M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 412 Press ~~Mis.~~

501-502

Dated 25-2-1862.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 25th February 1862.

No. 501. Read the following Proceedings of the Board of Revenue, dated 21st February 1862, No. 1,266:—

Read the following letter from the Collector of Salem, dated 18th February 1862, No. 31.

(In Cons. 20th February 1862, No. 991.)

Board's Proceedings dated 20th February 1861, No. 955.
Government Order, dated 9th April 1861, No. 794.

1. Ordered to be submitted to Government with reference to the correspondence noted in the margin, and with the Board's recommendation that the defence of the Suit at the public expense be sanctioned.

2. The Plaintiff Pedda Mudu Vira Ummani of Ankusagiri is the widow of Chocka Gowda, who as eldest son succeeded his father Kunpu Gowda as Poligar, and was himself succeeded by his second half brother Timmaraza Gowda, after whose death without issue the Estate passed to his (Timmaraza's) widows, the junior of whom Vira Ummani died on 15th February 1860 leaving a Will in favor of her own sister Akkachi Ummani, widow of Careyappa Gowda, who was the youngest half brother of Timmaraza Gowda, and died during his brother's life-time.

3. The succession to the Poliam on Vira Ummani's decease was awarded by Government to Dalavoy Appa Ráu, as the eldest grandson of Poligar Kunpu Gowda through his eldest daughter.

4. As the Government are aware an action of Ejectment and a bill of complaint in Equity have been brought against Government in the Supreme Court by Akkachi Ummani on the strength of her sister's Will.

5. The Plaintiff in the present Suit in the Salem Court claims to inherit the Poliam and other property under the Hindu Law as senior widow.

6. The Board observe that the present Poligar, under the law as enunciated in the Daya Bhaga, is the proper heir, and that the Mitacshara opposes the claims of sister's sons as heirs, not expressly but by omission to name them in the list of heirs; and that, moreover, both the Pundits of the Sudder Court declared that the surviving widows in the Ankusagiri family were entitled only to maintenance. But be the right as heir to the personal property of the last Poligar with whom it may, there can be no question whatever that under the Decrees of the Court of Sudder Ádálat, noted in the margin, the Estate being of the nature of *a Zamíndári not held under an Istimrari Sanad* the decision as to the succession to the Poliput rested with Government, and that in nominating Dalavoy Appa Ráu to be Poligar, the Government acted in the full exercise of their rights with which the Courts have no power to interfere.

A. S. S. U. No. 6 of 1,807.
" " 13 1,813.
" " 14 1,817.
" " 4 1,818.

7. The Draft answer submitted by the Collector declares that he holds the personal property merely as *interim* custodian for the rightful owner, to whom he is ready to deliver it on production of evidence of right, and so far appears to the Board to be unobjectionable; but it goes on to declare that the Poliput is held on Inám tenure, and that consequently the jurisdiction of the Court is barred by Regulation IV of 1831, and Act XXXI of 1836.

8. The Board consider that the defence is here placed on entirely wrong grounds. There is nothing whatever to show that the Estate is of the nature of an Inám. It pays a Peskash of Rupees 7,940-13-4, and although this amount as compared with the computed revenues at the present time, viz., Rupees 20,000, may appear a *favorable rent*, yet it is to be remembered that the family is of great antiquity, that according to Mr. Cockburn's information, the Ankusagiri Poliam had in 1822 been some 450 years in their possession, and that the disproportion of revenue to Peshkash was probably far less when the State charge on the Estate was first fixed, than it now is.

See Board's Proceedings above quoted.

9. The Board would, therefore, modify the conclusion of the Collector's draft answer in the following manner, "and that the Poliput of Ankusagiri being of the nature of a Zamíndári "not permanently settled, succession to it depends upon the will of the ruling power, as more "fully declared in the decrees of the Court of Sudder Ádálat in Sp. A. S. Nos. 6 of 1807, 13

" of 1813, 14 of 1817 and 4 of 1818, and that, therefore, the Court has no jurisdiction in the " matter so far as regards the Plaintiff's claim to succeed to the Poliam and to its appanages."

