

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 796	Press Mis.
Dated 3. 6. 1986	

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
3rd June 1865.

Read the following :—

No. 13.

No. 155.

OFFICE MEMORANDUM.

FORT WILLIAM, FINANCIAL DEPARTMENT, the 18th January 1865.

Accounts Abstract, May 1864, No. 28-1 and 2.
Ditto Ditto, June 1864, No. 69-1 and 2.
Petition of Mootiala Ramaya, dated 18th September 1864.
Letter from Solicitor to Government, No. 564, dated 30th
December 1864, with enclosure.

The undersigned is directed to forward, for the information of the Home Department, copies of the papers noted in the margin.

(Signed) E. H. LUSHINGTON,
Secretary to the Government of India.

From R. F. STACK, Esq., Solicitor to Government, to T. PEACHEY, Esq., Principal Assistant Secretary to the Government of India, Financial Department; dated Fort William, the 30th December 1864, No. 564.

With reference to your Office Docket, No. 2805, dated the 31st October last, I have the honor to forward herewith a copy of the Advocate General's opinion, as to the application made by Mootiala Ramaya for the issue of a new Note for Rupees 25,000 in his name, and for payment of all arrears of interest due upon it.

2. The original papers received with your docket are herewith returned.

OPINION.

The Accountant General's objection to the renewal of the Note seems to be that the Extract from the Proceedings of the Cuddapah Court, of 23rd September 1853, does not amount to a certificate under Act XX of 1841. It is not necessary to determine this question, as there are two very plain reasons why the application for renewal of the Note in question must be refused. Supposing the Extract to amount to a certificate, it was a certificate to two persons jointly, and the application for renewal is made by the survivor. The survivor of two persons to whom a certificate has been granted is not in the position of a Surviving Executor or Administrator. Probate is evidence of the Executor's title to the property, and Letters of Administration constitute a title in the Administrator; but a certificate merely confers a power to collect debts. In the second place, the Extract from the Proceedings of September 1853 (assuming, as before, that it amounts to a certificate) does not confer any power to negotiate Government Securities, or even to draw interest on them; this is alone a fatal objection to the application. I hope that the certificate to the brother's estate granted in April 1859 is not a fair specimen of the way in which the certificate Act has been carried out. A Note which in the Proceedings of 1853 was treated as being, and which in fact was, the property of the father, is treated in the later certificate as the property of the deceased brother, and power is given to the holder of the certificate to negotiate it as such.

29th December 1864.

(Signed) T. H. COWIE,
Advocate General.

(True Copy).

(Signed) R. F. STACK,
Solicitor to Government.

(True Copies).

(Signed) J. E. COOKE,
Asst. Secy. to the Govt. of India.

That the B. P. Asst. Accountant &c.

*Proceedings of the Madras Government, Judicial Department,
3rd June 1865.*

From R. P. HARRISON, Esq., Accountant General to the Government of India, to E. H. LUSHINGTON, Esq., Secretary to the Government of India, Financial Department, dated Fort William, 25th September 1864, No. 5022 J101.
Loan Office.

I have the honor to acknowledge the receipt of your Office Docket instant, forwarding, for report, the petition of one Mootiala Ram

No. 6636 of 1842-43, for Rupees 25,000.

deceased father, may be renewed in his favor, without the production of the usual Certificate of Administration to the estate, under Act XXVII of 1860.

2. This Note was issued in the name of Mootiala Sashoo, by whom all interest on it was drawn up to 1st February 1853, when he appears to have died, leaving, according to the petitioner's statement, his two sons the Administrators to his estate; the elder, Mootiala Palacondiah has, however, since died, and the petitioner, who is the survivor, claims the question, under a Certificate of Administration to his deceased brother's estate.

3. The documents produced in support of this claim are, first, an Extract from the Cuddapah Court, dated 23rd September 1853, and, next, a Certificate of Administration to the estate of his brother M. Palacondiah.

4. The latter document is inapplicable to this Note, which, under the provisions of Acts XX of 1841, and X of 1851, which require a regular Certificate of Administration from the Proceedings of a Court is inadmissible.

5. If the petitioner holds, as he states, a regular Certificate of Administration to the estate under the law then in force, and if it conveys the necessary powers, no objection will be raised to the renewal of the Note in question in his favor, as surviving Administrator of the estate, on the document being forwarded to this office for registry.

