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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1225	Press ~~Mis.~~
<i>4-15</i> Dated	2-9-	18 65.

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
2nd September 1865.*

No. 14. Read the following letter from Mrs. F. C. D'SILVA, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 1st August 1865.

Permit me most humbly to submit triplicate copies of my Memorial to the Right Honorable the Secretary of State for India, and to solicit that you will be graciously pleased to transmit them to the Home Authorities, with the favorable recommendation of His Excellency the Governor in Council.

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

The humble Memorial of FRANCES CAROLINE D'SILVA, wife of Pensioned Assistant Apothecary J. P. D'SILVA, and only surviving daughter and heiress of the late J. D. KOELMEYER,

MOST HUMBLY SHEWETH,

That Memorialist is the natural daughter of the J. D. Koelmeyer who died intestate in 1858.

2. That during the life-time of her deceased father, Memorialist was brought up in the full expectancy of inheriting his property should she survive him.

3. That at the time of her father's decease she was his only heir, he having had no relations, near or distant, at the time, who could lay claim to the estate.

4. That Memorialist's father all along fully intended that his property should revert to her after his death is clearly evident from the four depositions herein enclosed, given on solemn affirmation before the Civil Judge of Combaconum by individuals who were on intimate terms with him, and who came forward on the occasion of the Civil Judge holding an inquiry as to who was the heir of Memorialist's father, after he had died.

5. That, from an inspection of said depositions, your Excellency in Council will perceive that Mrs. Vanspall, who lived under the same roof with Memorialist's father and herself for a period of eight years, declares:—"I have had

Vide Enclosure I.

every opportunity of knowing all his household affairs, and, to the best of my knowledge, am now able to state that the said Mr. Koelmeyer during his life-time always considered Frances Caroline, in preference to all other of his relatives, mostly entitled to all his property."

Another of her witnesses, Sowry Roya Pillay, states that Mr. Koelmeyer informed him, whilst he was ill at Negapatam, that "he had only one daughter, that he had no wife or other relations, and that he had made said daughter his heiress."

Vide Enclosure II.

A third witness, Aroonachella Pillay, deposed that Memorialist's father told him, during his sickness, that "it was impossible for him to live longer; that he had delivered his documents and property to Mrs. Vanspall; that his daughter

Vide Enclosure III.

was his only heiress, and that he had no other heirs; and that said property did not belong to his paternal estate, but was self-acquired."

Vide Enclosure IV.

The fourth witness, Cotlinga Pillay, deposed that Mr. Koelmeyer told him that "with the exception of his daughter, he had no other heir."

6. That from the foregoing depositions it will be seen that Memorialist was constantly and publicly acknowledged by her father as his only existing heir.

7. That further, an advertisement was published in the *Fort Saint George Gazette*, in 1858, calling upon any claimants to the estate of Memorialist's father, to come forward, but up

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to the present time no one has laid claim to the property, excepting Memorialist, for the simple reason that, besides her, there are no other heirs in existence.

8. That these being the facts of the case, the property of Memorialist's father was taken charge of by the Administrator General, and is still retained by him, and though Memorialist, through her husband, requested him to put her in possession of it, under date the 11th November 1864, that officer directed her to establish her claim in the High Court.

9. To pursue this course is altogether impracticable to Memorialist. She is in indigent circumstances, and all she has to depend upon is the pension of Rupees 35 of her present husband, a Pensioned Assistant Apothecary. On this small pittance, her husband, herself, and three growing children have to subsist, to find their food, clothing, lodging, &c. The prices of the most common necessities of life are enormously exorbitant, and though she observes the strictest economy and is frugal in her expenditure, yet she could not avoid becoming involved in debt to meet the numerous wants of the family and other demands. Under these circumstances, how is it possible for Memorialist to recover her late father's property by a suit in the High Court?

10. From the utter impossibility of adopting such a course of procedure, Memorialist addressed His Excellency the Governor in Council of Fort Saint George, soliciting that the estate of her deceased father may be given to her, and 1/10th escheated to the Crown. Her petition was forwarded to the Advocate General, for his opinion, who stated that "her only course is to apply to Her Majesty's Secretary of State for India: upon a proper statement of the facts, I apprehend that the petitioner would obtain an order sanctioning payment to her, the usual percentage being retained by the Crown." With reference to that opinion, Government directed Memorialist to address your Excellency, in their Proceedings of the 20th June 1865, No. 871; consequently, she begs humbly and respectfully to appeal to your Excellency, in the firm belief that her claim will be recognized.

