Political (1896) Department.

ORDINARY MS.

G.O., No. 540

Dated 14th Aug: 1896

INDEXED.

[Despatch Abstract.]

SUIT IN RE SAKKARAM SAHIB'S ESTATE.

Communicating to the Government Agent, Tanjore, the opinion of the Advocate-General on the plaint e in Original Suit No. 16 of 1896 on the file of the Subordinate Court of Tanjore in re Sakkaram Sahib's estate and stating that Government does not desire to be added as a defendant in that suit.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2334		1896				

IN THE SUBORDINATE COURT OF TANJORE.

ORIGINAL SUIT No. 16 OF 1896.

Vasanta Row Ananda Row Daibar First Sirdar and Killedar Minor aged 5 represented by his mother and next friend Kamalaboi Saheb Daibar living at Killedar Palace Baroda. } PLAINTIFF.

VERSUS.

1. Seturam Saheb son of Ava Saheb by his grandmother and guardian Yamunaboyi Thayi Saib Pumvar living within the Palace at Dhar Central India.

2. Chota Raja alias Chimma Sahib represented by his natural father and guardian Jayaram Row Survei alias Kasoba Saheb living in Eastern Main Street Fort Tanjore. } DEFENDANTS.

3. Jumna Boyi Avergal widow of the deceased Shambu Sing now residing within the Palace at Dhar Central India.

The Plaintiff above named begs to state as follows :—

1. That Plaintiffs maternal grand father Dajee Saheb Mohitay and the deceased Sakaram Saheb Mohitay son-in-law of the late Raja of Tanjore were brothers.

2. That Plaintiff's maternal grand-father the said Dajee Saheb departed this life about 20 years ago.

3. That the said Dajee Saheb at the time of his death left moveable and immoveable properties to the value of $2\frac{1}{2}$ lakhs of Rupees.

4. That the properties aforesaid of the said Dajee Saheb were taken possession of on his death by his brother Sakaram Saheb Mohitay for and on behalf of Plaintiff's mother who was then a minor.

5. That the said Sakaram Saheb Mohitay who managed the estate of his deceased brother died issueless on the 28th January 1895 leaving properties worth Rs. as described below.

6. That on the death of the said Sakaram Saheb Plaintiff became entitled under the Hindu Law to succeed to all his properties.

7. That first Defendant herein claiming under a will alleged to have been executed by the late Sakaram Saheb sued in O. S. 5 of 1895 on the file of the Tanjore Sub Court for a direction to compel the registration of the said will the registration whereof was refused by the District Registrar of Tanjore after enquiry.

8. That the 2nd Defendant claiming to be the adopted son of Shambu Sing adopted son of the said Sakaram Saheb sued in O. S. 36 of 1895 on the file of this Court for the recovery of all the property of the said Sakaram impugning the will set up by 1st Defendant as forged and otherwise void, inoperative, and invalid.

9. That the Plaintiff herein who has been all along impugning both the said will and adoption applied to this Court to be made a party to the said proceedings.

10. That this Court declined to make Plaintiff a party to O. S. 5 of 1895 on the ground that the validity of the will set up was not a matter for adjudication in that suit.

11. That Plaintiff further applied to be made a party to O. S. 36 of 1895 above mentioned.

12. That after notice of his petition was ordered and while it was pending the parties to the said suits have fraudulently and with a view to prejudice Plaintiff's rights entered into a compromise in terms whereof this Court has passed a decree in spite of Plaintiff's protest.

13. That the said compromise is fraudulent and not binding on the Plaintiff and that it was not legal that a compromise decree should be passed directing registration when registration was refused by the Registrar, without finding upon evidence that the Registrar had no valid reasons to refuse registration.

14. That the alleged adoption of the 2nd Defendant by the deceased Shambu Sing is false.

15. That Plaintiff believes that the alleged will by the deceased Sakaram Saheb is a fabrication got up after Sakaram Saheb had lost consciousness and while he was not capable of understanding the nature and effect of the transaction, and was not otherwise in a disposing state of mind.

16. That if the said Sakaram Saheb had not lost all consciousness at the time of the alleged execution of the will, and was able to know what the nature of the document was, he was not a free agent having been at the time extremely weak in body and mind from general paralysis, old age and the approach of death and coerced and imposed upon by the importunity, undue influence, and fraud of his agent one Veeraragava Iyengar, the 3rd Defendant, and the grand-mother of the 1st and 3rd Defendants and others around him.

17. That even if the said will was executed with some degree of consciousness, it is void and of no effect.

18. That the said alleged will purports to devise absolutely to the 3rd Defendant seven villages which had previously been settled upon her for life under a karar dated 17th December 1893 for her maintenance.

19. That for reasons stated above any claim of the 3rd Defendant to the said properties further than an Estate for life cannot stand.