6. The original enclosures of your docket under reply are herewith returned, as requested.

Extract from the Proceedings of the Civil Court of Cuddapah, under docket No. 1. 1853, No. 1.

Read Miscellaneous petition, No. 471, presented, by M. Palacondiah, representing that his deceased father Mootiala Sashoo had deposited a sum of Rupees 45,000 and obtained a Company's Bond on which he for sometime drew the interest, and died about three months back; that on addressing the Accountant General for payment of the interest to himself, the legal heir of the deceased, he was informed that he should procure a certificate under Act XX of 1841, he therefore prayed for a certificate to enable him to receive the interest on the said Bonds.

1. It appears from the evidence of the five witnesses named by the petitioner, as well as from that of the Tahsildar of the Taluq, Police Ameen, and Cutwal of the town of Cuddapah, that the deceased Mootiala Sashoo had two sons (the petitioner and another), of whom the petitioner was the elder, who inherited all the property belonging to the said Mootiala Sashoo; and these witnesses, with the exception of the Tahsildar and Cutwal, deposed to the deceased's widow being under the protection of the said sons.

2. Petitioner's younger brother M. Ramaya admitted the truth of all that the witnesses had stated.

Requested that the certificate should contain his name as well as his brother the petitioner.

3. A written proclamation was fixed up in a conspicuous part of the town of Cuddapah, requiring any party having a claim to the estate of the late Mootiala Sashoo of the same place to appear before the Court; and prove the same within the 10th instant; but no one having yet appeared, the Civil Judge considers, from the evidence laid before him, that the petitioner M.

*Proceedings of the Madras Government, Judicial Department,
3rd June 1865.*

Palacondiah and his brother M. Ramaya are the next of kin and the legal heirs to the estate of the deceased Mootiala Sashoo of Cuddapah.

(True Extract on two Stamps).

(Signed) W. ELLIOT,
Civil Judge.

Two rolls of stamped paper having been filed by M. Palacondiah, petitioner in M. P. No. 471 of 1853 on the 28th September 1853, copy of an Extract from the Proceedings of the Civil Court of Cuddapah, under date the 23rd instant, was furnished to him on the 30th September 1853.

(Signed) W. ELLIOT,
Civil Judge.

No. 2.

To
M. RAMAYA,
Cuddapah.

Whereas, in pursuance of the orders of this Court, dated 15th December 1858, in the matter of the estate of the late M. Palacondiah, this certificate is granted to you agreeably to the provisions of Act XX of 1841, and Act VIII of 1854, you are hereby authorized and empowered to collect all debts or monies due to the Estate of the said M. Palacondiah, deceased, giving acquittance for all sums received by you. You are further empowered to receive interest on the undermentioned Promissory Notes belonging to the estate of the deceased, namely—

No. 43225, dated 30th June 1864, for Rupees 20,000; No. 9506, dated 12th March 1855, for Rupees 10,000; No. 8636 for Rupees 25,000, and Rupees 2,48,000 (being the aggregate amount of 3 Bonds devoted to the maintenance of a Choultry in Cuddapah, viz., No. 2898 for Rupees 7000, No. 27884 for Rupees 5000, and No. 9222 for Rupees 12,800) making a total of Rupees 79,800, and to negotiate the same, or obtain in lieu of them loan acknowledgments in your name as the case may be, and to negotiate such loan acknowledgment, and to receive the shares of any Bank or parts thereof, or to negotiate such shares, or dividends belonging to the said estate.

You shall further adhere strictly to such laws as have been or may be passed by the Governor General in Council for the guidance of persons holding certificates for the collection of debts due to the estate of deceased persons.

Cuddapah, CIVIL COURT,
30th April 1859.

(Signed) W. ELLIOT,
Civil Judge.



Registered No. 1 of 1859-60 of the District of Cuddapah.
(Signed) J. FRASER,
Cuddapah, COLLECTOR'S CUTCHERRY,
1st July 1859. Acting Collector.

No. 1178.

Transferred to the Government of Madras, for such notice as may seem proper of the irregularity pointed out by the Advocate General, in respect of the "Certificate of Administration" to the estate of Mootiala Palacondiah, granted by the local Court to Mootiala Ramaya, of Cuddapah.

