these parties. I discovered however that this had not been done, and that two of the principal claimants were not properly before the Court, and would therefore not be bound by any of these proceedings, while one of these two namely Suncoo Vencataram Chetty, was carefully watching all the proceedings. In fact there seemed grave reason to apprehend that he was in league with the claimants who had gone into the Master's Office, to let them obtain and divide the fund, and then to bring forward his own claim, and so make Government pay twice over.

7. I lost no time in taking the necessary steps; and after long argument, and, as may be supposed, a most strenuous opposition, I succeeded last Friday, November 25th, 1859, in obtaining an Order of Court setting aside the whole of Juldoo Sashachella's proceedings for irregularity, the costs of the Government to be paid out of the fund in Court.

8. The cause will now come on, in proper form, next February; when a similar reference to the Master will be ordered. This reference will probably take a considerable time, unless, as is not unlikely, the rival claimants compromise with each other; but if they compromise, an Order for the payment of the fund, which by that time will be nearly six lakhs of Rupees, may be made at any time.

9. I mention this as, in these times, it may be convenient to have some previous notice of so heavy a demand.

No. 10. ORDER THEREON, 13th December 1859, No. 679.

The Government approve of the Advocate General's proceedings in the case above reported, and resolve to furnish a copy of his letter to the Accountant General for his information in reference to the concluding paragraphs.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

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Order thereon 13 December/59. No. 679.
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To the Advocate General
" Acctt General } Decr 16th