20. That since the death of Sakaram Saheb, the 3rd Defendant is and continues to be in unlawful possession and management either on her own account or on account of the 1st Defendant or of both of the immoveable properties mentioned in schedule A here-unto annexed as well as of certain vehicles, horses, cows, elephants and certain articles of furniture mentioned in schedule B and other moveable properties under her lock and seal, the nature, extent, and value of which the Plaintiff is unable to specify.

21. That the other moveable properties consisting of jewels, furniture, debt bonds and other articles of value which were in the possession of Sakaram Saheb at the time of his death in certain rooms of his palace were secured in those rooms under the lock and seal of the Collector and have ever since been guarded by the Police.

22. That the Plaintiff is not in a position to describe the properties which are in the said rooms or give an estimate of their value.

23. That the said properties are under the custody of the Collector of Tanjore who holds them as stake holder and is prepared to hand over the same to any party who may establish his right in a competent Civil Court.

24. That the Plaintiff reserves his right to sue for certain debt bonds and other moveable properties which he understands are in the possession of certain agents of Sakaram Saheb.

25. That schedule D comprises the out-standings due to the Estate of the deceased Sakaram Saheb including arrears due on leases &c. that schedule E comprises jewels pledged and lands mortgaged which have to be redeemed and that schedule F comprises the mesne profits of immoveable properties in schedule A from the death of Sakaram Saheb till date of plaint :—

The Plaintiff therefore prays :—

1. That Plaintiff's right to succeed to the plaint properties as the brother's grand-son of the deceased Sakaram Saheb be established.
2. That the alleged will of Sakaram Saheb be declared forged or void and invalid for all or any of the reasons aforesaid.
3. That the alleged adoption of 2nd Defendant by Sakaram Saheb be declared false and invalid.
4. That the compromise petition and the decree thereon be found fraudulent and invalid as against Plaintiff.

5. That Plaintiff be declared entitled to recover all the outstandings due to the Estate of the deceased Sakaram Saheb mentioned in Schedule D and to redeem the properties moveable and immoveable in Schedule E.

6. That Defendants 1 and 3 be directed to deliver the properties in Schedule A to the Plaintiff with mesne profits from the date of the death of Sakaram Saheb till date of delivery.

7. That the Defendants 1 and 3 be directed to deliver to the Plaintiff the moveable properties mentioned in Schedule B or the value thereof as stated therein.

8. That defendants 1 and 3 be directed to render an account of other movable properties in their possession and deliver the same or the value thereof.

9. That an account be taken of all the movable properties including debt bonds &c, which are in the custody of the Collector under his lock and seal and a decree be passed establishing Plaintiff's right to recover the same or their value.

10. That Plaintiff's right to the immovable properties mentioned in Schedule C after the lifetime of the 3rd Defendant be declared.

11. That Defendants be directed to pay the costs of the Plaintiff in this suit.

12. And that such further or other relief may be granted as the circumstances of the case may require and the Court may deem fit.

Cause of action arose on the 28th January 1895 in Tanjore on which date Sakaram Saheb died.

The market values of the Inam lands as given in the plaint represent 15 times the net profits.

ENCLOSURE No. 1

In a letter

FROM

THE COLLECTOR OF

Tanjore

To

THE

Chief Secretary
to Government
Political Department
Madras

Dated 18th July 1896.

Reference No. 646/543 of 96.

Subject.

Copy of plaint in O.S. No 167 of 96 on the file of the Subcourt Tanjore.

96
Pol
Encl
2
G. No 984

Send Copy of this to AG

9

Costs incurred in maintaining the Police Guards.

	Rs
Charges for Police Guards from 29.1.95 the date of V. Ry. Sakaram Sahib's death upto the End of May 1896	2685.7.3
Contingent Charges upto End of May 1896.	198.10.1
Total	2884.1.4
Deduct Charges paid for January to March 1895 paid from the funds of M. Tamma Bopi	366.1.1
Balance paid from the Government Treasury	2518.-.-3

M. Sivaprakasam Pillai
2/-
For Collector

WS

RS

In a letter

Enclosure No. 2.

From

The Collector of

Tanjore

To

The Chief Secretary to

Government

Political Department

Madras

Dated 18th July 1896

Ref on Cir No $\frac{646}{G\&B}$ 896

Subject

Memo of Costs incurred

in maintaining the Police

Guards.

1896
Pol
Enclos. No. 1
to
G. O. No. 984

CURRENT No. 984

Ref on Cir
No. $\frac{646}{G\&B}$ of 1896

TANJORE, COLLECTOR'S OFFICE,

~~Camp~~, Vallam, 18th July ——— 1896.

FROM

G. Stokes ESQUIRE,

COLLECTOR,

TANJORE,

To

The Chief SECRETARY TO GOVERNMENT,

Political DEPARTMENT,

MADRAS.