FORT WILLIAM,
HOME DEPARTMENT,
4th February 1865.

(By Order).
(Signed) A. P. HOWELL,
Offg. Under Secy. to the Govt. of India.

That the 2nd of July 1865

*Proceedings of the Madras Government, Judicial Department,
3rd June 1865.*

No. 14. ORDER THEREON, 3rd June 1865, No. 796.

Resolved that the foregoing Opinion* of the Advocate General at Calcutta, together with the marginally noted, and explained

* No. I.—Opinion of the Advocate General, Government of India, dated 29th December 1864.

circulated for the information and guidance of all Civil Judges.

2. The Opinion was given in answer to a reference up

† No. II.—Report of the Accountant General to the Government of India, No. 5022, 25th September 1861.

Accountant General of India refusing payment of interest due on a Government Promissory Note issued in the name of the deceased father of the applicant, who asserted his claims to be considered as the legal heir of his father's brother.

‡ No. III.—Extract of Proceedings of the Civil Court of Cuddapah, dated 23rd September 1863.

§ No. IV.—Certificate of the Civil Court of Cuddapah, dated 30th April 1859.

to the father's estate, and subsequently died, on the strength of an Extract of Proceedings of the Civil Court of Cuddapah, and on a Certificate of Administration granted subsequently, on the demise of the elder brother, by the same Court.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Civil Judge of

Office Memorandum

Secre is O.

April 1864.

the ho.

by *in* *directions the* *in* *petition*

for disp.

Financial Department

Hathaway

Private Secretary to the Vicar

Nº 1875

For *Accountant Gen.*

in the Govt. int of *via for report* *to* *returned*

By Order

Finl Departt
The 7th April 1864

H. H. A. Hollingbery

Asst. Secy to the Govt. of India

To

His Excellency the Viceroy and Governor General of India

William

The Humble Petition of Moolai Ramay Merchant of Cuddapah in the Madras Presidency

Most Humbly sheweth

That the *Asst. Accountant General*

you 2^d Asst. Accountant General
has therefore represented to that
Officer that
has forwarded to
Promissory Note for Rs. 25,000 and
certificates on the 16th Instant with
request that he will renew the same
order the payment of Interest due for
4 years.

That Petitioner begs to state that
of the liberal interest of 5 per
cent paid by Government, Petitioner has
invested a large amount in the Loan
for the benefit of his family. This rate of
interest after so many years
receives a sum of late Income tax
also is charged on it which has reduced
it further not to say the expense to which
Petitioner is put on account of postage, which
has put him to much inconvenience and
by the extension of the interest by
exp.

That your self most respectfully
and humbly begs to solicit that the
Accountant General may be instructed to renew
the Note in question and that the fresh cer-
tificates required by him should it however
be

be considered necessary that Petitioner must com-
ply with the demand, he prays that your
Excellency in Council will be pleased to order
the value of the stamp paper required by
the Act, vizt. Rupees 104 to be deducted from
the Amount of interest due & kept in deposit
to be disposed of hereafter as Government may
deem proper, and the remainder to be made
payable to him without further delay.

*one hundred
+four Rupees

For which Act of Justice & humanity
your Petitioner as in duty bound shall
ever Pray.

Guddalapah
18th March 1864

Mootiala Ramaya

N^o 5022
J 101

From

R. P. Harrison Esquire
Accountant General to the
Government of India

To

C. H. Lushington Esq.
Secretary to the Govt of India
Financial Department

Loan Office Sir.

I have the honor to acknowledge
the receipt of your Office Docket N^o 1875 dated
the 7th instant forwarding for report the Petition

one Mooliala Ramaya a Merchant.
Huddadah. and in view of the reasons thereun-
lated, that the Government, No. 48636 of 1842/43
described in the Margin and it is
name of deceased father, may be renewed
his favor, without the production of the
usual Certificate of Administration to the Estate
Act 27 of 1860.

This Note was issued in the name of
Hottel Shashoo by whom all interest due
was drawn up to 1st Feb 1853 when he
appears to have died, leaving, according to
Petitioner's Statement, his two sons the Ad-
ministrators to his Estate. The elder of whom
Mooliala Palacoondiah has however since
the Petitioner who is the survivor,
claims the Note in question under a Certifi-
cate of Administration to his deceased Brother's
Estate.