10. The time for putting in the defence expires on 11th March.

(A true Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 502. ORDER THEREON, 25th February 1862, No. 412.

1. The Government sanction the defence of the Suit at the public expense in the first instance, but will determine when a copy of the Decree is submitted whether the costs if any be adjudged against the Collector, shall be borne by that Officer or by the Government.

2. The Government are of opinion that the nomination of Dalavoy Appa Rau as the Poligar, should be defended on the ground that it is an act of State beyond the power of a Municipal Court to question.

3. As regards the private property the Government can form no judgment until furnished with the full report called for in their Order of the 22nd instant.

4. The Board will consult the Government Pleader in the preparation of the answer, furnishing him with copies of the correspondence connected with the Proceedings in Her Majesty's Supreme Court at Madras.

5. A copy of these Proceedings and papers will be communicated to the Judicial Department.

(Signed) C. G. MASTER,

Deputy Secretary to Government.

No. 1,266.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 21st February 1862.

Read the following letter from H. A. BRETT, Esq., Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 18th February 1862, No. 31:—

1. Plaint filed by Pedda Mudu Vira Ummani,
   against
   1st. Appa Rao, Poligar.
   2nd. Chinna Ummani.
   3rd. Chinna Mudu Vira Ummani.
   4th. Ukkachi Ummani.
   5th. H. A. Brett, Esq., Collector of Salem, dated 7th January 1862.
2. Petition presented to the Civil Court by Pedda Mudu Vira Ummani's Vakils, dated 7th January 1862.
3. Order of the Civil Court on the above petition, dated 8th February 1862.
4. Order of the Civil Court on the Collector's Petition, dated 15th February 1862.
5. Letter from the Civil Judge of Salem, dated 19th December 1861.
6. Draft answer.

1. I have the honor to submit the papers noted in the margin, relative to a Suit filed in the Civil Court of Salem by Pedda Mudu Vira Ummani of Ankusagiri, in the Taluk of Usur, against the abovementioned Defendants, and to request the Board will be good enough to obtain the sanction of Government to my filing the proposed answer, and my defending the Suit, so far as the 5th Defendant is concerned, at the public expense.

2. It is, I believe, unnecessary for me to explain in this letter under what circumstances the Poliput of Ankusagiri was made over to Dalavoy Appa Row, the present Poligar.

3. With regard to the moveable property, and the private lands, I submitted in my letter of yesterday's date, No. 29, a full report of the circumstances under which the Collector took charge of the property, and remains still in possession.

4. I explained in paragraph 8 of the same letter that at the time I intended making over the private property to Ukkachi Ummani, in conformity with advice given to me through the Board of Revenue by the Government Pleader Sudder Udalut, I was requested by the Civil Judge at Salem, in a letter dated the 19th of December 1861 (copy forwarded), to retain possession until I should hear further from the Court. It appears that the Suit relating to the same property was filed on the 7th of January following.

5. I also explained in paragraph 8 that I replied to the Civil Judge on the 24th December, requesting him to relieve me from charge of the property; and that subsequently I directed the Government Vakil to present a Petition to the Civil Court on the same subject, praying that the Court would pass an order on the above application. The Court passed an order on this Petition on the 15th instant, stating that under a previous order, dated the 8th February, I should be relieved from charge of the property as soon as the Court could secure a competent person to receive it.

6. The Court's order, dated 8th February, was passed on a Petition presented by the Plaintiff in the present Suit, through her Counsel L. U. Steele, Esq., and Subramania Iyer, Court Pleader, dated the 7th of January 1862; praying the Court either to take security from the 1st Defendant, Dalavoy Appa Rao, for the fulfilment of any decree that might be passed in the said suit; or to attach his moveable and immoveable property till a final decree should be passed; and secondly, to issue an injunction restraining the 5th Defendant from parting with his possession of the property under his charge till futher orders. The Civil Court, in its order dated the 8th February, consented to appoint a receiver to take charge of the property in dispute, and to issue an injunction as prayed for. The subsequent order of the Court, dated the 15th February, shows what before appeared to me doubtful, that the previous order was intended to apply both to the property held by the 1st Defendant and to the property in my charge. I submit with this letter a copy of the two orders in question, with a copy of the Plaintiff's petition.

