

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 364

Press
~~Mis.~~

Dated 12 - 7 - 1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Political Department,

12th September 1862.

No. 28. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras; to the Honorable T. PYCROFT, Chief Secretary to Government, Madras, dated 10th September 1862, No. 404.

1. With reference to the Suit noted in the margin, I have the honor to report for the information of Government, that the case is likely to come on for hearing shortly, and I am desirous of obtaining evidence on several points from Tanjore.

M. Varada Boye and another.
versus
R. Venent Row and others.

2. There are two main points upon which attention must be directed on behalf of the Secretary of State, in preparing the evidence for the hearing, and they are: first, the Plaintiffs' title, and secondly, the character of the Suit, and as the evidence can only be procured at Tanjore, I have the honor to request that the Collector of Tanjore may be directed to afford me all the assistance in his power particularly upon the following points in the case:—

3. And firstly as to the Plaintiffs' title. The Secretary of State in his answer denies the existence of the two documents upon which the Plaintiffs found their supposed claims. These two documents are set out in the 3rd and 4th paragraphs of the Plaintiffs' Bill of complaint.

4. I have, however, lately learnt from two Gomastahs of the Defendant Matostree Ladha Boye Ummah, named T. Sadashivah Row and T. Rama Soobbiah, who have been sent down to Madras by Ladha Boye to assist me in preparing a plaint to be filed by her against R. Venent Row, one of the Defendants in the Suit, that the first certainly, if not the second, of such documents was really executed, and that it was executed by the Rajah Sirfojee in duplicate in the presence of Mr. John Blackburn, the then Resident at Tanjore and several other persons, some of whom are still living, and that one copy was at the request of the Rajah deposited in the Registry Office at Tanjore.

5. I send herewith a copy of the Depositions I have taken from the Gomastahs.

6. A strict search should at once be made amongst the Records in the Registry at the Residency for this document, which is said to be written in the Mahratta language, and also for the purpose of ascertaining whether the late Mr. John Blackburn made any entry or left any Memorandum or Minute, or made any report to Government or any other authority showing that he was present when the document was signed, or that he caused it to be registered.

7. Should, however, no trace of such document be discovered, then Ladha Boye should be examined and also the other inmates of the Kulliana Mahal for the purpose of hearing their version of the story; to learn whether they ever heard of these documents in the life time of Sirfojee—or whether they saw the Rajah between the 28th of January and the 8th of March 1832, (the date of his death) and if so, whether he ever mentioned the existence of such papers to them.

8. I should be informed if it was the practice of the Rajah to register his written acts. Is there any such Registry? and if so, do these or any such documents appear to have been registered. If there is a Registry, is the person who kept it at that time still alive? If the Registry contains no entry relating to these two documents it would be important to trace the Register down from hand to hand, and to produce it in Court at the hearing.

9. Then again, I ought to be informed if any change was made consequent upon the execution of such documents, in the Registry of any of the Survamanium lands; and if any official intimation was given of such papers to the Kalliana Mahal, or any entry made about the same in any of the books or accounts of that Department.

10. I presume it was the duty of some special Officer of the Durbar to draw up such instruments. Is he alive? If not, it might be as well to be prepared with evidence of such being his duty, &c., to contradict the Defendant Venent Row in case he should fix upon some stranger as the writer.

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11. It is charged in the amendments to the Plaintiff's Bill that the originals of the above mentioned documents were delivered by the Defendant Venkut Row to Mr. Cadell on the 7th of April 1860: certainly it is a little suspicious that he should at this time and for the first time have sent them to this Officer, and for such a purpose namely to be attested. However, there is the statement, and no doubt Venkut Row will swear to it—that he sent them. I should like to know if there is a Record kept of the receipt of papers? If so, does it appear on the face of such Record that any papers were deposited the letter of the 7th of April? Whose duty is it to keep this Record? And whose duty is it to see papers received? If no papers were so received that fact may be shown in this way, and then of course it will be most important to examine Mr. Cadell.

12. Then again the 9th paragraph of the Bill charges that these documents were reportedly recognized by other Officers of Government. It is not stated that the originals were ever shown to them—but this may be the evidence of Venkut Row. It will be as well, therefore, to examine such of the officials as may now be available to prove that they never saw the alleged originals.

