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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Political

DEPARTMENT

G.O. No.	705	S.C.	Press.	Se
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Dated	5-12-1859			198

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POLITICAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ—the following papers :—

From the Commissioner of Tanjore.

(Here enter 25th November 1856, No. 658.)

From the Commissioner of Tanjore.

(Here enter 8th June 1857, No. 180.)

From the Commissioner of Tanjore.

(Here enter 11th July 1857, No. 661.)

From the Honourable Company's Solicitor.

(Here enter 1st February 1868, No. 81.)

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the East India Company, *versus* Kāmākshi Bhāī Sāhiba, from the Decree of the Supreme Court of Judicature at Madras.

Delivered on the 27th day of July 1859.

ORDER—No. 705, Political, dated 5th December 1859.

The Lords of the Committee of the Privy Council conclude their judgment on the appeal of the "East India Company *versus* Kāmākshi Bhāī Sāhiba," as follows :—

"The result in their Lordships' opinion, is, that the property now claimed by the respondent, has been seized by the British Government, acting as a sovereign power, through its delegate the East India Company; and that the act so done, with its consequences, is an act of State over which the Supreme Court of Madras has no jurisdiction."

2. The effect of this judgment has been to reverse the decision passed by the Supreme Court at Madras, to cancel their injunction, and to leave this Government at liberty, without further interference, on their part, to carry out those arrangements and inquiries which, under the orders of the Government of India, they were conducting, when they were checked by the interposition of the Supreme Court.

3. The chief questions now to be dealt with are—

First.—The disposal of the property of the late Rajah, moveable and immoveable.

Second.—The settlement of the Rajah's debts.

Third.—The assignment of pensions to the several members of his family, and to his relations and connections, and the measures to be adopted for their future comfort and accommodation.

4. In respect to the first of the above questions, much discussion has taken place about what ought to be considered public or private property. This seems to proceed upon a mistaken view of the nature of the case. The Raj has merged in the Government of India. Everything which belonged to the late Raja at the time of his death, therefore, now belongs, by right, to the Government. If, previously to his decease, he made a *bona fide* alienation of any property acquired out of his savings, that property has passed into the condition of private property. Otherwise, all that he left would have descended to his heir, if he had had one; and, not having had one, it has lapsed to the paramount authority representing the general public. The Government have to pay the late Rajah's debts, and to provide for his numerous relations and dependents, as *ultimus heres*.

16. As respects those borne in his C, the relations of none of the deceased parties is such as to warrant the transmission of any portion of their allowances to their heirs, but considering the short time that they survived the Raja, and if the heirs named have been led to look for the continuance of a part of the pension, the Government will allow so much to be granted as will prevent their being in actual distress, and the same indulgence may be shown as regards the heirs of any others who may have demised since the date of the report and before the final settlement of these pensions—but it is clearly to be understood that this will not be done in any other cases when the pensions have been once settled.

Paragraph 14.

The settlement will be final, and all payments, except to the immediate members already enumerated, cease absolutely on lapse.

17. In his appendix, Mr. Phillips has noticed certain considerations which have influenced him in determining the rates of pensions to the immediate family and has made some suggestions in respect to their treatment.

18. It is proposed that an allowance of Rs. 700 a month be granted to Kamakshi Bhai Sahiba, the senior widow, and to each of the eleven junior widows who sided with her, and that the four who adhered to Government should, as a reward, have each Rs. 100 a month more.

19. Reference has been made by Government to the authorities in Bombay to ascertain whether under the Marathi customs the senior widow should not have a larger provision made for her than junior widows. From the replies which have been received, it appears that although, in some localities, the elder widow, by priority of nuptials, does receive more than the junior ones, yet that the rule is not universal, and that, in fact, there is no general rule on the point; nevertheless, considering all the circumstances of the case, the Government think that the stipend to be assigned to Kamakshi Bhai should be larger than those which are to be allotted to the junior widows. They would fix it at Rs. 1,000 per mensem.