7. I am informed by the Government Pleader that the Civil Court in appointing a receiver to take charge of the property in dispute proposes to attach the Poliput itself, pending a final decision in the Plaintiff's suit. It was represented to the Civil Judge that claims to the Poliput

were excluded from his jurisdiction under the provisions of Regulation IV of 1831, and Act XXXI of 1836; but to this the Court replied that any objections made to its jurisdiction could not be heard till an answer had been put into the plaint.

8. The 1st Defendant proposes, I believe, to prefer an appeal to the Court of Sudder Udalut against this order and ruling. The Civil Court was, I think, in error in refusing to enter at once upon the question of jurisdiction;* but, pending the higher Court's decision on the 1st Defendant's appeal, there is apparently no necessity for the Government taking any step in the same direction. As yet the Court has not appointed any person to take charge of the Poliput.

Vide "Rules of practice for the Courts in the Madras Presidency," paragraph 1 under "Inam," page 27.

9. The time allowed for filing my answer will expire on the 11th proximo. I waited till I should hear the Court's decision on the two points in the Plaintiff's petition, or I should have been able to prepare and submit the proposed answer by an earlier date.

ENCLOSURE No. 1.

To the Civil Court of the Zillah of Salem.

Plaintiff.	*Defendants.*
Pethamuthu Viramaney of Ankusageri Poliput in the Taluk of Oosoor in the Zillah of Salem.	1. Appa Row. 2. Chinnamaney. 3. Chennamuthu Viramaney. 4. Ukkachi Ummani. 5. H. A. Brett, Esq., Collector of Salem.

The Plaintiff claims and seeks to recover the Poliput of Ankusagiri, value of annual produce of which is Rupees 20,000-0-0, and the Pattucutu lands therein of annual produce Rupees 900-0-0, and moveable property belonging thereto now under the Zuftee of the Collector value Rupees 15,000-0-0, and the value of the produce of the said Poliput paid by the Collector to the 1st Defendant Appa Row Rupees 11,000-0-0.

1. That one Kempey Gowd (grandson of the proprietor of the said Poliput at the time of the establishment of the British power in India) held the Poliput, and married five wives.

2. By the first wife he had no issue.

3. By the second he had one son and one daughter, named respectively Chokey Gowd and Peddakkalammaney.

4. By the third wife he had two sons, named respectively Sadanapully Gowd and Timmaray Gowd.

5. By the fourth wife he had one daughter.

6. By the fifth wife he had one son named Karyappa Gowd.

7. The said Chokey Gowd married two wives, named respectively Pethamuthu Viramaney, the Plaintiff, and Chinnamaney, the 2nd Defendant.

8. The said Sadanapully Gowd married one wife Chinnamuttu Viramaney the 3rd Defendant.

9. The said Timmaray Gowd married two wives, named respectively Sanjivyamaney and Viramaney.

10. The said Karyappa Gowd married two wives, named respectively Muthuamaney, and Akkachiamaney, the 4th Defendant.

11. None of the said sons of the said Kempay Gowd had male issue.

12. The said Poliput and its appurtenances descended on the death of the said Kempey Gowd to his eldest son Chokey Gowd by his second wife.

13. On the death of Chokey Gowd it descended to Timmaray Gowd, the third son of the said Kempey Gowd by the third wife.

14. On the death of Timmaray Gowd it descended and was registered in the name of his first widow Sanjivyamaney.

15. On the death of the said Sanjivyamaney it descended and was registered in the name of his second widow the said Viramaney the last proprietress.

16. That the said Paddankkalamaney, daughter of the said Kempey Gowd by his second wife has issue Appa Row, the 1st Defendant and others.

