M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1894 Press Mis.

27-31

Dated 3 . 10 . 1931

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 3rd October 1863.

Read the following papers:—

No. 27. Telegram from STREE CROOSTNA CHENDRA DEO MUDDIA DOOGARAUZE MAHARAUZE, second son of the late Jeypore Zemindar, Vizagapatam; to the Right Honorable the Governor in Council, Fort Saint George, Madras, dated 29th August 1863, No. 1,513.

The Governor's Agent at Vizagapatam ordered my family to be turned out of the house given by my father, and in my possession for fourteen years. No suit before him. I being in possession, party claiming should be referred to suit under Section three hundred and eighteen, Criminal Procedure Code. Agent has no Revenue jurisdiction case relating to Hill Zemindary. Appeal lies to Government. Please order by telegram proceedings to be stayed pending receipt of appeal. Agent's act being arbitrary, oppressive and illegal, 29th. 35.

Referred to the Agent to the Governor of Fort Saint George at Vizagapatam, for early report.

FORT SAINT GEORGE,
31st August 1863.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 28. From Mr. W. SLOAN, for petitioner STREE CROOSTNA CHENDRA DEO MUDDIA DOOGARAUZE, MAHARAUZE, second son of late Rajah of Jeypore; to the HonorableA. J: ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated 1st September 1863.

I beg to enclose a petition to the address of the Right Honorable the Governor in Council, and as the matter is emergent, request your attention to the last paragraph, with the view to the issue of immediate orders for the suspension of the proceedings appealed against.

TO THE RIGHT HONORABLE SIR WILLIAM DENISON, K.C.B.,
Governor in Council, Fort Saint George.

The humble petition of STREE CROOSTNA CHENDRA DEO MUDDIA DOOGARAUZE, MAHARAUZE, second son of the late Zemindar of Jeypore in the Zillah of Vizagapatam.

SHEWETH,

1. That in the year 1850 the father of your petitioner, the late Zemindar of Jeypore, gave your petitioner a house or Nagary situated in Gunapur, for the purpose of a residence.

2. That the late Agent to the Governor, Mr. Fane, on the 13th November 1861, issued an order to the Head of Police of Gunapur directing him not to permit the present Zemindar, your petitioner's brother, to molest your petitioner or his family in the enjoyment of the said house or Nagary.

3. That your petitioner as an undivided member of the Jeypore family is entitled to a residence, and is justified in claiming to hold without molestation, possession of the premises given to him for that purpose by his father.

4. That your petitioner's brother, the present Zemindar, has applied to the Agent to eject your petitioner, and notwithstanding your petitioner's representations, the Agent has issued an order* directing your petitioner to vacate the premises in question.

* Vide enclosures A, B, C.

5. Your petitioner submits that he has had possession for the last fourteen years, and that he is entitled to hold possession till ejected in due course of law.

6. Your petitioner further submits, that as a member of an undivided Hindu family, he has, conjointly with his two brothers, a joint interest to the said house, which, not being a portion of the ancient Zemindary, is unlike the Zemindary, and not indivisible.

7. Your petitioner's brother consequently has no right or title to claim exclusive possession of the said house, and if he has any right at all, can only claim a one-third share therein, a fact completely overlooked by the Agent.

8. Your petitioner further submits that the Agent's proceedings are illegal. As a Revenue Officer the Agent cannot interfere, since the matter does not involve a question of revenue or rent; and as a Judicial Officer he cannot interfere, inasmuch as no suit has been instituted for the recovery of the premises in question.

9. Although the Agent as a Magistrate was at liberty to entertain the complaint, he has acted in the very teeth of the law giving him jurisdiction in that character.

10. In regard to claims of this nature, Section 318 of the Criminal Procedure Code provides that, "The Magistrate or other Officer aforesaid, shall, without reference to the merits of the claim of any party to a right of possession, proceed *to inquire, which party is in possession of the subject in dispute*, and after satisfying himself on that point, shall record a proceeding *declaring the party whom he may decide to be in such possession, to be entitled to retain such possession until ousted in due course of law, and forbidding all disturbance of possession until such time.*"

11. Your petitioner being in possession and having been in possession for the space of fourteen years, whether rightfully or wrongfully is immaterial, he submits, that the Agent had no legal course open to him, other than obedience to the provision of the law above quoted.

12. Your petitioner having been lately referred by the Agent to a civil suit for the purpose of establishing his claim to show with his brother in the divisible portion of the ancestral estate, is about to institute an action for that purpose, and therefore prayed that the Agent would be pleased to suspend his order, till the disposal of such suit, or until his brother established in a legal manner a claim to eject your petitioner; but he regrets that peremptory orders have been issued, not withstanding, for the ejectment of your petitioner.