20. The Government would not be disposed to make any distinction between those widows who sided with the senior widow and those who took no part in the opposition. All should be treated alike and draw, subject to the general instruction to be given subsequently—paragraph 24—, Rs. 800 per mensem.

21. The Government, however, quite agree with the late Commissioner that inducement should be held out to the junior widows to return to the Marathi country and that for that end the stipends to be assigned them should be enhanced by Rs. 100 per mensem in the event of their returning to their Native province—that their travelling expenses should be paid—a fitting escort provided—and the sum of Rs. 500 given to each of them for the purchase of a house.

22. Sukharam, the late Raja's son-in-law, ought not to be subjected to any deduction of his stipend on account of his inheriting his late wife's settlement, and the Raja's only surviving legitimate daughter should be allowed an additional Rs. 6,000 a year on her marriage as proposed by Mr. Phillips.

23. It is stated by Mr. Phillips that the stipends borne in these lists have been fixed strictly on the principles prescribed by the Supreme Government. "The value of the allowances, as exhibited in the appropriate columns of the statements, comprises the amounts in ready money allotted to the members of his family and relatives by the late Raja, and the estimated worth of the contributions in cloths and grain, together with that of certain other privileges under which they received supplies from certain departments of the palace." The aggregate of these sums has formed the basis on which he has fixed the stipend now proposed for continuance to them individually.

24. The pensions once fixed will be in full of every personal claim; no establishment will be kept up for any one; and the old system of procuring supplies through the Collector, if any vestige of it remains, will come to an end. Any additional allowance should be made which may be required to compensate for the loss of these advantages; and the Agent should continue to protect the interests of the ladies and assist them by his advice. There is no reason to doubt the correctness of the data upon which Mr. Phillips has calculated the pensions proposed by him for the several

classes of claimants; but, on the principle above indicated, some modification may be required in the cases of particular members of the immediate family, and any proposals to that effect will be readily considered by Government. The pensions to the relatives, &c., are approved and should be given at once. The Government would be glad to receive the opinion of the Commissioner as to the arrangements which should hereafter be made for the disbursement and check of these pensions as well as of those paid to the three minor establishments.

25. It remains to determine by what Agency the settlement of these important questions is to be accomplished. It is evident that it cannot be imposed upon the Collector in addition to his own many and heavy duties. Under these circumstances, the Government have resolved to depute to Tanjore, as Commissioner, Mr. H. D. Phillips, Puisne Judge of the Court of Sadr and Faujdari Adalat, who has already acted in that capacity, and has an intimate acquaintance with the affairs of the family and of the Darbar and with the various questions discussed in these Proceedings. A copy of these Proceedings and of the minutes recorded by the Honourable the

* 8th November 1859.

President * will be furnished to Mr. Phillips.

26. Mr. Phillips will exercise full control over the palace establishment and palace arrangements, internal and external. He will state what establishment, if any, he will require to aid him in the performance of his duties beyond that now at Tanjore and will suggest to Government any arrangements which he may deem calculated to facilitate his operations. He will draw whilst employed as Commissioner a deputation allowance of (Rs. 500) five hundred rupees a month, in full of all personal expenses.

27. The Collector and Agent at Tanjore will place at Mr. Phillips' disposal the Tanjore Residency, will afford him the services of any of his establishment whom he may require and will assist him in every way in the execution of the important business committed to him.

28. Mr. Phillips will report from time to time for the information of Government what progress he is making in the duties of the Commission.

29. The Government would further wish Mr. Phillips to ascertain and report whether suitable accommodation could be provided at Tanjore for the Huzur kachari, court-house, treasury, &c., in the event of its being thought desirable to fix that station as the Collector's head-quarters and station of Zila Court.

(True Extra ct.)

(Signed) T. PYCROFT,
Chief Secretary.

To Mr. H. D. Phillips.
" the Collector and Agent at Tanjore.
" the Revenue Department.
Paragraph 5 to the Government Solicitor.
Paragraphs 25 and 26 to the Civil Auditor.