13. If the Plaintiffs should fail to prove the execution of these instruments, or satisfactorily to establish their supposed contents by secondary evidence, of course the matter can go no farther. But I must be prepared for some evidence being adduced before the Court on these points and in that event, and with the view to the construction of the documents by the surrounding circumstances it will be important to prove the position occupied by the Plaintiffs and the others at the time of the execution of the before mentioned alleged documents, that only two of them were the sword-wives, and that the rest including the Plaintiffs were in fact only their servants and dependants.

14. It will also be necessary to be prepared with evidence to prove that the loan to the Rajah Sirfojee of the late of Rupees mentioned in the 14th paragraph of the Bill was made by Ladha Boye and not by Venkut Row, also that the repayment thereof was as stated in the Secretary of State's answer, and the investment of such monies in Government Permissory Notes, also the delivery of such securities by Venkut Row to Ladha Boye, and the circumstances under which the 50000 Rupees were paid into the Collector's Office by Venkut Row and the investment thereof.

15. And now as to the character of this Suit, *i. e.*, that it is in fact, the Suit of the Defendant Venkut Row. The answer states that it was Venkut Row who gave the instructions for the Bill. This should, therefore, if possible be proved, and every enquiry should be made for the purpose of obtaining evidence to establish the fact that Venkut Row is in reality the Plaintiff. But the mere giving of information will not be sufficient. It must appear that the Suit is substantially the Defendant's, that he instituted it, made advances, gave instructions and acted generally as if the Suit were his own; and if this be established, it seems to me that the nominal Plaintiff can hardly be permitted to be put forward by a party Defendant to serve his own purposes.

16. To prevent the hearing of the case being brought on before we have secured the evidence of Ladha Boye and her two dependants, I have applied for the issue of a Commission authorizing the examination of them and of such other person or persons as may be found at Tanjore knowing any thing relating to the matters in question in this cause.

17. But I am of opinion that it is of the greatest importance to the case of the Secretary of State, that the Defendant Ladha Boye should if possible be produced at the hearing as a witness. Far by having her examined by a Special Commission either upon interrogatories or otherwise, her evidence will only enable the Defendant by procuring a copy of the examination which will be prepared on all the weak points of the case. Whereas by her appearing as a witness at the hearing, she need not give her evidence until after Venkut Row has been examined.

18. Every effort should, therefore, be made by the Collector to induce her to appear as a witness in this suit, and it should be explained to her that she can declare her evidence in a Private room, and that she will not run the slightest risk of being seen by any one in Court, and that she will not thereby be in any way degraded.

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19. It will also be necessary to issue a Commission for the examination of Mr. Cadell who is now in England.

20. I have communicated fully with Mr. H. D. Phillips on all these points, and have obtained much valuable information from him, but he has recommended me to apply for the services of Sunkarow who is now a Tahsildar in the Chingleput District, and who was for many years employed by the Officers of Government at Tanjore and who rendered great assistance to Mr. Phillips whilst he was Commissioner at Tanjore in connection with Tanjore affairs. Mr. Phillips informs me that this man was brought up at Tanjore and that his father was Private Secretary of the late Rajah, I would therefore solicit that orders may be issued directing Sunkarow to come down to Madras and give me such evidence and information as it may be in his power to afford.

(True Copy.)

(Signed) JOHN MILLER,

Acting Government Solicitor.

M. VARADA BOYE and another.
versus.

R. VENCUT ROW and others.

Depositions of T. SADASHIVAH ROW and T. RAMA SOOBIAH, Gomastahs.