The documents produced
in support of this claim are, first an Extract from
the Proceedings of the Madras Court
dated 23rd September 1850, and next a Certificate
of Administration to the Estate of his Brother
M. Palacoondiah.

The latter document is in
reference to this Note which stands in the name
of

of Moolial Shashoo and as the provisions
of the XXth and X of 1851 which were
force at the time of the death of Moolial
in 1853 require a regular Certificate
of Administration a mere extract from the
proceedings of a Court is inadmissible.

If the Petitioner holds as he states
a regular Certificate of Administration to
his estate under the law then in force
and if it conveys the necessary powers
no objection will be raised to the renewal of the
Note in question in his favor as surviving
Administrator of the Estate, on the documents
forwarded to this Office for registry.

The original enclosures of your document
under reply are herewith returned as requested.

I have the honor to be,
Sir, Yours faithfully,
J. M. Harrison.
The 25th Sept 1864 }
ccco sent to the Govt of India

No. 782-156
To
Mooliala Ramaya
Zilla Huddadah
in the Madras Presidency
Sir
Your Petition of 18th March 1864
Solicitor

soliciting the renewal in your name of a
Government Promissory Note which now
stands in the name of your deceased
about the production of the

of Administration of the Estate under Act of 1860 having been read before His Excellency
the Governor General in Council. I am directed
to inform you that if as you state you hold
a regular Certificate of Administration
under the Law in
force in 1853, and if it covers the neces-
sary powers, no objection will be raised
by the Accountant General to the renewal

of the Note in question in your favor as
surviving Administrator of the estate on
the document being forwarded for
registry. But His Excellency's Council can
not exempt you from the production of
a regular Certificate of Administration
as provided in Acts XX of 1841 and X of 1851.

By C. A. Rushington
Secy to the Govt of India

27
20 -

Governor General

20

11

Public, Merch

kind in

was

at the same time

insure

ys have

considered

then

occasions

the

Govern

N^o 8638 of 1853/43

22/10/53

24

10

of

revenue

draw

and

to be

the Accountant General may be instructed
to place the Fresh Note and to order the dis-
bursement of the seven years Interest due
to him on the said Note from the Treasury of
the District without further delay.

For which act of justice and
equity Your Petitioner as in
duty bound shall ever pray.

Cuddapah }
12th May 1884 }

[P] Mootiala Ramaiah
Merchant of Cuddapah
N^o 541.

Forwarded to the Accountant General
to the Gov^t of India for report & P to be returned

Shirala
Financial Dept^t }
The 2^d June 1884 }

By Order
[P] R. A. Hollingbery
Asst. Secy to the Gov^t of India

N^o 545
J. 13

From

R. P. Harrison Esq^r
Accountant Gen^l to the Gov^t of India

To

E. N. Lushington Esq^r
Secretary to the Gov^t of India
Financial Department

Loan Office } Sir,

In returning herewith the Petition
from

from Mootiala Ramiah Merchant of
Ruddapah receives, for report under your
office Docket N^o 541 dated the 2nd instant, I
have the honor to state that a Report on
the same subject was furnished in my
letter N^o 5022 dated the 25th April last of
which a Copy is annexed. —

I have the honor to be,
Wm. } P. R. P. Harrison
The 8th June 1864 } Accountt^{ts} Gen^l to the Gov^t
of India.
N^o 976.

To

Mootiala Ramaya
Zilla Ruddapah
in the Madras Presidency

Sir

In reply to your Petition of 12th
May 1864 I am directed to refer you to my
letter N^o 166 of 13th Idem in answer
to your previous application of 18th March

I have the honor to be,
E. Lushington
Secy to the Gov^t of India

To

E. Lushington Esq^r
Secy to the Gov^t of India
Financial Depart^{mt}

Sir

I have the honor to request you —
will be so kind as to lay the following ap-
-peal before the Right Hon^{ble} the Governor
General and Viceroy in Council for His Excel-
-lency's consideration and orders. —

My late Father Mootiala Sasshoo
invested certain Money in Government papers
and obtained a Promissory Note for Rs 25,000
of 42443 N^o 8638 and drew the interest till the
year 1852 when he died in. —

On his death my elder brother —
M Paulacondia in 1853 by Petition applied
to the Civil Court for letters of Administration
or as it is called here a certificate of heir-
-ship under Act XX of 1841. —

The Civil Court under date 23rd
September 1853 after issuing the required pro-
-clamation and the examination of the neces-
-sary witnesses passed an order to the effect
that my elder brother the said Mootiala
Paulacondia

Certified
copy appended
C. S. I.