11. The facts of Memorialist's case are just those above stated: she, though illegitimate, is the only heiress of her deceased father, and was acknowledged as such by him during his life-time, as also immediately before his death, and it is for your august authority to consider whether because Memorialist's father is supposed to have died without a Will, she should be deprived of her just rights to which she is both naturally and morally entitled.

1st. That she always lived with her father previous to his demise, and was brought up in the full expectancy of inheriting his property, is the first ground on which Memorialist would humbly and respectfully urge her claim.

2nd. That as shown above, she was publicly and constantly acknowledged by her father as being his only heir. This is proved by four individuals, who deposed to the fact before the Civil Judge of Combaconum, and whose depositions are herein enclosed.

3rd. That notwithstanding the advertisement in the *Gazette* in 1858, no one has come forward to lay claim to the estate, simply because there are no other heirs besides Memorialist in existence.

4th. Acknowledged as Memorialist was by her father, even on his death bed, as his only heir, surely it is every way possible that he did execute a Will, and that interested parties did away with it, in view to defraud Memorialist. But unfortunately, she cannot prove this. Many individuals were largely indebted to her father, and by the destruction of the Will they would become benefited. In fact much of the money due to the estate has not been paid up to the present moment, nor is it likely it will be ever recovered. Had the Bonds been delivered to Memorialist together with the estate itself at the right time, she would have promptly exerted herself to recover the several amounts due; but now, from the long delay experienced by her in getting possession of her paternal estate, not only has it dwindled away, but she will also be precluded from recovering any portion of the outstanding debts by the Rule of Limitation.

12. Under all of the foregoing circumstances, Memorialist would, with the utmost deference and submission, appeal to your Excellency to compassionate her case. In numbers of instances similar to hers the property escheated by the Crown has been restored by your Excellency to illegitimate offspring whose fathers have even died intestate. Memorialist is miserably poor and the resto-

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ration of the remnant of her father's estate would be of incalculable benefit to her, her husband and her children, and relieve them from their increasing wretchedness. Poverty stricken as she is, she has no other alternative but to throw herself on your Excellency's merciful consideration, and to solicit that your Excellency will be graciously pleased to pass an early order, directing the local Government to make over nine-tenths of her deceased father's property to her, reserving one-tenth for the Crown.

For which act of goodness and mercy, Memorialist as in duty bound shall ever pray.
MADRAS, 1st August 1865. (Signed) F. C. D'SILVA.

I.

I the undersigned do hereby declare that the late Mr. J. D. Koelmeyer, Assistant Overseer in the Department Public Works, was, on the demise of my husband, nominated the legal Executor, and I subsequently having lived under the same roof with the said Mr. Koelmeyer, for a period of eight years, have had every opportunity of knowing all his household affairs, and, to the best of my knowledge, am now able to state that the said Mr. Koelmeyer, during his life-time, always considered his daughter "Frances Caroline", in preference to all other of his relatives, mostly entitled to all his property.

2. I commit the above to paper, in order that this Document would assist the said Miss Frances Caroline Koelmeyer to come to her rights.

(Signed) C. VANSPALL.

(True Copy).

NEGAPATAM, 20th July 1858.

(Signed) E. W. BIRD,

Civil Judge.

II.

Deposition given, on solemn affirmation, by Sowree Roya Pillai, son of Appoo Pillai of Sholia Vellaler caste, Christian religion, a Sogavassy, aged 74, residing at Negapatam in the Kevaloor Taluq, on the 23rd November 1858, before the Civil Judge of Combaconum.

In June last, I came from Negapatam. At that time the Engineer, Mr. Koelmeyer, was in the Traveller's Bungalow. He and I were acquainted with each other at Negapatam. He was sick, and I went to see him. I asked him if he had made any arrangement with regard to his affairs. That gentleman replied that he had only one daughter; that he had no wife or other relations; and that he had made said daughter his heiress to manage all his affairs. I heard this and went away. At that time that gentleman's daughter was present.

(Signed) SOWREE ROYA PILLAI.

Solemnly affirmed before me in open Court this 23rd November 1858.

(Signed) G. T. BEAUCHAMP,

Civil Judge.

(True Copy).

(Signed) E. W. BIRD,

Civil Judge.

III.