T. Sadashivah Row says:—That from the year 1852 to the year 1860, he was a Gomastah at the Palace of the late Rajah, and from 1860 down to the present time he has been and still is the Gomastah of the Defendant Matostree Ladha Boye Ummah, from whom he has obtained all his information. Ladha Boye is now about 56 years old. The late Rajah Sirfojee executed on the 28th of January 1832, a Will written in the Mahratta language in favor of his two favorite women or sword-wives. Their two names were Ladha Boye and Boye Ummah Boye. Ladha Boye is still alive and is one of the defendants in the above suit, Boye Ummah Boye died some years ago. I know that Ladha Boye and Boye Ummah Boye were the Rajah's favorite women, because they were always treated as such and because the Survamanium lands were granted to them as their property in their own names. The Rajah had no other sword-wives than these two; the twenty-four females mentioned in the Bill as sword-wives of the late Rajah Sirfojee were not sword wives at all, only dependants upon Ladha Boye and Boye Ummah Boye. The Rajah had, however, connection with these women. The document or Will was not in the Rajah's hand writing but only signed by him, the Will was made in duplicate one of which was called the original and the other a true copy of it, both of them were signed by the Rajah, his seal was also affixed to them. There were present when the Rajah signed the original and true copy, R. Bavajee Ramjee Pundit, Iyacanna Pillay and Mr. John Blackburn, the then Resident of Tanjore, all of whom are deceased, also the defendants R. Venkut Row and Ladha Boye and some other persons whose names I do not know. The original Will was given by the Rajah to Iyacanna Pillay together with some other property, and on his death it came to his son Aria Pillay, from whom the defendant Venkut Row obtained it on the 26th of June 1858, at the same time giving a receipt for it which is still in the possession of Aria Pillay. The original Will was given up with the knowledge and consent of Ladha Boye. The true copy of the Will was given by the Rajah Sirfojee himself to Mr. John Blackburn the then Resident, and was by him registered in the Resident's Office by the desire of the Rajah. It was not usual for the Rajah to register his written acts, but he did so in this instance, because he said he feared his son would neglect to carry out his wishes. The Registry Office at the Residency is still in existence and I believe the true copy Will is still there, the original Will was written in the Mahratta language, I have a copy of it in that language made by a Gomastah at the time when the original was delivered up to the defendant R. Venkut Row. I have also copies of it in the Tamil and English languages made from the copy in my possession written in Mahratta. The English translation differs considerably from that set forth in the Bill.

The defendants Ladha Boye, Shonabudra Boye and Bavanee Boye are the only persons now residing at the Kulliana Mahal at Tanjore, the other defendants reside together at Trivady.

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Ladha Boye was present when the Will was executed by the Rajah, the two defences Shouts-
ladra Boye and Bavannee Boye might have heard of the document in the Rajah's lifetime.
These three defendants all saw the Rajah Sirfojee between the 28th of January and the 8th of
March 1842, the date of the Rajah's death—Ladha Boye has herself told me that the Rajah
informed her that he had executed such a document.

I have heard that such a document as is set forth in paragraph 1 of the B. I was made to the
effect stated therein, but I have never seen it nor do I know when or where it was executed, or
in whose presence or what was the date of it. I have heard of this document from Ladha Boye
and also from many other persons. I do not know where it is now, I do not know whether it was
registered at the Residency or not. But though I know nothing further about it, yet it was the
practice up to the year 1860 to act in accordance with it as if it existed.

I believe the plaintiffs were instigated and obtained all the information necessary for filing
the Bill from the defendant R. Vencut Row, I believe the Bill to be R. Vencut Row's in reality
and is brought for his purposes only. The plaintiff Varada Boye has quitted the Zenana and
has become common and is therefore no longer entitled to any allowance. Neither Vencut Row,
Iyaemma Pillay or R. Bavajee Ranjee Pundit could see or speak to the widows. But from the
year 1856 and after the death of Seevajee Rajah, Vencut Row used to see and speak with the
females at Tirvady, but not those in the Kulluma Mahal. To this Ladha Boye objects. The
means of communication with Ladha Boye and the other female defendants and the plaintiffs
were their female servants. It is not true that Vencut Row had the principal management of the
Mahal. The principal manager or Agent was R. Bavajee Ranjee Pundit, and Iyaemma Pillay
managed under him, all the accounts and papers of the Kulluma Mahal were kept and signed by
Iyaemma Pillay acting under the instructions of Bavajee Ranjee Pundit. Until 1855, when
Ladha Boye and Boye Umraul Boye dispensed with his services, Vencut used to act with Iya-
emma Pillay as Joint Karta, and after that till 1842 he never came near the Mahal, and then
Vencut Row only came to the Mahal occasionally and for the purpose of presenting his compli-
ments through the female servants.

Upon the death of Iyaemma Pillay in 1856 his son acted in his stead. Vencut did not
interfere.

Upon the death of R. Bavajee Ranjee Pundit in 1844, Aria Pillay had the entire manage-
ment.

It is untrue that Vencut received from the late Rajah 3,000 a month, &c., for the Mahal,
or that he collected the rents and profits of the Mahal property. The allowance which varied
from time to time was paid to Ladha Boye herself through her female servants, and the rents
were collected by her servants Gopaul Nagojee and Nagojee Baboo and the Deponent; Gopaul
Nagojee is dead, the other two are alive.

