

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No.	616	Press Mis.
320-324 Dated	29-4-19	1864

6/7
Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
29th April 1864.

Read the following papers:—

No. 320. Proceedings of the Board of Revenue, dated 22nd December 1863, No. 8109.

Read letter from G. A. BALLARD, Esq., Collector of Malabar; to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Calicut, 10th December 1863, No. 266.

I have the honor to solicit the orders of the Board on the following case.

2. An individual named Malayat Panchu Nair, an inhabitant of Waluvanad Taluk in this District, died intestate and without heirs in March 1861, leaving property, real and personal, of the estimated value of Rupees 1459-11-1, as shown by the accompanying list.

3. The Tahsildar of Waluvanad took charge of the property in view to its being eventually dealt with as an escheat.

4. The rules of succession prevailing among the Nairs are, as the Board are aware, those of nepotism, "Marimakatayam."

5. In the present case no nephews exist to inherit.

The three parties noted marginally have, however, claimed the property.

1. Notankandat Ittichiry (female).
2. Karuthedat Narainan Nambudri.
3. Vayakat Kunki Kudi alias Chittamma (female).

The first of these is a female who represents herself to be the widow of the deceased. She asserts that most* of the lands and other property enumerated in the list were transferred to her for Rupees 507-2-3, and the remainder, with the exception of lands Nos. 9 and 10,† was

* Nos. 1, 2, 3, 4, 7, 8, 11, 12, 13, and 14.

† The claims held by the deceased on these two lands are stated to have been partly transferred by him to another party previous to his death.

bestowed on her as a gift by the deceased before his death.

6. The second claimant is a Nambudri or Malabar Brahmin. He is entitled, he says, to all the lands except No. 9.

He alleges that some of the lands were first assigned to him on a species of mortgage, "Kowu Ercom Panayom," for 500 Rupees, and then the whole of the rights held by the deceased on the lands so assigned were conferred on him as a charitable gift; that the other lands were transferred to his (late) uncle some seven or eight years ago, and should come to him by right.

7. The third claimant is a woman who boldly asserts that she and not the first claimant is the actual widow of the deceased.

The Tahsildar's inquiries show that she is not the widow of the deceased, and her claim to the property, founded as it is on her bare assertion, unsupported by any evidence whatever, is therefore wholly inadmissible.

8. As regards the two other claimants I find that the second, the Nambudri, has failed to establish his claim.

The documents produced are untrustworthy, and the oral evidence adduced is apparently false and insufficient.

9. The first claimant, female Ittichiry, is the only party whose claim deserves consideration.

She is proved to be the widow of the deceased Panchu Nair, by whom she has had three children.

Note.—The document shows that the lands Nos. 1, 2, 3, 4, 7, 8, 11 and 12, as well as the house No. 13, with improvements, were transferred to her as she asserts.

The documents she produces tend to establish her title to almost the whole of the real property she claims.

10. Under these circumstances, and for the sake of her children, all the property, both real and personal, should in my opinion be restored to her. I request the Board's instructions.

ENCLOSURE No. 1.

ABSTRACT.—List of property left by deceased Malayat Panchu Nair.

Ordered that the Collector's proposal be submitted for the sanction of Government.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,

Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D., with enclosure.

*Proceedings of the Madras Government, Judicial Department,
29th April 1864.*

Referred to the Government Pleader for his opinion.

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

18th January 1864.

No. 321. From C. DALE, Esq., Government Pleader Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated 21st January 1864, No. 8. I have the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin.

18th January 1864, No.—, Judicial Department.

2. The law of descent "Maroomakayam" as prevailing in the province of Malabar is laid

down in Mr. Strange's Manual (2nd edition) page 94, and seq.

3. It is there stated that the inheritance runs in the female not in the male line; that a man's property goes to his sisters, sister's sons, sister's daughters, sister's daughter's sons and daughter's, mother, mother's sisters, their children, and to his maternal grand-mother, her sisters, and their children. Failing these and their stock in the same way of descent, it goes, as in the other parts of the Presidency to the man's disciple and fellow student, and then escheats.

4. Mr. Strange also states that among the castes, lower than Brahmins, females before attaining maturity go through a form of marriage, the bridegroom not necessarily taking the position of husband; and that after maturity females may consort with whom they please, and as many as they please, and that there is nothing analogous to the state of widowhood as elsewhere existing.