17. That all the sons of the said Kempey Gowd are dead, and their surviving widows are the Plaintiff, the senior widow of the first son, and the 2nd, 3rd and 4th Defendants.

18. On the death of the last holder, the said Viramaney, the Poliput was zufted by the 5th Defendant, the Collector of Salem.

19. That subsequent thereto, and on the 7th May 1861, the said 5th Defendant delivered up the said Poliput to the said Appa Row, the 1st Defendant, and retained the moveable property thereto belonging, which is at present in his possession, particulars of which are given in the inventory hereunto annexed.

And the Plaintiff prays that the said Poliput of Ankusagiri, and moveable property there unto belonging, be decreed to be delivered up to her according to her right under the Hindu law of inheritance.

வைக்கில் சுப்பிறமணிய
அய்யன் என்று போட்டிருக்கிறது.

(Signed) LIONEL U. STEELE,
Barrister-at-Law.

I, Pethamuthu Viramaney, the Plaintiff named in the above Plaint, do declare that what is stated therein is true to the best of my information and belief.

Filed on the 7th January 1862.

(Signed) J. W. CHERRY, Civil Judge.

యీరుజు మూర్తియ్యమ్మడి పెద్దకుమరు వీరమ్మణిగారిది.
యింటుకుసాక్షులు.
సాక్షీ సాంబైయగ్రామంముకు బలెగ్రు హెూసూరుకరణం సూరప్పసాక్షీ.

ENCLOSURE No 2.

To the Civil Court of Zillah of Salem.

The humble petition of Pethamuthu Viramaney, the Plaintiff in Suit No. made on her behalf by her Counsel L. U. Steele, Esq., and Subramania Iyer, Pleader in the Civil Court of Salem.

SHEWETH,

1. That the Plaintiff is informed and believes that the 1st Defendant Appa Row is about to dispose of and waste the property sought to be recovered by the Plaintiff in order to obstruct or delay the execution of any decree that may be passed against him.

2. The Plaintiff therefore applies to the Court under the powers vested in it by Act VIII of 1859 to compel the 1st Defendant Appa Row to furnish security to fulfil any decree that may be passed by this Court in the above-named Suit, or on his failing to comply with such order to furnish such sufficient security to direct that the said Poliput and all other moveable and immoveable property belonging to it shall be attached till final decree or till further order of this Court. Particulars of the said property are in the inventory annexed to the plaint.

3. That the Plaintiff has received notice from the 5th Defendant, Collector of Salem, intimating that the property zufted by him, and at present in his possession, would be delivered over to the 1st Defendant if an order were not received from a competent tribunal directing him to

retain possession of the same till such time as the said order of the said Court would direct. Now the Plaintiff prays that under the provisions of the said Act VIII of 1859 the Court will be pleased to issue its injunction directed to the said 5th Defendant, the Collector of Salem commanding him to retain the said property in his possession till a decree may be passed in this Suit or until further orders of this Court.

(Signed) L. U. STEELE, Barrister at-Law.

(Signed) SUBRAMANIA Iyer,
Read on the 7th January 1862.

(Signed) J. W. CHERRY, Civil Judge.

—

O. S. No. 1 of 1862.

Order.

The Court having maturely weighed the arguments urged by Counsel for Plaintiff in support of the motion for an injunction, and the appointment of a receiver in this Suit as well as the objections raised by the Pleaders on the other side, and having carefully considered the evidence adduced by the Plaintiff to be sufficient to establish the probability of danger to the property in dispute by the 1st Defendant wasting, damaging, or alienating the same, hereby resolves to issue the injunction accordingly, and to fix Saturday the 15th February 1862 as the date on which it will appoint a receiver.

8th February 1862. (Signed) J. W. CHERRY, Civil Judge.

—

M. P. 22.

Under the order of the Court, dated 8th February 1862, the Collector will be relieved of the charge of the property which will be put into the custody of the Court as soon as the Court can secure a receiver suited for the responsibility and agreeable to all parties.

