

3/401

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

28th January 1881, No. 198.

READ THE FOLLOWING PAPER :—

No. 515. Proceedings of the Court of Wards, dated 18th January 1881, No. 67.

ABSTRACT.—Issuing instructions to Collector with reference to the application of Rajah Venkanarasimha Appa Rao to the District Court for execution of the decree of the Privy Council adjudging him entitled to one-sixth share of the Nuzvid estate in Kistna District under Court of Wards, and requesting Government to authorize the Collector to depute an Assistant Collector to the work of partitioning the estate.

No. 516. ORDER THEREON, 28th January 1881, No. 198.

Miscellaneous.

With reference to paragraph 4 of these Proceedings the Right Honorable the Governor in Council is of opinion that the charges entailed by the partition of an estate should be borne by the parties concerned as was formerly ruled* following the repealed Section 10, Regulation XXVI of 1802. The Collector should be instructed to estimate the cost in the present case and to apply to the Court for an order requiring the parties to pay the same, reporting the result for the information of Government.

2. Meanwhile the Collector may, as proposed, depute an experienced Assistant for the duty. If the number of officers now in the district does not admit of this being done without an additional Assistant being posted, the Government will consider what arrangement should be made. The Collector should report the name of the officer proposed to be deputed.

(True Extract.)

Quater
Secretary to Government.

To the Court of Wards, with two original enclosures.
,, the Public Department.

Exd. W. H. French.

14 Copies.

1881.
Court of Wards,
MADRAS.

THE SECRETARY TO GOVT.,
REVENUE DEPARTMENT.

Dated January 1881.

Printed February 1st.

Proceedings, 18th January 1881, No. 67.

JANUARY.
No. 67.

Nuzvid Estate—in Kistna District, under Court of Wards.—Issuing instructions to Collector with reference to the application of Rajah Venkata Naresimha Appa Rao to the District Court for execution of the decree of the Privy Council adjudging him entitled to one-sixth share of the —, and requesting Government to authorize the Collector to depute an Assistant Collector to the work of partitioning the estate.

11th Feb 1881
Public Works Dept
(Civil servants)

(3)

(4 spare copies)

Ref No 3929/81

REVENUE.
THE COURT OF WARDS,
No. 268.

Printed January 28th.
Printed February 3rd.

G.O., 28th January 1881, No. 198.

JANUARY.
Nos. 515-516.

Partition of the Nuzvid Estate in Krishna District
under Court of Wards.—Directing, with remark,
that the Collector be instructed to estimate the cost in the present case and apply to the Court for an order requiring the parties to pay the charges entailed by the —; directing also, with remark, the Collector to report the name of the officer proposed to be deputed for the work.

Present Staff in Nuzvid

As C.M. — Mr. Norton.
As Sub C.M. — Mr. MacKenzie.
As Asst. Secy. — Mr. Fiddian.
Asst. — Mr. Atkinson.
As — Mr. Mobley.

Further report must be awaited.

10th Order 11 Feb 1881

Not recorded.

Ward

140-1

1/2/81

(1) Number of pages 6

(2) Date of repair 10-10-86

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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Public DEPARTMENT

G.O. No.	140-1.	Press.
B.P. No.		Mis.
Dated	11-2-1881.	197.

Not to be folded or roughly handled

140-1
Cb. 3.

140-1
No. 67.

PROCEEDINGS OF THE COURT OF WARDS, dated 18th January 1881.

Read the following letters :—

From the Acting Collector of the Kistna District, to C. A. GALTON, Esq., Secretary to the Court of Wards, dated Masulipatam, 26th December 1880, No. 247.

I HAVE the honor to forward, for the information and orders of the Court, a copy of the application for execution of his decree against the Nuzvid Estate presented by Rajah Venkata Narasimha Appa Rao.

2. He claims—

I. *A share of one-sixth in the Nuzvid Zemindari.*—The District Court has directed me under Section 265, Civil Procedure Code, to make this division.

II. *A share in the Kamatam lands, forts, houses.*—That also he is entitled to under the decree, but the division will have to be carried out by the District Court.

III. *A share in the management of certain religious endowments.*—I am informed the District Court passed no order about this, but referred the petitioner to another suit.

IV. *To a share of personal property, which share he values at Rs. 6,200.*—When he brought his suit in the District Court his claim for a share in the Zemindari was dismissed, but he was declared entitled to one-sixth of the personal property and one-sixth of the Muttas of Bhimavole and Ammunilanka as the self-acquired property of his father. This decree the High Court confirmed. Both these were reversed by the Privy Council, and “in lieu thereof” it was ordered that plaintiff was entitled to a sixth share—

(a.) In the Nuzvid Zemindari.

(b.) In the Kamatam lands, forts, houses, &c.

Nothing was said about the moveable property or the two Muttas. The District and High Courts decided he was entitled to a share in them, but those decrees have been set aside altogether. As the matter stands, I think plaintiff not entitled to a share in the moveable property or the two Muttas. On this point I request orders. If an application is made, as has been proposed, to the Privy Council, to review or reconsider their judgment, this point might be mentioned to show how incomplete the judgment is as it stands. If the matter is reopened to give plaintiff what he is undoubtedly entitled to, there would be an opportunity of bringing forward the state of the minors.