Deposition given, on solemn affirmation, by Aroonachella Pillai, son of Avidiya Pillai, of the Vellaler Caste, Shiva sect, Agent of Mr. Jensen, aged 42, residing at Negapatam in the Kevaloor Taluq, on the 29th October 1858, before the Civil Judge of Combaconum.

Either on the 8th or 9th June last, I do not recollect which, according to the instructions of my employer, I came to Combaconum to see Mr. Koelmeyer, who was sick. Mr. Koelmeyer was lying down unwell in the Traveller's Bungalow. Kotalinga Pillai, who joined me at Combaconum, accompanied me in visiting the said gentleman. I stated to the gentleman (Mr. Koelmeyer) that "my employer told me that you promised to come to Negapatam, but that you were ill, and therefore I was desired to come and see you." In reply, that gentleman stated that he was sick, that it was impossible for him to live longer; that he had delivered his documents and property to Mrs. Vanspall; that his daughter was his only heiress, and that he had no other heirs;

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and that said property did not belong to his paternal estate but was self-acquired. At the same time he desired me to inform my employer that, as he was a good man, his daughter should be speedily married to his son, and that my employer should receive the documents, &c. from Mrs. Vanspall and make them over to his daughter. He then desired me to return soon to my country, and give information respecting his sickness. I went away. I did not then see the documents. Cotylinga Pillai, who accompanied me, continued speaking there (with the gentleman). The gentleman's daughter also was present at the time.

(Signed) AKOONACHELLA PILLAI.

Solemnly affirmed before me in open Court, this 29th October 1858.

(Signed) G. T. BEAUCHAMP,

Civil Judge.

(True Copy).

(Signed) E. W. BIRD,

Civil Judge.

IV.

Deposition given, on solemn affirmation, by Cotylinga Pillai, son of Vather Atchia Pillai, of the Vellalar Caste, Shiva sect, by profession a merchant, aged 50, residing at Negapatam in the Kevaloor Taluq, on the 29th October 1858, before the Civil Judge of Combaconum.

The last time I saw Mr. Koelmeyer was in the month of June last. I saw him in the Traveller's Bungalow at Combaconum. I saw Aroonachella Pillai at Combaconum. I went with him to the above said gentleman. On that occasion, Aroonachella Pillai, on seeing Mr. Koelmeyer, said to him :—" You promised to come to Negapatam; I was directed by Mr. Jensen to see you, and it is therefore I am come." Mr. Koelmeyer, in reply, desired him to inform Mr. Jensen that he was sick, that he has delivered all his documents and property to Mrs. Vanspall, and placed his daughter under her charge, that according to the promise he formerly made to Mr. Jensen, his daughter was to marry Mr. Jensen's son, and that Mr. Jensen should receive the documents, &c. [from Mrs. Vanspall]. He also said that he had desired Mrs. Vanspall to make over the documents. After this Aroonachella Pillai went away. As for me, I remained a short time speaking to the gentleman. Mr. Koelmeyer then desired me to go to Negapatam, and tell Mr. Jensen to get his [Mr. Koelmeyer's] daughter married to his son. He also said that, with the exception of his daughter, he had no other heir. Agreeably thereto, I informed Mr. Jensen about two months after. It was said that the marriage had taken place.

(Signed) COTYLINGA PILLAI.

Solemnly affirmed before me in open Court this 29th October 1858.

(Signed) G. T. BEAUCHAMP,

Civil Judge.

(True Copy).

(Signed) E. W. BIRD,

Civil Judge.

No. 15. ORDER THEREON, 2nd September 1865, No. 1225.

Ordered that the Memorial received with the foregoing letter be forwarded for the favorable consideration of the Right Honorable the Secretary of State.

(True Extract).

A. J. ARBUTHNOT,

Chief Secretary.

Ind. Letter to Eng. 24/12/1865
No. 11 of 1865

Repd. to - No. 13 of 1865

the foregoing letter be forwarded for the favorable con-
sideration of the Right Honorable the Secretary of State.

2. September 1865. No. 1225

Ordered that the Memorial received with

14. 15

Judicial 1865 Dept.
~~1865~~
From F. Caroline Deluca
wife of a late Pensioned Apo-
thecary. P. Deluca only
surviving daughter & heir of
the late J. D. Koelmeyer
Madras

Dated 1
Recd 14 } Aug 6 1865

With 15 Enclosure
N^o 1795

Prays to forward her Memo-
rial in triplicate to
the Secy of State for India
with a recommendation
of Govt

With order

12/2/65
12/2/65