5. Mr. Ballard (paragraph 2) states the individual referred to died *without heirs*, and in paragraph 5 remarks "in the present case *no nephews* exist to inherit."

6. This is not sufficient to enable Government to arrive at a just conclusion as to the proper and safe course to be pursued by them; and I advise that the Collector of Malabar be requested to ascertain whether the deceased died without any heirs of the category enumerated by Mr. Strange.

7. If on further inquiry it appears that the deceased really did die without heirs, and that at the time of his death he was fully entitled to the property in question, he not having disposed of it in his life-time, nor encumbered it by any valid mortgage, it will be competent for the Crown (after inquisition found) to deal with the property as may be thought proper.

8. I am, however, of opinion that, should it be considered that the Crown is entitled, the proper and indeed only course is to issue a Commission of escheat. This, however, is more the province of Mr. Advocate General to advise upon; and on the further information being obtained probably His Excellency in Council may deem it proper to consult that gentleman on the subject.

9. If that course be pursued, any parties having claims will have the opportunity of asserting them.

10. Under the impression that if further action be taken, it will be under the advice of Mr. Advocate General. I have not given much consideration as to the mode in which the Commission to which I have alluded can be carried into effect.

11. I return the list of property which accompanied the proceedings noted above.

Referred to the Acting Collector of Malabar, in advertence to Mr. Ballard's letter of the 10th December last, No. 286, for further information on the point indicated by the Government Pleader.
FORT SAINT GEORGE,
9th February 1864.

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

No. 322. From G. A. BALLARD, Esq., Collector of Malabar; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Calicut, 2nd April 1864, No. 35.

* Dated 9th February 1864.

† Dated 21st January 1864, No. 8.
Herewith returned.

I have the honor to acknowledge the Orders* of Government, referring for report a letter† from the Government Pleader on the subject of my letter to the Board of Revenue, dated 10th December 1863, No. 266.

2. The deceased, Panchu Nair adverted to, died without leaving any heirs of the category given by Mr. Strange in his Manual on Hindoo Law.

3. The property left was under this circumstance held as an escheat by the local Revenue officers; but I would not advocate its retention as such.

*Proceedings of the Madras Government, Judicial Department,
29th April 1864.*

The property is not free from incumbrance. The very widow of the deceased, to whom I recommended it should be restored, holds a lien on most of the lands composing it, and demands the remaining lands (with the exception of two) as belonging to her by virtue of a gift made by her husband previous to his death.

Notankandai Ittichiry.

4. Should we deal with the property as an escheat, we will have to meet the claims of the widow.

The residue would hardly compensate for the trouble and responsibility which the retention of the property must inevitably involve.

5. The other claimants, the Nambudri, and Karuthedat Narainan Nambudri, and Vayakat Kunhi Kuttu alias Chittamma, the woman who has pretended but has failed to prove herself to be the widow of the deceased, may also come forward with their assumed title before a Court of law, and cause considerable annoyance.

6. Adverting to the above circumstances, and as the widow Ittichiry has three children by the deceased, I must repeat my recommendation that the property left by the deceased be made over to her.

She will of course be liable to answer any claims which the other parties may bring forward.

Referred, with the previous correspondence, for the opinion of the Advocate General.

FORT SAINT GEORGE,

18th April 1864.

(Signed) A. J. ARBUTHNOT,

Chief Secretary.

No. 323. From J. R. BOYSON, Esq., Government Solicitor, Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated 23rd April 1864, No. 204.

I have the honor to acknowledge the Order of Government noted in the margin with its enclosures, relative to the estate of Malayat Panchu Nair, an inhabitant of the Taluk of Waluvayal in the District of Malabar, who died intestate and without heirs.

2. I submitted them for the consideration of the Advocate General; and,

3. I now forward a copy of his opinion, and return the order and enclosures above noted.

COPY—OPINION.

Under the circumstances disclosed by the two letters of the Collector of Malabar, dated respectively 10th December 1863, and 2nd April 1864, I think that the course proposed by that officer is the most expedient, and that he had better be authorized to make over the land in question to the widow of the deceased (who, it appears, has three children by him), leaving her to meet the claims of the other claimants, should they be able to establish them.

21st April 1864.

(True Copy.)

(Signed) T. S. SMYTH,
Advocate General.

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

No. 324. ORDER THEREON, 29th April 1864, No. 616.