15th February 1862. (Signed) J. W. CHERRY, Civil Judge.

—

From J. W. CHERRY, Esq., Civil Judge of Salem, to H. A. BRETT, Esq., Collector of Salem, dated 19th December 1861.

Adverting to an application verbally made this day to me by Subramania Iyer, Pleader on behalf of Pedu Mudu Vira Ummani, I have the honor to request you will be so good as to retain possession of the property alleged to have been zufted by you, and about to be made over by you to Appa Row until you hear again from this Court.

(True Copies.)

(Signed) H. A. BRETT, Collector.

ENCLOSURE No. 3.

Draft Answer.

1. That the property referred to in the plaint, as retained by the 5th Defendant, consists of certain Putcut lands, and certain moveable property, in none of which Government claims any interest whatever; and that the said property was merely held by the Collector until some one should produce a legal title to it.

2. That the 5th Defendant was prepared, according to legal advice given to him, to make over the said property to Ukkachi Ummani, the 4th Defendant in this suit, who has claimed the same as heir to the deceased Virammani, when the Civil Court intervened, and directed the 5th Defendant to retain possession.

3. That the 5th Defendant therefore prays that he may be relieved from the charge of the said moveable property and private lands, and that his name as one of the Defendants may be struck out of the suit.

4. The 5th Defendant further pleads that he deliv ered up the said Poliput to Dalavoy Appa Row on the 8th of May 1861, with the rents belonging thereto, viz., Rupees 11,234-12-2 under instructions from the Government of Madras, and that the Poliput of Ankusagiri, being of the nature of a Zemindary not permanently settled, succession to it depends upon the will of the ruling power, as more fully declared in the decrees of the Court of Sudder Udalut in Special Appeal Suits Nos. 6 of 1807, 13 of 1813, 14 of 1817, and 4 of 1818, and that therefore the Court has no jurisdiction in the matter so far as regards the Plaintiffs' claim to succeed to the Poliem and to its appanages.

(Signed) H. A. BRETT, Collector.

Board's Proceedings, dated 20th February 1861, No. 955.
Government Order, dated 9th April 1861, No. 794.

1. Ordered to be submitted to Government with reference to the correspondence noted in the margin, and with the Board's recommendation that the defence of the Suit at the public expense be sanctioned.

2. The Plaintiff Peddu Mudu Vira Ummani of Ankusagiri is the widow of Chocka Gowda who as eldest son succeeded his father Kempu Gowda as Poligar, and was himself succeeded by his second half brother Timmaraza Gowda after whose death without issue the estate passed to his (Timmaraza's) widows, the junior of whom Vira Ummani died on 15th February 1860, leaving a will in favor of her own sister Akkachi Ummani widow of Careyappa Gowda, who was the youngest half-brother of Timmaraza Gowda, and died during his brother's life-time.

3. The succession to the Poliem on Vira Ummani's decease was awarded by Government to Dalavoy Appa Row as the eldest grandson of Poligar Kempa Gowda, through his eldest daughter.

4. As the Government are aware an action of ejectment and a bill of complaint in equity have been brought against Government in the Supreme Court by Akkachi Ummani on the strength of her sister's will.

5. The Plaintiff in the present Suit in the Salem Court claims to inherit the Poliem and other property under the Hindu law as senior widow.

6. The Board observe that the present Poligar under the law as enunicated in the Daya Bhaga is the proper heir, and that the Mitacshara opposes the claims of sister's sons as heirs not expressly, but by omission to name them in the list of Heirs, and that moreover both the Pundits of the Sudder Court declared that the surviving widows in the Ankusagiri family were entitled only to maintenance. But be the right as heir to the personal property of the last Poligar with whom it may, there can be no question whatever that under the decrees of the Court of Sudder Udalut noted in the margin, the Estate being of the nature of a Zemindary *not held under an Istimrari Sunnud*, the decision as to the succession to the Poliput rested with Government, and that in nominating Dalavoy Appa Row to be Poligar, the Government acted in the full exercise of their rights, with which the Courts have no power to interfere.

