

MADRAS RECORD OFFICE.

Government of Madras.

Private DEPARTMENT.

G.O. No. 972

Press

~~Mis.~~

26-27.

Dated

17-7-1958

Not to be folded or roughly handled

972

No. 26. Read the following Petition.

To the Right Honorable the Governor in Council, Fort Saint George.

The humble petition of Stree Kroostna Chendra Sooroo Hurry Chendra Davoogauroo, the Memorialist in the enclosed Memorial named.

SHEWETH.

That your petitioner with the greatest deference and respect takes the liberty to give cover to two copies of the Memorial forwarded by him to the Honorable the Court of Directors, and humbly entreats that your Lordship will be graciously pleased as is usual in such cases to forward one of such copies to the said Court and to favor your petitioner with its directions in due course.

And your petitioner as in bounden duty will ever pray, &c.

Madras, 22nd June 1858.

Petitioner's Address.—Stree Kroostna Chendra Sooroo Harry Chendra Davoogauroo. To the care of his Vakeel, C. Ramasevoya Moodelliar No. 36, Veerapillay Street, Moottialput, Black Town.

To the Honorable the Court of Directors of the East India Company, London.

The humble Memorial of Stree Kroostna Chendra Sooroo Hurry Chendra Davoogauroo, plaintiff in Original Suit No. 23 of 1852, on the file of the Court of the Agent to the Governor of Fort Saint George in the Zillah of Ganjam.

RESPECTFULLY SHEWETH.

That your memorialist with the greatest deference and respect takes the liberty to lay this his appeal before your Honorable Court and humbly implores that he will obtain that redress at your hands which his deplorable case deserves.

That Narrain Sooroo the late Zemindar of Turlah Talook of the Zillah of Ganjam in his life time adopted as his son one Jagenathasooroo since deceased, who was the elder brother of your memorialist and that the said Jagenathasooroo and your memorialist were two of the three sons of Saithana Sooroo deceased, who was the cousin and nearest relative of the said Narrain Sooroo and that he Narrain Sooroo in consequence of the tender age and minority of your memorialist also took your memorialist under his guardianship, care and protection.

That the said Jagenathasooroo shortly after his adoption and in the year 1843 departed this life and that the said Narrain Sooroo thereafter and on the 12th August 1846 in the presence of several Zemindaries, adopted your memorialist and by a deed of gift which is hereinafter next mentioned made over to him your memorialist the said Zemindary of Turlah Talook and all moveable and immoveable of the said Narrain Sooroo and that your memorialist upon such occasion ascended the throne and was publicly proclaimed as the Zemindar of Turlah Talook.

That a translation of the deed of gift under which your memorialist was adopted is as follows:—

“Translation of a Deed of Gift executed by Stree Narrain Sooroo, Zemindar of Turlah Talook to Kroostna Chendra Sooroo, member of his family on the 12th August 1846.”

Whereas I have no male issue I did lately adopt Jagenathasooroo, a member of my family, as my adopted son, but he died since, I therefore have now adopted you as my son, and as my heir and to perform my funeral ceremonies after my death and my Talook and all my moveable and immoveable property you will of course enjoy permanently from generation to generation, no one are to hinder this your enjoyment at any time. This Deed of Gift is granted at both our husband and wife's consent.

Witnesses.

“(Signed) STREE NARRAIN SOOROO, Zemindar.”
(„) PUTTAMAHADAVEE.

That the said Narrain Sooroo Hurry Chendra Davoo likewise forwarded and sent a copy of the said deed of gift accompanied with a letter to Mr. Bannerman the then Government Agent and of which Urzee the following is a translation.

*Copy Chendra
Sauroo with a
the Memorial-returned*

Fort St. George, Judicial Consultation, 20th July 1858.

"Translation of an Urzee."

"To R. A. Bannerman, Esq., Collector and Governor Agent in the Zillah of Ganjam, from Stree Narrain Sooroo Hurry Chendra Davoo, Zamendar of Turlah Taulook, dated 12th August 1846, with the usual (compliment) salam."

"In order that the affairs concerning my Taulook and my rites and ceremonies after my death should be performed, I had adopted Kroostna Chendra Sooroo, he being my cousin's son, the circumstance of which I had written two Urzees dated the 30th July and 29th August 1845, the contents you are perfectly aware of and further the whole of my Taulook, the moveable and immoveable property and also the whole of my estate, I had given to him and after my demise the rites and ceremonies, he must perform, the enclosed is a true copy which is written, with the consent of my wife, dated the 12th of this month on a stamp paper. This document signed by myself and wife and with signature of the witnesses, I have given to Kroostna Chendra Sooroo, and request that you will be pleased to submit this Urzee with the enclosure and with your favorable recommendation to the Most Noble the Governor in Council regarding the above and the views about it I must humbly crave and this I inform you."

