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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	<u>120</u>	Press
		<u>Mis.</u>
<u>169-170</u>		
Dated	<u>23-1-</u>	<u>1874.</u>

9/10

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Financial Department,
23rd January 1874.*

No. 169. Read the following letter from D. BARBOUR, Esq., Under Secretary to the Government of India, Financial Department, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Fort William, 31st December 1873, No. 4038 :—

I have the honour to acknowledge the receipt of your letter, No. 1359, dated the 23rd September 1873, requesting, for reasons stated, that the Public Debt Office may be authorized to renew, in the name of the present Rani of Bobbili, the Government Promissory Note, No. 002317, of the four per cent. loan of 1835-36, for Rupees 1,00,000 standing in the name of her husband, the late Raja Seetarama Krishna Rayadapa Rungarow Bahadoor, heir to, and administrator of, the estate of Raja Swata Chellaputty Rungarow, of Bobbili.

2. In reply, I am directed to forward copy of an opinion given by the Advocate-General, Bengal, on the subject, and to state that, in accordance with the course therein suggested, the Rani should obtain a fresh certificate from the Civil Court to administer to the original estate, viz., that of Raja Swata Chellaputty Rungarow, before the promissory note in question can be renewed in her name.

3. I am, however, to say that, as a mark of his appreciation of the liberality shown by the Rani towards the population threatened with distress in Bengal, the Governor-General in Council is pleased to authorize the refund to her of whatever amount it may be necessary to pay as stamp duty on the fresh certificate.

Copy of the above, and of the Advocate-General's opinion, forwarded to the Comptroller-General for information.

OPINION.

The promissory note in question stands, as I understand, in the name of the adopted son as administrator of his father, it consequently forms part of the estate of the father. That being so a certificate granted to the widow of the son to administer to her husband's estate cannot enable her to deal with the estate of the father. As the son was sole heir to his father he might have endorsed the promissory note to himself, and in such a case the note would have formed part of his estate, and could have been dealt with under the certificate to the estate of the son. The decision of the District Judge refusing the widow a certificate to the estate of the father is erroneous ; there is some confusion as to the status acquired by the holder of a certificate who is also the sole heir. A certificate which authorizes a person to collect debts and negotiate Government promissory notes, &c., is virtually a certificate of administration. The holder of such a certificate, if he be heir, is entitled to transfer to himself any Government promissory note not required for payment of debts or other obligations, and he must so transfer to himself in order to vest the property in any Government promissory note in himself as heir. Until such transfer is effected the holder of the certificate continues to be the legal owner in his representative capacity of a Government promissory note belonging to the deceased, although he may be in any given case at the same time the equitable owner as the heir of the deceased. This distinction, if kept in view, will enable a Judge dealing with a question such as the present to see the propriety of granting a certificate in respect of the unadministered assets of a deceased person to an applicant having title thereto. I believe upon correct representation of the facts, and the legal bearings of this case, an application for a certificate to the estate of the father left unadministered with power to negotiate the Government promissory note under notice may be made with every prospect of success. In case such an application is refused the matter should be taken before the

*Proceedings of the Madras Government, Financial Department,
23rd January 1874.*

Appellate Court which will be the High Court of Madras. As the law on the subject seems very clear, the necessity of dealing with the questions by legislation does not arise.

21st November 1873.

(Signed) G. C. PAUL.

No. 170. ORDER THEREON, 23rd January 1874, No. 120.

A copy of the foregoing letter, and of the opinion of the Advocate-General of Bengal therein referred to, will be forwarded to the Collector of Vizagapatam, for communication to the Rani of Bobbili.

2. With reference to the last paragraph of the letter, the Governor in Council directs that, in the event of the Rani obtaining a fresh certificate from the District Court of Vizagapatam under Act XXVII. of 1860, the refund authorized by the Government of India, of the amount of stamp duty which may be paid thereon, shall be made from the Treasury at Vizagapatam on the production of the certificate.

(True Extract.)

Chief Secretary.

To the Collector of Vizagapatam.
„ Accountant-General.

Ed. J. Wright.

To
The Chief Secretary to the Government
of Madras.

Financial Dept. Sir,

I have the honor to acknowledge the receipt of your letter No 1359 dated 23 September 1873, requesting, for reasons stated, that the Public Debt Office may be authorised to renew, in the name of the present Rance of Bobbili, the Government Promissory Note No 002317 of the 4 per cent loan of 1835/36 for Rs 1,00,000 standing in the name of her husband, the late Raja Seetarama Krishna Rayadapa Rungarow Bahadoor heir to and Administrator of the estate of Raja Swata Chellaputty Rungarow of Bobbili.

2 In reply I am directed to forward copy of an opinion given by the Advocate General Bengal on the subject, and to state that in accordance with the course therein suggested the Rance should obtain a fresh certificate from the Civil Court to administer to the original estate viz that of Raja Swata Chellaputty Rungarow, before the promissory Note in question can be renewed in her name.

Govt. of 1874 *Madras.*

FINANCIAL.

To
THE COLLECTOR OF VIJAYAPURAM,
&c., &c., &c.

Dated January, 23rd.

Recd.

Recd.

G.O., 23rd January 1874, No. 120.