Paulacondiah and myself Mootiala Panniah
are the meat of him and legal heirs of the de-
ceased Mootiala Sashoo.

It was the practice of the Court of
this District not to issue a further certificate
to the heir beyond a Copy of the order of the Court
declaring such a person or persons to be the
heir or heirs and indeed the Act aforesaid regt.
XX of 1841 does not specify any particular form
in which the certificate of heirship or letters
of Administration are to be given.

Under this order of the Court up to
August 1857 the interest was regularly paid to
my brother the said Mootiala Paulacondiah and
myself on our joint signatures.

On the 30th April 1859 the Civil Court
granted me letters of Administration to the
estate of my brother the said Mootiala Paula-
condiah who had meanwhile deceased. But
a suit arising regarding his estate the promis-
sory Note was attached by the Court immediately
afterwards and no interest has been drawn since
1st August 1857. On 27th July of 1863 the Court de-
creed the suit in my favor and the Promissory
Note was returned to me and the Note was for-
warded to the Accountant General of India for
renewal.

Copy appended
it is admitted
by the Accountant
General. -
No II

renewal and for orders for the payment of the
interest due.

After certain correspondence the Accountant
General though he had received the orders passed
and the Certificate given by the Civil Court of
this District 1st that Mootiala Paulacondiah
and myself were the heirs of our deceased Father
Mootiala Sashoo in whose name the Note is.
and 2nd that I was the heir of Mootiala Paula-
condiah above said my elder brother then also
deceased, declined the renewal the Note unless

Original copy
enclosed No III

either a regular Certificate of Administration
under Act 27 of 1857 sufficiently stamped paper
were submitted. On that a Petition was forwarded

Copy appended
No IV
Copy appended
No V

to the Governor General in Council 18th March 1864
On which orders were passed dated 13th May 1864

still the Accountant General declined to renew
the Note and on being requested to inform me in
what point my documents were defective he replied
that he objected to act on the orders of the Cudda-
palli Court dated 23rd September 1853. i.e. the

Original ap-
pended No VI

orders declaring my deceased brother and myself
to be the heirs of our deceased Father in whose
name the note in question was given.

This

This was the earliest date at which I understood from the Accountant General where the difficulty lay and it is regarding this decision of the Accountant General of India that I am compelled to appeal to the Right Honble the Secretary in Council.

The order now objected to by the Accountant General was not only granted in accordance with the only law then in force No XX of 1841 (for act X of 1851 was not applicable to the case there being no dispute regarding the property at the time and no trustees either then or at any other time) and in the form in practice in the Court of this District (no other form being given) ~~and on stamp paper of this District (no other form being given) and on stamp~~ paper of the then required value; but it was received in the Accountant General's Office on 4 years i.e. 18 August 1854 and it is only now the suit regarding my brother's property has been decided and the Note returned to me that this document has been objected to and I am now ordered to take out fresh letters of Administration under a new law and at a very heavy expense of Stamp duty.

All the provisions of the then law were complied with when this order now objected to

to was granted, and as the copy of the order was given to me and my brother in reply to a Petition for Certificate of administration it shews that the Court considered that a certified copy of the orders passed was the certificate and so it was regarded by the Accountant General's Office.

The Certificate granted to me respecting my deceased brother's property was granted after a new practice had arisen in the Court; but surely the order objected to certifies decidedly that my brother and I are the legal heirs of

Stamp duty by the form
understand that I might perhaps be justly ordered to take out a fresh certificate though that would have been hard after the admission of the former one for 4 years; but such was not the case. It rested with the Court to frame its Certificate in any way it thought proper and I accepted what it gave me.

Under these circumstances I respectfully request that the decision of the Accountant General may be reversed and that I may be ordered to renew the Note referred to my name and to pay me the arrears of interest due.