"(Signed) NARRAIN SOOROO HURREE CHENDRA DAVOO."

Written in Ohteram language.

That your memorialist upon such adoption was put in possession of the said Zemindary and of the whole of the Estate of the said Narrain Sooroo and that he continued in the uninterrupted possession thereof for about one year when Puttamahadavee, the adoptive mother of your memorialist contrary to custom and without the consent of her husband the said Narrain Sooroo took one Ramachendra Sooroo, a distant relative of her's under her care and nourished him for her son.

That it was thereupon agreed between your memorialist's adoptive father and mother that your memorialist should give a village yielding a revenue of 500 Rupees a year to the said Ramachendra Sooroo and that your memorialist in conjunction with his adoptive father executed and delivered a deed of gift on stamped paper to the said Ramachendra Sooroo granting to him the said village.

That some time afterwards a dispute arose between the late Zemindar and his wife when she on behalf of the said Ramachendra Sooroo preferred a complaint to Mr. Bannerman the Collector who thereupon directed Woadagherry Vencata Row Puntaloo, the Manager then in charge of the Talook of Turlah Kimedy to enquire into the matter who having accordingly done so, forwarded the following Urzee to the Collector containing a report of his enquiry.

"Translation of an Urzee addressed by Voodayageree Vencatarow, Manager of the Taulook of Turlah Kimedy to R. A. Bannerman, Collector of the district of Ganjam, dated 6th June 1847."

I understood the contents of your order dated the 30th Ultimo, directing me to go and enquire about the dispute, existing in regard to the making over of the Rajaship by the Zamendar of Turlah to his sons, the Purvanah for the Rajah is also received, I have accordingly gone to the Rajah Palasa village gave him his Purvanah and having ordered out of all his servants for my instructions and spoke to him when he stated to me, that he truly adopted Kroostona Chendrasooroo and Ramachendrasooroo as his sons and between both he gave the Taulook to his eldest son Kroostona Chendrasooroo and gave a land to his youngest son Ramachendrasooroo which yields 500 Rupees a year and gave to his Puttamahadavee the village Peddabadam, yielding yearly a revenue of 1,300 Rupees and gave me a memorandum to the effect with the signature of certain witnesses present at the time, he appears to be of a sound, steady mind in my observation. Afterwards I have gone to Puttamahadavee in the Turlah Fort and spoke to her who stated her opinion, as to the Taulook should be given to Ramachendrasooroo on which I told her she must not disputing against the will of the Rajah as the Circar would do according to it, but not for her will. Yet she used to rest on her opinion of giving the country to Ramachendrasooroo as to the both husband and wife on this point they are living separately one at Palasa village and the other Turlah Fort rendering it to me impracticable to do so, I therefore beg leave to state this for your information and sent herewith the memorandum given by the Rajah.

(Signed) WOODAYAGERY VENCATAROW,
Manager of Turlah Kimdy.

Fort St. George, Judicial Consultation, 20th July 1858.

That your memorialist consequent on the complaint preferred by his adoptive mother to the Collector, and by reason of the severe indisposition of his adoptive father at a place called Chutterpoorum was obliged to go thither to see him attended with his retinue, drums, flags, &c., but Mr. Bannerman the Government Agent on behalf of your memorialist's adoptive mother and the said Ramachendrasooroo sent a guard and posse of peons to prevent your memorialist to see the said Narrainsooroo who acting under the orders of that official forcibly took possession of the drums, flags, and other things with which your memorialist was attended, whereby your memorialist was greatly dishonored and brought into public infamy and disgrace in the eyes of all then present.

That after the death of the said Narrainsooroo, Mr. Bannerman likewise dispossessed your memorialist of the Turlah Zemindary and of his other property which were in his undisturbed possession and enjoyment.

That your memorialist thereupon made his grievances known by petition addressed by him as well to Mr. Bannerman as to the Government of Madras and Board of Revenue, but which several authorities directed your memorialist to commence a Civil Suit.

That your memorialist subsequently memorialised your Honorable Court on the subject of his said grievances when your Court was pleased also to direct him to commence a Civil Suit.