JANUARY.
Nos. 169-170.

Government Promissory Note.—Letter from Government of India forwarding opinion of the Advocate-General, Bengal, as to the course to be adopted by the Rant of Bobbili for obtaining a fresh certificate, under Act XXVII. of 1860, in view to negotiating a Government promissory note standing in the name of her late husband, forwarded with certain instructions to the Collector of Vijayapattam for communication to the Rant.

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I am however to say that as a mark
of his appreciation of the liberality shown by the
Ranee towards the population threatened with
distress in Bengal, the Governor General in
Council is pleased to authorise the refund
to her of whatever amount it may be necessary
to pay as Stamp duty on the fresh certificate.

I have the honor to be,
Sir,

Fort William

The 31 December 1878

Your Most obedient servant,

Barbora
Under Secy to the Govt of India

Copy of the above and of the Advocate General's
Opinion forwarded to the Comptroller General
for information.

Aug 1/1

Encl. (1874) DEPARTMENT.

From Govt of India
F. D.
No. 4038.

Dated 31st Dec 73

Received 1st Jan 74

No. 25

Forwarding opinion
of Advocate Gopal Prasad
as to the course to be
adopted by the Rami of
Bobbili in obtaining a
Fresh Certificate under Act
XXVII of 1862 in view to
negotiating a Govt Pro:
note standing in the
name of her husband's
adoption father and au-
thorizing the refund

of the Stamp duty which
may be paid on the Cer-
tificate, as a mark of
appreciation of the Rami's
liberality in granting a
donation to relieve the
threatened famine in
Bengal.

cg-1-74
R.D.
12/1/74

Opinion.

The Promissory Note in question
stands as I understand in the name
of the adopted son as administrator
of his father, it consequently forms part
of the estate of the father. That being
so a certificate granted to the widow of
the son to administer to her husband's
Estate cannot enable her to deal
with the Estate of the father. As the
son was sole heir to his father, he might
have endorsed the Promissory Note to
himself and in such a case, the Note
would have formed part of his Estate,
and could have been dealt with under
the Certificate to the Estate of the son.
The decision of the District Judge
refusing the widow a Certificate to the
Estate of the father is erroneous. There
is some confusion as to the status
acquired by the holder of a Certificate
who is also the sole heir. A Certificate
which authorizes a person to collect
debts and negotiate Government
Promissory Notes is virtually
a certificate of administration.

The holder of such a certificate if he be
heir is entitled to transfer to himself
any Government Promissory note not
required for payment of debts or other
obligations, and he must so transfer
to himself in order to vest the property
in any Government Promissory Note in
himself as heir. Until such transfer
is effected, the holder of the certificate
continues to be the legal owner in his
representative capacity of a Govern-
ment Promissory Note belonging to the
deceased, although he may be in any given
case at the same time the equitable
owner as the heir of the deceased. This
distinction if kept in view will enable
a judge dealing with a question such
as the present to see the propriety of
granting a certificate in respect of the
unadministered assets of a deceased
person to an applicant having title
thereto. I believe upon correct represen-
tation of the facts, and the legal or
bearings of this case an application
for a certificate to the Estate of the
father left unadministered with
power to negotiate the Government
Promissory Note under notice may

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be made with every prospect of
success. In case such an application
is refused, the matter should be
taken before the appellate Court
which will be the High Court of
Madras. As the law on the subject
seems very clear, the necessity of
dealing with the questions by legis-
lation does not arise.

Signed J. C. Paul
21st November 1873

/ True Copy /
Mewallin
Registrar Financial Department

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4038

135
9
Financial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Under Secy to the Government
of India. Financial Dept.
of 31st Decr 1873 No 4038.
Order thereon, 23rd Jan'y 1874.
No 120.

A copy of the foregoing
letter & of the opinion
of the Advocate General
of Bengal therein referred
to, will be forwarded
to the Collector of
Nizapuram, for com-
munication to the Panni
of Bobbili.

2 With reference to the
last part of the letter,
the Governor in Council
directs that, in the event
of the Panni obtaining
a fresh Certificate

In File 25774

from the District
Court of Vizagapatam
under Act XXV of 1860,
the refund authorized
by the Government of
India, of the amount
of stamp duty which
may be paid thereon,
^{shall} be made from the Treas-
ury at Vizagapatam
on the production of
the Certificate.

J. B.

The Collector of Vizagapatam
Accountant General

30/6/1870

*Consolidation of
 Rains of 1874
 for obtaining a bill
 relative to the Act
 XXVII of 1874*

Cont. of 1874} **Madras.**

General

The Colls of Legislation

Dated Jan'y 23 } 1874, No. 120.
 Recd.

Nos. 169, 170.

*Lord Darnley, Secy. Genl.
 from 2 of 4 or more opinions
 of the Act. Secy. Genl.
 as to the course to be adopted
 by the Rains of 1874 for
 obtaining a fresh Bill
 relative to the Act XXVII of 1874
 in view to negotiating a
 bill. Pro. No. 120 standing
 in the name of Sir John
 Lubbock, Secy. Genl., with
 certain instructions to the
 Colls. of Madras for Council
 to the Rains.*

Madras