I need hardly remark upon the most serious loss I have sustained by the difficulties that have ^{been} placed in my way of obtaining interest of money which belongs to me of negotiating the Note at a time when to a commercial man every ^{Refuse} he can obtain is of the greatest importance in consequence of the increased trade and prosperity of the Country.

Cuddapah }
13th Sept 1864 }

I have the honor to be,
Yr Mutualist Ramiah

Extract from the proceedings of the Court of Cuddapah under date 11th 23rd Sep. 1863.

(1) Misc.

Petition No. 471

presented by M. Palacondoo representing that his deceased father Mootial Sheshoo had deposited a sum of Rupees 15,000 and obtained a Company's bond on which he for some time received the interest and died about three months back. That on addressing the accountant General for payment of the interest to himself the legal heir of the deceased, he was informed that he could not procure a Certificate under Act XX of 1841 he therefore prayed for a Certificate to enable him to receive the interest on the said Bonds.

21

1 It appears from the evidence of the five witnesses named by the Petitioner as well as from that of the Tahsildar of the G. P. Police Ameen and Kural of the Town of Cuddapah that the deceased Mootial Sheshoo had two sons (the Petitioner and another) of whom the Petitioner was the eldest who inherited all the property belonging to the said Mootial Sheshoo and these Witnesses, with the exception of the Tahsildar and Kural, deposed to the deceased's widow being under the protection of the said sons.

2

Requested that the Certificate should contain his name as well as his Brother the Petitioner.

3 A written proclamation was fixed at a conspicuous part of the town of Cuddapah requiring any party having a claim to the estate of the late Mootial Sheshoo of the same place to appear before the Court and prove the same within the 10th instant but no one having yet appeared, the

line

Civil Judge considers from the evidence had
before him that the Petitioner M Palacondan
and his brother M Ramiah are the next of
and the legal heirs to the estate of the
deceased Mootial sheshoo of Guddapah.

(True Extract on two Stamps)

W. Elliot

Civil Judge

Two Rolls of Stamp Paper having been filed by M Palacondan
Petitioner in M. P. No 471 of 1853 on the 28th Sept. 1853 Copy of
Extract from the Proceedings of the Civil Court of Guddapah
under date the 23rd Instant was furnished to him on the
30th September 1853.

W. Elliot

Civil Judge

M. Ramiah

Guddapah

in pursuance of the orders of
Court dated 15th Dec. 1858 in the Matter

of the late M.

certificate is granted to you agreeably to the Pro-
visions of Act XX of 1841 & Act VIII of 1854 you are
hereby authorized and empowered to collect all
debts and monies due to the estate of the said M.
Paula Pandian deceased giving acquittance for
all sums received by you. You are further empowered
to receive interest on the und. mentioned Promis-
sory Notes belonging to the estate of the deceased
namely:-

N^o 4222 dated 30th June 1854 for Rupees

20000 N^o 9506 dated 12th March 1855 for Rupees 10000

N^o 8636 for Rs. 25000 & Rupees 248000 (being the aggregate
amount)

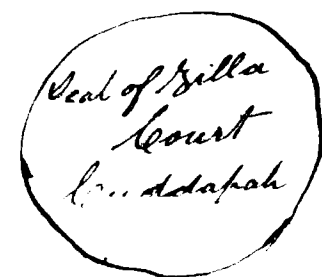
amount of 3 Pans devoted to the Maintenance
of a Choultry in Guddapah Vizt. N^o 2898 for Rs. 4000
N^o 27884 for Rupees 5000 and N^o 9222 for Rupees 12000
making total of Rupees 79800 and to negotiate
the same or to raise in lieu of them Loan ac-
knowledgements in your name as the Case may
be and to negotiate such Loan acknowledgem.
and to receive the shares of any Bank or parts there-
of or to negotiate such shares or dividends belong-
ing to the said estate.

You shall further adhere strictly to the
laws as have been passed by the Government

sons

Guddapah
Civil Court
30th April 1859.

W. Elliot
Civil Judge



Registered N^o 1 of 1859/60 of the District of
Guddapah.

Guddapah
Collectors (Futcherry)
1st July 1859

J. Fraser
Acting Collector

No. 3.