A. S. S. U. No. 6 of 1807.
Do. „ 13 „ 1813.
Do. „ 14 „ 1817.
Do. „ 4 „ 1818.

7. The draft answer submitted by the Collector declares that he holds the personal property merely as *interim* custodian for the rightful owner, to whom he is ready to deliver it on production of evidence of right, and so far appears to the Board to be unobjectionable; but it goes on to declare that the Poliput is held on Inam tenure, and that consequently the jurisdiction of the Court is barred by Regulation IV of 1831, and Act XXXI of 1836.

8. The Board consider that the defence is here placed on entirely wrong grounds. There is nothing whatever to show that the Estate is of the nature of an Inam. It pays a Peshcush of Rupees 7,940-13-4, and although this amount as compared with the computed revenues at the present time, viz., Rupees 20,000, may appear a *favorable rent*, yet it is to be remembered that the family is of great antiquity; that according to Mr. Cockburn's information the Ankusagiri Poliem had in 1822 been some 450 years in their possession; and that the disproportion of revenue to

See Board's Proceedings above quoted.

Peshkush was probably far less when the State charge on the Estate was first fixed than it now is. The Board would, therefore, modify the conclusion of the Collector's Draft Answer in the following manner:—

"And that the Poliput of Unkusagiri being of the nature of a Zemindary not permanently "settled, succession to it depends upon the will of the ruling power, as more fully declared in the "decrees of the Court of Sudder Udalut in Special Appeal Suits Nos. 6 of 1807, 13 of 1813, 14 "of 1817, and 4 of 1818, and that, therefore, the Court has no jurisdiction in the matter so far as "regards the Plaintiff's claim to succeed to the Poliem and to its appanages."

9. The time for putting in the defence expires on 11th March.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.
Copy to J. Miller, Esq., Acting Government Solicitor.
„ H. A. Brett, Esq., Collector of Salem.

Exd. J. Wright.

1862 Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 21st *February* 1862.
Despatched
Received

No. 1,266.

Submitting letter from the Collector of Salem regarding a Suit filed in the Civil Court in connection with the Ankusagiri Poliput, with the recommendation that the Suit be defended at the public expense.

5

Rev Depn

No 412

Proceedings of the abandon Govt
order dated the 25th July 62

Read the following
Proceedings of the
Board of Revenue

Submitting letter from the
Collr of Salem regarding the
Suit filed in the Civil
Court in connection with
the Ankusagherry Poliput
with the recommendation
that the Suit be defended
at the public expense

Here per order 21 Feby 1862
No 1266

The Government
connection the defence
of the Suit at the
public expense in
the first instance,
but will determine
when a copy of the
Decree is submitted
whether the costs if
any be adjudged
against the Collector
shall be borne by
that Officer or by
the

the Government.

The Government are of opinion that the nomination of Davis either a Revenue or Collector should be depended on the ground that it is an act of state beyond the power of Municipal Court to question as regards the private property the Govt can form no judgment until furnished with the full report called for in Your order of the 22nd Instant.

The Board will consult the Govt Pleader in the preparation of the answer furnishing him with the copies of the correspondence connected with the Proceedings in the Majesty's Supreme Court at Madras.

A copy of the Proceedings and papers will be communicated to the Judicial Department.

I have the honor to be Sir Your most Obedt Servt
By Order &c
J. A. L.

Suit against the Collr of Salem

142-3

19-6-61

38-4

Revenue 1862 Deptt.
Proc: of Govt for February
No 412.
Proc: of the Madras Govt
Dy 25th February 62.

Transmits Rem 15 Sept 61
Cr 2042 - in Pro: 6 Oct 61 No 2158

Copy in a Letter to Govt
D 5th March 1864 No 16

Passing orders on
Board's Proceedings rela
ting to the Suit commen
ced by the Sunkanagiri
Poligar -

No 501 & 502.

Bundle No 2 25