13. Your petitioner in consequence telegraphed to the Government requesting that the Agent's order might by telegraph be suspended, pending the receipt of your petitioner's appeal, and now begs respectfully to submit under No. XXXI of the Agency rules, this appeal against the order complained of, and since the Agent's proceedings are arbitrary and illegal as above shown, your petitioner humbly prays, that they may be cancelled, or at least suspended, pending the decision in the Civil action he is about to institute, or which may be instituted against him.

14. As your petitioner and his family, the descendants of a Sovereign Prince, will be subjected to great disgrace should they be turned out by compulsion into the streets, your petitioner further prays that immediate orders for suspension of proceedings may be issued pending the final decision on this petition.

For which as in duty bound.

(Signed) W. SLOAN,
for the Petitioner Stree Croostna Chendra Deo Muddia Doogarauze Maharauze.

1st September 1863.

No. 29. From D. F. CAMICHAEL, Esq., Agent to the Governor, Vizagapatam; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Camp Nursapatam, 15th September 1863, No. 479.

I have the honor to acknowledge the Deputy Secretary's endorsement, dated 31st ultimo, referring for report a copy of a telegram transmitted to Government by Madhya Yuva Raz, (commonly written "Muddia Doogarauze") the younger brother of the Jeypore Rajah.

2. The petitioner is the person, who, by seizing the Gunapur Treasury, commenced the Jeypore disturbances of 1855, which resulted in the attachment of the five lower Taluqs the same year. Expelled at that time by the Government Ameen, Madhya Yuva Raz resided for a considerable time at Vizagapatam, afterwards at Gunapur, then at Vizianagrum, then at Gunapur again, and now for some months past at Vizagapatam; but always under a mild surveillance; never changing his residence without special permission from the Agent.

3. It is not in the slightest degree true that he is now or ever has been in possession of the house at Gunapur. When the Gunapur Taluqs were attached, as aforesaid, all the houses, gardens, topes, &c., of the Zemindary were taken charge of by the Agency with the rest of the

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estate. The old Rajah, and his successor the present Rajah, from that day forth ceased to visit that portion of their country. They would have felt humiliated in doing so. The Government Ameen has managed every thing, even executing repairs to the house at the expense of the estate. Any occupation of the premises by Madhya Yuva Raz during his occasional visits to Gunapur has been entirely permissive on the part of the Governor's Agent. When he was allowed to visit Gunapur, it was natural he should be allowed to live in the vacant house. But the house came into our charge as part of the estate, and when the estate is released from attachment, it follows that the house must be given back with it; and it would be preposterous if occasional and permissive occupation by Madhya Yuva Raz should give him *primâ facie* title to it.

4. The Jeypore Rajah has sent his Dewan to Gunapur, to re-assume charge of the Taluqs; and this is only preliminary to a visit he has promised me to make in person to that, the richest and most civilized, portion of his country. This of course he will never do (much less, as I could wish, live there six months in the year) so long as his ill-conditioned brother occupies the house at Gunapur, and I have therefore intimated to Madhya Yuva Raz that he must vacate it.

5. I do not know what he means by his "family." His old mother is dead, and he has no children. There is his wife, himself, a few domestics, and the three or four evil-minded advisers whom he still chooses to maintain about him. I have given him ample notice, and in a letter received from him to-day he has asked leave (which I have granted) to proceed to Palconda, where he wishes to reside in future with his 'family.' No coercive, dishonoring, measures have been used or will be used against him, in causing him to vacate these premises at Gunapur. Perceiving that I intend he shall go, he is going peaceably, had he refused, I should have felt constrained to eject him, *molliter manus imponens*, as it is, every thing will pass off quietly.

No. 30. From D. F. CARMICHAEL, Esq., Agent to the Governor, Vizagapatam; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Camp Viravali, 21st September 1863, No. 716.

In enclosing the within petitions, I beg to refer to my letter of the 15th instant, in which I conclusively showed that the petitioner is not in possession of the house, and never has been in possession.

No. 31. ORDER THEREON, 3rd October 1863, No. 1,594.

Under the explanation furnished by the Agent, the Governor in Council sees no reason to interfere in the matter referred to in the papers above recorded.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMootry.

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers.

Petition
Telegram from Shree Crostna Chundra Deo Mudria Doogaraujo Maharaujo of Vizagapatam. } Here dates 29 Augt & 1st Sept/82

Letters from the Agent to the Governor - Vizagapatam ——— 15th & 21st Sept. 1883 No 479 & 716.

Order thereon 3 October 1883. No 1594

Under the Explanation furnished by the Agent the Governor in Council sees no reason to interfere in the matter referred to in the papers above recorded.

To Shree Crostna Chundra Deo Mudria Doogaraujo Maharaujo of Vizagapatam. } with enclosures returned

The Agent to the Governor of St George in Vizagapatam } dispd

Judicial 1863. Department.

No. 1594

PROCEEDINGS OF GOVERNMENT.

Feb. 1425/69

Dated 3rd October 1863.

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