N^o 885

Fort William

Accountant General's Office

Loan Department

The 31st October 1863.

N^o 2120.

Memorandum

The Government Security noted in the margin received with letter N^o 412 of the 25th Sept^r 1863 from the Officer in Charge of the Treasury and adapted is herewith returned for the reason following

N^o 8638 of 1842/43 for Rs. 25,000

A regular Certificate of Administration under Act 27 of 1860 on sufficiently stamped

sub.

document, before. accompanying Note can be renewed.

The draft for the renewal fee of the above Note is also returned.

J. R. A. Link

Offg. Asst. Account General

To

The Officer in Charge of the Treasury
Cuddapah

(True Copy)

J. W. Ward

Dy. Collector.

No. 4

To

His Excellency the Viceroy and Governor
General of India, Fort William

The humble petition of Mootiala
Namah Merchant in the Zilla
of Cuddapah in the Madras Pre-
sidency.

Most humbly sheweth

That the 2^d Assistant Accountant
General to the Government of India having in his
Memorandum dated 30th January 1864 intima-

ren

43 for Rs.

of C. state of
that on under Act N^o 27 of 1860 on proper stamp
and having returned the said Note your Peti-
tioner most respectfully begs leave to state that
in the year 1853 his father Mootialah sashor
died, when Petitioner and his elder brother
Mootiala Paleon

declared sole heirs to the estate of their deceased
Father and accordingly in the same year obtain-
a Certificate from the then Civil Judge of Cuddapah
Mr. William Elliot under the law then in force in
which they were also declared competent to re-
gulate the whole Government securities in their
deceased

deceased Father's name the amounting in the aggregate to Rupees 45000 and have since drawn the interest thereon regularly.

That of the above securities one amounting Rupees 20,000 having been duly receipted and filled up it was received on the joint names of the Petitioner and his elder brother on the strength of the Certificate above alluded to.

The other Paper for Rupees 25000 having been Current until the 1st August 1857 and became null in that year the Accountant General was applied to for a fresh Note when objections were raised by that Officer on the legality of Petitioner's Negotiation. The papers exist.

of his deceased Father Mootiala Sashoo merely because in the Certificate granted by the Council judge the above Notes and the Number not distinguished which your Excellency will be pleased to find, is not the fault of the Petitioner. This omission was however subsequently supplied in another Certificate granted by the Council on the 30th April 1859 on the death of Petitioner's eldest brother Mootiala Paulacondiah to whose property he then succeeded.

not distinguished which your Excellency will be pleased to find, is not the fault of the Petitioner. This omission was however subsequently supplied in another Certificate granted by the Council on the 30th April 1859 on the death of Petitioner's eldest brother Mootiala Paulacondiah to whose property he then succeeded.

That therefore your Petitioner respectfully submits for your Excellency's favorable consideration

without the usual Cer-
 tification to the Estate -
 1800, having been laid before
 the Governor General in Council,
 to inform you, that if as you
 state you hold a regular Certificate of
 Administration to the Estate of your father
 under the law in force in 1853, and if it con-
 vey the necessary powers, no objection will
 be raised by the Accountant General to the
 same in question in your favor,
 as Administrator of the Estate, on
 account be - forward to him for regis-
 tration.
 exempt you from the production of regular
 Certificate of Administration as provided in
 Acts XX of 1841, and X of 1851. -

Simla
 The 13th May 1864

I have the honor to be,
 Sir,
 Secy: to the Govt of India

(True Copy)

Mutiala Ramiah

N^o 1339
P 112

Mutiala Ramiah
Guddapah

Lo
Loan Office Sir

In reply to your letter of the 22nd Ultimo

1864

I am directed to inform you that the Extract
from the proceedings of the Muddapah Court
dated 23rd September 1853 is inadmissible as
authorising you to endorse Notes standing
in the name of your late father. The other
document is a Certificate of Administration
in the Estate of M. Paula Pondiah and is
wholly inapplicable to the Note under reference.
A regular Certificate of Administration to
your father's Estate empowering you to sell and
transfer must be registered here before your
right to deal with the Note can be recognized
as directed by Order of Government N^o
1100 13th May 1804 Copy of which was
sent you.