That your memorialist thereafter commenced his suit No. 23 of 1852, in the Court of the Agent to the Governor of Fort Saint George, in the Zillah of Ganjam against the said Ramachendrasooroo, the alleged adopted son of Narrainsooroo deceased, to recover possession of the said Zemindary and all other property of which he was dispossessed as aforesaid.

That the Agent of the Government of Fort Saint George by his Decree in the said suit dismissed your memorialist's case with costs as appears by the certified copy of his Decree herewith accompanying.

That your memorialist being aggrieved by the said Decree did through his Attorney, Mr. A. M. Ritchie, on the 19th March 1856, appeal therefrom to the Governor in Council of Fort Saint George, under No. XX of the Agency Rules for the following reasons.

1st. That the Agent of the Government was in error in dismissing your memorialist's claim on a question of pure Hindoo Law without first referring the question to the Pundits or Law Officers of the Sudder Court under the provisions of Clause 1, Section XVI, Regulation III of 1802.

2nd. That the adoption of your memorialist was a good and valid adoption under the Deed of Gift executed by the late Zemindar and his wife and which was ratified by their letter to the Collector of Ganjam of the same date.

3rd. That it appears on the face of the Decree that the adoption of the said Ramachendrasooroo was subsequent to that of your memorialist and consequently such second adoption was null and void.

4th. That the Agent of the Government of Fort Saint George has not in his Decree decided all the material points in the case, but declined to receive evidence in support of your memorialist's claim.

1st. In that he has given no decision in his Decree on your memorialist's claim as Donee under the Deed of Gift herein before mentioned, and under which Deed your memorialist avers that possession of the disputed Zemindary was with the Collector's sanction and approval made over to your memorialist and which remained in his possession and under his management until the late Zemindar's death, a period of one year when it was taken from him by the Government Agent, Mr. Bannerman.

2nd. In that the Agent of the Government of Fort Saint George has not afforded your memorialist an opportunity of producing and proving the said Deed of Gift and on which evidence alone your memorialist would be entitled to a Decree since a gift once made and completed by surrender of the Zemindary to your memorialist cannot be revoked.

That your memorialist subsequently prayed the Right Honorable the Governor in Council of Fort Saint George that the Petition of Appeal might be referred to the Court of Sudder Udalt at Madras in order that your memorialist's Counsel and Vakeel might be orally heard in

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support thereof, but on the 22nd September 1856, the same was decided *ex parte* as will appear by the Extract from the Minutes of Consultation, herewith accompanying.

That your memorialist humbly begs here to refer only to a few circumstances, namely, that the question involved in the suit is that of adoption and about your memorialist being deprived of the possession of the Turlah Zemindary and other property.

Few Judicial officers can combat with a question of such great importance but it cannot be expected that Revenue officers whatever may be their experience in revenue matters, can take up Judicial questions, yet it is to be observed that all the officers who have taken up and decided the present suit regarding the Turlah Zemindary belong to the Revenue branch and were actuated more by favoritism than by a sense of justice and which may be proved by the following facts.

1st. While the Turlah Zemindary was in the actual possession of your memorialist, Mr. Bannerman, the Government Agent, dispossessed your memorialist of the same, and forced your memorialist to sue the said Ramachendrasooroo, whereas your memorialist having been in possession ought to have been sued by the other party.

2nd. That although the suit was instituted in 1848, yet the Government Agent did not make his Decree till 1855 and which was so made simply on the point of law, that it cannot admit of two adoptions without going into the evidence of witnesses and documents and it is therefore evidently conclusive that the Revenue officers either from inability to decide or to favor the opposite party made the Decree in question.

One other circumstance is to be mentioned that Mr. Bannerman's unjust procedure obtained the support of all the Revenue officers while Walter Elliot, Esq., the Commissioner of Northern Circar himself leaned on Ramachendrasooroo's side on that account and was the chief mover in the proceedings against your memorialist, he was indeed the Judge in the matter though he did not appear as such in it, and he standing in the Council of Government as Judge to decide on the appeal it was not to be expected his judgment can be unbiased.

It may be mentioned that your memorialist's appeal, dated 19th March 1856, was decided by the Council. The Honorable Mr. Walter Elliot on the 22nd September 1856, being 7 months after it was preferred and that too without getting up the records of the case but simply on the counterfeit statement on Decree of the local officers.

