

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>471</i>	Press
<i>103-105</i>	<u>Mis.</u>
<i>103-105</i>	
Dated <i>20.4.1860</i>	<i>H</i>

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
for the month of April 1860.*

Read the following papers :—

No. 103. From Mr. JOHN MILLER, Solicitor, Madras, to the Chief Secretary to the Government of Fort Saint George, dated 1st February 1860.

Under instructions from and as the Solicitor, for Hurry a Hindoo inhabitant of Madras, I have the honor to forward herewith his Memorial to the Government and to solicit the favor of your submitting it for the consideration of the Honorable the President and Council of Fort Saint George.

It may be as well for me to state that I have been acting for Hurry in the recent proceedings had in the Supreme Court of Madras and referred to in this Memorial, and that I do not now trouble Government with a copy of those proceedings inasmuch as the Law Officers of Government who appeared before the Court upon all these proceedings on behalf of the Crown, possess all the information that Government will require for the disposal of this application.

TO THE HONORABLE THE GOVERNOR IN COUNCIL OF FORT SAINT GEORGE.

The humble Memorial of Hurry, a Hindoo inhabitant of Madras without employ, residing at Hall's gardens at Royapettah within the local limits of Madras, the grand-son and the sole Executor of the last Will and Testament of Nancy deceased.

SHEWETH,

The late Andrew Morris (a British subject) died in August 1792, leaving by Will certain bequests to his natural daughter Mary and her mother Nancy (a Pariah.)

Mary was married to a Mr. Ravelli in May 1808 an antenuptial settlement having been executed securing the income of the property for Mr. Ravelli for life, for Mary for life, after his death, and if no child of the marriage survived, then the whole to Mary.

In 1813 a suit was instituted in the Supreme Court in the course of which the legacies to Mary and Nancy were secured.

In 1816 Mr. Ravelli died and after his death the interest was paid to his widow Mary Ravelli during her life.

Mrs. Ravelli survived all the children of the marriage and died in October 1826 without leaving any legitimate next of kin.

Nancy her mother after the death of Mr. Morris married Rungiah who died in her life time leaving a son Veerasawmy and two married daughters. This Veerasawmy died in February 1842 leaving your Memorialist and his two infant brothers his only sons and representatives him surviving.

Nancy died on the 15th January 1847 leaving your Memorialist her eldest grand-son and Executor, and your Memorialist as such obtained Probate of her Will in the Supreme Court on the 22nd December 1849.

Your Memorialist as such Executor revived the suit in the Supreme Court, and on the 19th August 1859, Judgment was given that the whole of the legacies to Nancy and Mary vested in the Crown because as to Nancy's legacy the same on her death vested in the party entitled to Mary's legacy. And as to Mary's legacy (involving Nancy's) that Mary having been illegitimate and having died a Christian and having by embracing Christianity become an outcaste by Hindoo Law her mother Nancy was not by Hindoo Law her legal personal representative, Act 21 of 1850 not applying to cases in which Hindoos claimed the property of their deceased relatives who had become outcastes by embracing Christianity, but only to cases in which parties declared by the Hindoo Law to be outcastes claimed property which they, would be entitled to if they had continued Hindoos.

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Your Excellency in Council will observe that but for Mary Ravelli's having embraced Christianity her natural mother (they being Soodras) would have been her legal personal representative and your Memorialist as representing Mary would have had an absolute legal right to both legacies and that it was only because the Court held that Mary Ravelli died in the eye of the Law an outcaste and that the provisions of the liberty of conscience Act 21 of 50 were altogether one-sided in their application, namely, that they applied to Christians claiming property from Hindoos, but did not apply to Hindoos claiming under precisely similar circumstances the property of their deceased Christian relatives, that the funds were declared to vest in the Crown.

Under such Judgment the whole of the funds of both legacies have been paid to the Government of Madras for the Crown.

Your Memorialist prays that the matter may be referred to the Advocate General of Madras for his report in the premises that Her Majesty's Government may be graciously pleased to waive and give up their rights and that the amount of such legacies may under the circumstances be paid to your Memorialist as representing Nancy the natural mother of Mary Ravelli.

MADRAS,
31st January 1860.

(Signed) HURRY.

Referred for the report of the Government Law Officers.

2nd February 1860.

(Signed) T. PYCROFT,
Chief Secretary.

No. 104. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George, dated 9th April 1860, No. 313.

Order of Government, dated 2nd February 1860
and made on letter from Mr. John Miller to
the Chief Secretary to Government, dated 1st
February 1860.

1. With reference to the Order of Government noted in the margin, I have the honor to report that having satisfied myself as far as was possible of the general accuracy of the

statements in Hurry's Memorial, I laid the papers before the Advocate General for his consideration.

2. I subsequently conferred with him thereon and he ultimately gave the opinion, of which I enclose a copy.

3. I have since made such further enquiries in the matter, and as to the probability of there being any debts due from the Estates of Nancy and her daughter, Mary Ravelli, as seemed to me desirable, before dealing finally with the Funds and I have now only to suggest that the Accountant General and Sub Treasurer be authorized to retain on behalf of Government one tenth part of the Government Securities and cash which I deposited with the Sub Treasurer in obedience to the Order of Government in its Judicial Department of the 9th ultimo, No. 294, and to endorse, deliver and pay to Hurry the remaining nine tenths of such Securities and cash, taking his receipt for the same in the form which I will prepare.

4. I return the papers which accompanied the Order above noted.

COPY—OPINION.

The Petition of Hurry states the facts of the case correctly, and I am aware that it was by his exertions that the fund was brought into Court. The Crown is, and has been declared entitled to the fund, as ultimus hæres, Mrs. Mary Ravelli having been a bastard and baptized and brought up, married, died and been buried as a Christian.

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It is the practice in such cases to transfer the Royal Claim by Letters Patent, or other authority, from the Crown, reserving one tenth or other small proportion of the property. In present case I conceive that a Minute of Consultation or Order of Government, authorizing payment to the Petitioner would be the proper course.

I see no reason to depart from that practice in this case.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

h February 1860.

ORDER THEREON, 20th April 1860, No. 471.

. 105.

Resolved that the Sub Treasurer be authorized to transfer and pay to the petitioner, Hurry the Government Securities and cash directed to be carried to credit in the Order of the 9th ultimo, No. 294, after deducting therefrom one-tenth in accordance with the opinion of the Advocate General.

2. The Sub Treasurer will obtain a receipt from Hurry in a form to be drawn up by the Government Solicitor.

(Signed) T. PYCROFT,
Chief Secretary.

F. Cartledge.

Proceedings of the Madras Govt.

Read the following letters—

From Mr. J. Miller—Enter 1st Feb. '60.

" the Govt. Solicitor—9th April '60 No 313.

Order. 20th April 1860. No. 471—

Resolved that the Sub Treasurer
be authorised to transfer & pay
to the petitioner, ~~Harry~~, the Govt.
Securities & Cash directed to be
carried to credit.
Paper—Rs. 62,700.
Cash— " 1,148. 11. 11 in the Order of
the 9th Ultimo

No 294, after deducting there
from one-tenth in accord-
ance with the opinion of
the Advocate General.

2. The Sub Treasurer will ob-
tain a receipt from Harry
in

in a form to be drawn
up by the Govt. Solicitor

J. P.

Mr. John Miller.
The Govt. Solicitor.
" Sub-Treasurer.
" Asst. General.