Fort William
10th August
1864

I have the honor to be &c
R. H. A. Link
Off^r 2nd Asst^t Account^t Gen^l.

N^o 564

From

R. F. Stack Esq^r

To

Solicitor to Government

Thos Peachey Esq^r

Prin^l Asst^t Secy to the Gov^t of India
Financial Department

Fort William the 30th Decr 1864

With reference to your Office Dec^r 1864

dated 31st last, I have the honor
forward herewith a Copy of the Advocate General's
Opinion to the application made by Moolai
Ponnaya for the issue of a new Note for Rs. 25,000 of
his name and for payment of all arrears of
interest due upon it.

The original papers received with your
Docket are herewith returned.

I have the honor to be &c

R. H. A. Link

Sol^r to Government.

Opinion.

The Accountant General's objection to the
renewal of the Note seems to be that the extract
from the proceedings of the Muddapah Court of 23rd
September 1853 does not amount to a Certificate
under Act 20 of 1841. It is not necessary to determine
this question. There are two very plain reasons
why the application for renewal of the Note in
question must be refused. Supposing the extract
to amount to a Certificate, it was a Certificate taken
persons jointly, and the application for renewal
is made by the Survivor. The survivor of two
persons to whom a Certificate has been granted
is not in the position of a Surviving Executor
Administ^r

Administrator - From the evidence of the
title to the property, and Letters of Adminis-
tration, a title in the Administrator,
but a Certificate merely confers a power to collect
debts. In the second place, the extract from the
proceedings of September 1858 (assuming, as before,
that it amounts to a Certificate) does not confer
any power to negotiate Government securities
or even to draw interest on them (this is alone
a fatal objection to the application). I hope
that the certificate to the brother's estate granted
in April 1859 is not a fair specimen of the way
in which the Certificate Act has been carried

out. Note which in the proceeding of 1853 was
the property of the father, is treated in the later Cer-
tificate as the property of the deceased brother
and power is given to the holder of the Cer-
tificate to negotiate it as such!

J. J. H. Cowie

29th Decr. 1864

(True Copy)

J. J. H. Stack

Solr. to Government

(True Copy)

J. E. Cooke

Assistant Secy to the Govt. of India

Judicial DEPARTMENT.

PROCEEDING MADRAS GOVERNMENT.

Endorsement from the
Depy. of the Govt. of
— Enter 4 February '65
No. 1178.

Order—

Ordered to be recorded,
Mr. William Elliot
having retired from
the public service.

It seems desirable that accounts of these
papers should be circulated to our civil judges,
as to show where the law the wrong men
come to see. Mr. Justice has commented
in his opinion - the "let's
act in freedom & being to apply
in the judicial"

bs

WDR

On 10 April 1865
from the
Depy. Secy
to the
Govt.

WDR

WDR
10/11/65

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following ~~Memorandum~~ from the Secretary to the Government of India - Home Department

(Here enter 18th January 1855. 1/155)

Order thereon 3rd June 1855. 1/96

x No. I opinion of the Advocate General Government of India dated 29th December 1864.

Resolved that the ~~opinion~~ ^{opinion} of the Advocate General to the Supreme Government together ^{with} the papers, marginally noted, and explanatory of the case, be ~~published~~ ^{inserted} for the information and guidance of all Civil Judges.

* No. II report of the Accountant General to the Government of India. No. 5022-25th Feb 1864

2 The opinion was given in answer to a reference upon a report of the Accountant General of India refusing payment of interest due on a government promissory note issued in the name of the deceased father of the applicant who asserted his

Dated

186 . Department.

No.

GOVERNMENT.

6899

his claim to be considered as
the legal heir of his father.
and of his elder brother who had
peaceably succeeded to the father's
estate and subsequently died.

in strength of an extract * No. III

of Proceedings of the Civil Court

of Madras and a certificate

of administration granted

subsequently, on the demise

of the elder brother, by the

same Court.

Extract of Proceedings of the
Civil Court of

Dated 23rd September 1858.

* No. III

Certificate of the Civil Court

Dated 3rd April 1859.

[Signature]

To all Civil Judges. despo 7.

[Signature]

mt 18 pm

Judicial 1865 Department.

No. 495

PROCEEDINGS OF GOVERNMENT.

Dated 3^d June 1865.