SIR,

With reference to Government Order No. 336 Political dated 28th May 1896. I have the honour to forward herewith a Copy of the plaint in O. S No. 16 of 1896 on the file of the Sub Court Tanjore and a memo of Costs incurred in maintaining the Police Guards.

I have arranged for taking an inventory of the property in the presence of the Deputy Collector of Tanjore Division and the Receiver appointed for taking charge thereof and it would take at least two months more for finishing

Confidential

2

In a finishing it. I have ordered the Police Guards to be maintained till then and their charges to be paid from the Government Treasury.

2. The pleader who was entrusted with the defence of O.S No. 36 of 1895 has submitted a bill for Rs 256. 10. " including the regulation fee of Rs 250. The suit having been ____ Compromised I think he must be paid - only half the fees and the total Cost will thus come to Rs 131. 10. 4.

3. The Police Costs Rs yet to be incurred and the Costs Rs of the suit actually paid will be reported later on.

I have the honour to be,
Sir,
your most obedient Servant

Srinivasaraman Pillai
2077
for Collector

KS Rs

CURRENT No. 984
Pol

From

The Collector of

Tanjore

To

The Chief Secretary

to Government

Political Department

Madras.

Dated 18th July 1896

Recd 23rd
Regd 24th

Reference No. 646/GAB of 96

Encl: Two.

Subject

Submitting a copy of plaint in O.S No 16 of 96, Subcourt Tanjore re Vly Sakaram Sahib's property and a memo of Police costs incurred in guarding it + Receipt for a fee of Rs 131-10-0 to the Govt Pleader

Endt No. 1527 dated 1st August 1896

The plaint is returned

~~Returned~~ to the Advocate General for favour of early opinion with reference to para 6 of his opinion of the 17th May 1896 printed on pages 16 + 17 of G.O. No. 336 Political dt 28th May 1896

Reddick Rice
Chief Secretary

CS
24.7.96

To The Government Solicitor
with copy of No. 336 Pol dt 28-5-96

~~Confidential~~

Re Sakkaram Sahib's estate and O.S No 16 of 1896 on the file of the Subordinate Court of Tanjore.

Opinion.

It is unnecessary to repeat my opinion on the subject of escheat. Government has at present no claim to the property which is the subject matter of the above mentioned suit, and, therefore, cannot claim to be added as a defendant therein.

J. H. Spring Branson.
Advocate General

Madras
5th August
1896

CHIEF SECRETARY
7 AUG. 1896
GOVERNMENT OF MADRAS

1896
P&L Dept.
Enclos. No 1
1070

Confidential

CURRENT No. 107

No. 371

Madras 6th August 1896.

From,

Ernest Barclay,

Government Solicitor,

Madras.

CHIEF SECRETARY
7 AUG. 1896
GOVERNMENT OF MADRAS

To,

The Chief Secretary to Government,

Ootacamund.

Sir,

With reference to your endorsement dated 1st instant No 1527 on letter dated 18th ultimo No $\frac{646}{C \& B}$ of 1896 from the Collector of Tan-jore to your address, I beg to forward, in original, the opinion of the Advocate General on the matter referred to him and to return the papers which accompanied your endorsement

I have the honor to be

Sir

Your Obedient Servant

Ernest Barclay

Government Solicitor.

CURRENT No. 1070

P&L Deptt

From

Govt Solicitor

No. 371

Dd 6
Rd 7 } Augt 1896

Encl one &
Cuo 984 with
Encls rtd

Suit in re Sakkaram
Salib's estate

Political Deptt

Read again 8o. 336 / 28-5-96 &
cro's 984 & 1070.

Order No. 540. Dd 14 Aug 1896.

The Advocate General's opinion will be comd. to the Govt. Agent, Tanjore with the remark that Govt. does not desire to be ~~made a party~~ added as a defendant in the original suit No. 16 of 96 on the file, of the Subordinate Court of Tanjore ~~Sabharam Salib's grand-~~ ~~niece~~

2. The proposal of the Govt. Agent to pay (Rs 131-10-0) to the pleader who was entrusted with the defence of O.S. No. 36 of 95 is approved & the charges on account of the Police guard are sanctioned. The Accl. Genl will be requested to report the head of acct. to which the amount should be debited

C.S. 8-8-96

Ld 18/8/96

A.G.H. 12.8.96

Ld 18/8/96

Govt. Agent, Tanjore
Cuo. 984. & 1070-A.
Accts. Genl. - (Cro 984 P but A of
(Two Encl) Genl, Cro 1070-A)

Copied 17/8 Despd. 18/8/96

Sent in to H.E. Sabbarwal
Sahib's estate

H.E. His Excellency
Hon'ble Mr. Bliss C.S.I.

C 11/8
R 14/8

When given for copying ____
When copied ____
When examined ____
When signed ____
} 189.

READ AGAIN G.O., No. 189, DATED

CURRENT No.

ENCLOSURES TO C. No

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.,—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.