Under the opinion expressed by the Advocate General, His Excellency the Governor in Council authorizes the Collector of Malabar to make over the property referred to, to the widow of the deceased Malayat Panchu Nair, who died intestate.

(True Extract.)

To the Collector of Malabar.

„ Board of Revenue.

Mrd. J. Tallech.

Chief Secretary.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 22nd December 1863.

Following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLE-
S, Esq., Secretary to the Board of Revenue, dated Calicut, 10th December 1863,
1866:—

have the honor to solicit the orders of the Board on the following case.

An individual named Malayat Panchu Nair, an inhabitant of Waluvanad Taluk in this
ed intestate and without heirs in March 1861, leaving property, real and personal, of
ed value of Rupees 1,459-11-1, as shown by the accompanying list.

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as an escheat.

the rules of succession prevailing among the Nairs are, as the Board are aware, those of
Marimakatayam."

the present case no nephews exist to inherit.

1st Ittichiry (female).

2d Navainan Nambudri.

Kunhi Kusti alias Chittamma (female.)

3, 4, 7, 8, 11, 12, 13 and 14.

held by the deceased on these two lands
have been partly transferred by him to
previous to his death.

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Malabar Brahmin. He is entitled, he says, to all
the lands except No. 9.

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ere transferred to her as she asserts. The document she produces tends to
real property she claims.

these circumstances, and for the sake of her children, all the property, both real
dd in my opinion be restored to her. I request the Board's instructions.

ENCLOSURE No. 1.

TRACT.—List of property left by deceased Malayat Panchu Nair.

the Collector's proposal be submitted for the sanction of Government.
(A true Copy and Extract.)

Secretary to Government, R. D., with enclosure.
Ballard, Esq., Collector of Malabar.

Secretary.

Ex. D.Y.

4
List of property left by deceased Malayat Panchu Nair.

	Nature of claim held by deceased	Value of claim	Amount	
			Rs. & P.	Rs. & P.
1 Kollamully Melom Land	Hanora mortgage	85 11 5		
2 Kilay Melom	Do			
3 Harumfulava Polyat	Do	57 2 3		
4 Kongashai Thodiga Paramba garden				
5 Karakal Polyat Land	Do	71 6 10		
6 Northern portion of Nechi Paramba garden				
7 Padikkali Kandom Paramba garden				
8 Half portion of a dwelling garden called Thadom Paramba	Do	14 4 7		
9 Perokandom Land				
10 Parakat Thodiga garden	Do	73 4 2		
11 Half portion of a dwelling garden called Malayath Paramba	Anubavom Suagashom or perpetual Lease	213 11 5		
12 Kadamkad Melom Land			515	13 8
13 A house with well and improvements on garden N. 11			532	6 3
14 Movable property			161	13 2
Add value of produce of Lands obtained after Panchu Nair's death			249	10 "
Total			1459	4 1

G. S. S. S. S.
Collector.

Ex. D. S.

Proceedings of Government
Public
1864 Department

No. 115.
PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 22nd December 1863.
By J. S. S. S. S.
22d Dec.
1863. 21st January 1864.

Feb. 127.

No. 8,109.

1863

Submitting for auction a letter from the Collector of Malabar, proposing to restore the personal and real property of a Nair who died intestate, to his widow and children.

W. K. S. S. S.

18th January 1864

To the Government of Malabar

W. J. S. S. S.
W. J. S. S. S.
W. J. S. S. S.

W. J. S. S. S.
W. J. S. S. S.

Judicial Department,

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
 Copy of the Board of Revenue - Resolves entered 22 Decr 1863 - 8109
 Letter from the Collector of Malabar - do - do - entered 21 January 1864. N° 8.
 do the Collector of Malabar - do - 2^d April 1864 N° 35.
 do from the Govt Solicitor - do - 23^d - do - N° 204.
 Order thereon 29th April 1864. N° 616.

Under the opinion expressed by the Advocate General, His Excellency the Governor in Council authorizes the Collector of Malabar to make over the property referred to, to the widow of the deceased Malapit Parachu Nair who died intestate.

[Handwritten signatures and initials]

[Handwritten signature]

To the Collector of Malabar & Board of Revenue } disp. 30/4

[Faint handwritten notes on the left side of the page, including "List of property left by deceased Malapit Parachu Nair" and "Order 123/616"]

State of New York
County of Albany

1864

Edwards 1864. Department.

No. 616

PROCEEDINGS of GOVERNMENT.

Dated 29 March 1864.

326324