Vencut Row never received the allowance or rents, and therefore never expended any thing
or accumulated any residue. Money was saved, but not by him.

In January 1854, there were accumulations in hand to the amount of 1,11,000 Rupees,
Rupees 1,00,000 was in gold given to the two sword-wives to lay land property by Sirfojee
Rajah, the remaining 11,000 were savings. This sum of 1,11,000 Rupees belonged to Ladha
Boye and Boye Umraul Boye, and on the death of the latter to the former. The value of the
Survamanium lands is about 10,000 Rupees a year.

A lac of Rupees, part of this sum, was lent to the late Rajah Seevajee at 4 Rupees per cent.
The Rajah caused his Secretary Annajee Theagaroy to give a receipt for this to Ladha Boye. It
was not the practice for the Rajah to give receipts himself. The receipt is now with the Mahal
records and is in R. Vencut Row's hands, no receipt was given to him.

Ladha Boye at the request of Mr. Forbes the then Collector and Revenue agent, 1,11,000
to Vencut Row to get invested. Does not know whether Vencut Row applied that this sum should
be invested in his own name. When the money was paid over to Vencut Row it was agreed that
it should be invested in the name of Ladha Boye's grandson, but it was however invested
in the name of the Collector.

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Vencut Row became the Manager of the Mahal first in 1853, with the permission of Ladha
Boye who being displeased with the Aria Pillay dismissed him and appointed Vencut Row.
Vencut Row is still manager. Aria Pillay is still alive, he resides at Tanjore. Aria is now act-
ing in collusion with Vencut Row and will not give evidence in our favor. Mullisawmy was
appointed joint manager with Vencut Row in February 1860. Mullisawmy has never inter-
fered in the business of Survamanium affairs being prevented by the intrigues of Vencut Row,
but he has managed the private business of Ladha Boye. Mullisawmy will give evidence in
Ladha Boye's favor. Ladha Boye has no claim against Vencut Row before 1853, the 50,000
found in his cash box fairly represents the profits made during his management of the
Mahal.

T. Rama Soobbiah.—Deposes to the same effect as T. Sadashivah Row.

(True Copy.)

(Signed) JOHN MILLER,
Acting Government Solicitor.

No. 29.

ORDER THEREON, 12th September 1862, No. 364.

Resolved that the foregoing letter and its enclosures be forwarded *in original* to the Col-
lector of Tanjore, together with a list of the papers relating to the matter of the
Suit, and that he be directed to afford the Acting Government Solicitor, as
early as practicable, all the information and evidence obtainable by him on
the points therein indicated, and if he can, to induce Ladha Boye to appear as a witness at the
hearing of the case, explaining to her what is stated in para. 18 of the letter, viz., "that she
can give her evidence in a Palanquin and that she will not run the slightest risk of being seen
by any one in Court, and that she will not thereby be in any way degraded."

2. Sunkarow, the person alluded to in the last para., has been already ordered to come
down to Madras.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read letter from the Ag.
Government Solicitor.

(Dated 10th Sept: 1862 N^o 404)

Order - 12 September 1862 N^o 364.

To be returned.

together with a list of
the papers relating to
the matter of the suit

Resolved that the fore-
going letter & its enclosures
be forwarded in original
to the Collector of Tanjore
& that he be directed to
afford the Acting Govern-
ment Solicitor, as early
as practicable, all the
information & evidence
obtainable by him on
the points therein im-
plicated, & if he can, to
induce Sadha Boye
to appear as a witness
at the hearing of the
case, explaining to her
what is stated in para
18 of the letter, viz: that
she

He will give her evidence
in a Saluquin & that
she will not run the
slightest risk of being
seen by any one in court,
& that she will not there-
by be in any way dis-
graced.

2. Sunkarau, the person
alluded to in the last
para, has been already
ordered to come down to
elladad.

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Recd. 11/11/64

1862 Department.

No. 100

PROCEEDINGS OF GOVERNMENT.

Dated

The following is
a copy of the report
of the committee on
the subject of the
proposed amendment
to the constitution
of the State, as
passed by the
Legislature, on the
11th of the month
of January, 1862.

Witness my hand
at the City of New
York, this 11th day
of November, 1864.