That the Decision or Minutes of Consultation runs thus:—It is that of the Vasseretty case which is similar in many respects to the present. The parties were Sudras. The Pundits of the Sudder had pronounced in favor of a double adoption. The question had been ably discussed in the decision of the Sudder Udalut and was set aside after an elaborate argument by the Committee of the House of Lords, in which the illegality of a second adoption was formally declared.

That the decision in the case of Vasse Reddy, No. 113, does not as your memorialist humbly submits apply to the present case, for in that case the two widows of Vasse Reddy each adopted a son and the sons brought a suit against each other and the present case would apply had your memorialist been adopted during the life time of the said Jaganathasooroo, the 1st adopted son and had as the 2nd adopted son brought a suit against him as the first adopted son, but in the present case your memorialist was adopted after the death of the said 1st adopted son, and had commenced a suit against the said Ramachendrasooroo as the pretended adopted son of the late Zemindar.

That your Memorialist feels himself greatly aggrieved by the Decree of the Government Agent and appeals therefrom to your Honorable Court for the following reasons.

1st. That the Government Agent declined to go into evidence oral or documentary although your memorialist had offered to adduce the same.

2nd. That the Government Agent dismissed your memorialist's claim on a question of pure Hindoo Law without first referring the question to the Pundits or Law officers of the Sudder Court under the provisions of Clause I, Section XVI, Regulation III of 1802.

3rd. Ramachendrasooroo the defendant has in his answer filed in the lower Court stated that he was adopted prior to your memorialist, but the Decree states that the adoption of Ramachendrasooroo was after the adoption of your memorialist and besides this there will be many

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other imperfections in the proceedings, while so matters of such great importance have been decided *ex parte* without going into the testimony of witnesses as is the general practice of all tribunals.

4th. That it is expressly laid down in Colebrooke's Hindoo law that one after granting his property to another with all his heart and consent has no claim to recover the same.

5th. That the Government of Madras declined to refer your memorialist's case to the Court of Sudder Udalut in order that his Counsel and Vakeel may be orally heard in support thereof as has been done in the matter of a Zemindar Government Appeal No. 23 of 51 of the Zillah of Trichinopoly, in the case of Tharmasamarthanee Ummall, *vers.* Coomaravencatachella Reddiar.

Your memorialist has now no other alternative left than that of throwing himself upon the kind protection of your Honorable Court and of entreating that your Honorable Court will be graciously pleased to take his deplorable case into your humane and benevolent consideration and to issue order to the Government of Madras in order that your memorialist's case may be referred to the Sudder Udalut Court at Madras to the end that the same may have a thorough investigation and your memorialist allowed to produce and give in evidence the Deed of adoption under which he founds his claim as well as other documentary and oral evidence in support thereof and to the end that the Zemindary and other property of which he was unjustly deprived may be restored to him or that your Honorable Court will be pleased to make such other order in the premises as to it may seem most just and the exigencies of the case may require.

And your memorialist will ever pray, &c.

Madras,
22nd June 1858. }

No. 27.

ORDER THEREON, No. 972; dated 17th July 1858.

The matter complained of by the Memorialist formed the subject of Judicial Proceedings in the Court of the Agent at Ganjam, and the decree of that tribunal was upheld on being brought in appeal before this Government. The Governor in Council therefore declines to forward Letter from Government of India, 21st January, in Consultation, 15th February 1853, Revenue Department. Kroostnachendra's Memorial to the Honorable the Court of Directors under the discretionary power vested in them by that authority.

(Signed) T. PYCROFT,

Chief Secretary.

Exd. F. Cartledge.

N^o. 972

Extract from the Minutes of Consultation

Dated 17 July, 1858.

Read the following Letter from Shri
Kroostan Chandra Sonoo Kewy Chandra
Dasoogairao.

(Here enter 20 June 1858)

The matter complained of
by the Memorialist formed the
subject of judicial proceedings in
the Court of the Agent at Gajaim,
and the Decree of that tribunal
was upheld on being brought in
an appeal before this Court.
The Governor in Council therefore
declines to forward Kroostan
Chandra's Memorial to the House
the Court of Directors under the
discretionary power vested in
them by that authority.

Letter from Govt. of India
21 Aug. in Cons. 15 July/58
Rec. Dept.

Copy to Kroostan Chandra
Sonoo Kewy Chandra
Dasoogairao. with a
copy of the Memorial returned.

Sept 22

to the 4th June 1854.
for India 1850 to 1854

Wm. G. 1854

C. No. 35-36
23-9-56

petition No. 3060 of 1857

Abstract of the 1850-54

of 17th July 1850.

20427

10 July
Rib.