V. *Mesne profits—Share valued at Rs. 7,80,000.*—Petitioner says annual average savings should have been four lakhs. For twelve years = Rs. 48,00,000, of which one-sixth is Rs. 8,00,000. Rs. 20,000 received by him for maintenance deducted, the balance is Rs. 7,80,000.

With respect to this claim I will follow the instructions of the Court. To meet this claim the District Court first attached all the balance in my hands. On my remonstrating that this would more than cover the utmost plaintiff was entitled to, and that something must be left with me to work the estate, the first order was cancelled, and a sum of five lakhs ordered to be at the disposal of the District Court.

VI. *Costs.*—A matter of account.

Enclosure No. 1.—Copy of Application for execution of decree against Nuzvid Estate.

From the same Officer, dated Masulipatam, 26th December 1880, No. 250.

I HAVE the honor to report that I received from the District Court an order (Section 265) directing me under Section 265 of the Code of Civil Procedure to divide the Nuzvid Estate. A copy is enclosed. This will be a work of immense labor and difficulty, and I must respectfully urge what I have urged before (Proceedings, No. 685, of 20th May 1880,) that a special officer should be deputed for the work. The Court were then pleased to say that my proposals were premature, but the necessity has now arisen.

2. Section 265 no doubt says that the work should be done by the "Collector," but a reference to the definition of Collector in the early part of the Code shows that this does not necessarily mean the Collector of the District.

3. If the Court approve of this, an application might be made to the District Court to allow the cost of such an officer being charged against the estate. He might also be nominated by the District Court the Commissioner to take the account which will have to be taken when the question of mesne profits is gone into.

ENCLOSURE No. 1.—Copy of Proceedings of District Court, 11th November 1880, No. 296.

WITH the first letter read above, the Collector forwards, with remarks, for the information and orders of the Court of Wards, a copy of an application presented by the decree-holder, Rajah Venkata Narasimha Appa Rao, to the District Court praying for execution of the decree of the Privy Council adjudging him entitled to one-sixth share of the Nuzvid Zemindari; and with the second letter he forwards a copy of an order issued by the Court directing him under Section 265 of the Code of Civil Procedure to proceed to divide the estate in order to give effect to the decree.

2. Upon receipt of these communications the Court of Wards conferred with the Government Pleader, and, acting under his advice, resolve to issue the following instructions to the Collector:—

(a.) In regard to mesne profits, his share of which the decree-holder estimates at Rs. 7,80,000, an application should be made to the District Court to stay execution pending the disposal by the Privy Council of a petition for review of the judgment upon this point which the Court of Wards propose to present on behalf of the minors under their charge. In making application to the District Court the arguments adduced in the opinion of the Advocate-General, communicated to the Collector with the Court's Proceedings, dated 20th November 1880, Miscellaneous No. 12,841, should be relied upon, and the facts of the case bearing upon the responsibility of the minors should be set forth.

(b.) Next, in regard to the claim to one-sixth share in the moveable property and in the Muttas of Bhimavole and Ammulilanka, the Court of Wards agree with the Collector in considering that under the decree of the Privy Council the plaintiff, for the reasons set forth by Mr. Kelsall, is not entitled to claim a share in these properties. Objection should therefore be taken to the plaintiff's right to recover a share of these properties in execution.

The same course should be taken as to the claim to share in the trusteeship of pagodas, &c.

3. In addition to the application for stay of proceedings in execution, the Collector will put in a petition to the District Court at once raising the various objections to the plaintiff's claim in execution. The following and any other objection arising out of the Advocate-General's opinion which may occur to the Collector should be adduced:—

I. The plaintiff never was dispossessed, or at any rate not at his father's death. The Court should be referred to his plaint where he does not allege it.

II. He is not entitled to share of the Muttas or personal property or trusteeship of pagodas, &c., that not being given him by the Privy Council decree.

III. An account should be taken of the debts of the plaintiff's father, of the claims upon the family for maintenance, of sums properly expended for management of the estate, support of religious establishment, ceremonies, &c.; and plaintiff must bear his share of all these before division.

IV. The minors are not personally liable to account for the income and expenditure of the estate while under the management of their father who was managing member of the family. They are only accountable for the accumulations which came to their hands on his death; they are entitled to one-sixth of these last as well as the plaintiff.

4. As the officer charged with the administration of the public revenues of the district, the Collector is ordered, under Section 265 of the Civil Procedure Code, to partition the Zemindari and apportion one-sixth share thereof to the decree-holder. The Court of Wards while fully concurring with Mr. Kelsall in the opinion that this is a task which, concurrently with the discharge of his ordinary duties, it is not possible for him to accomplish, are advised that no provision is made in the Code for defraying from the funds of an estate, the cost involved in such partition. It would seem that, in consideration of the security thus afforded to the public revenue, the duty of carrying out the work devolves upon the State; and an application to the District Court to allow the cost by an officer to be employed for the purpose would be unsuccessful. The Court of Wards accordingly resolve to propose to Government that the Collector be authorized to depute to this duty an Assistant of experience, the current duties of such Assistant being carried on by an officer to be appointed in his stead.

(True Copies and Extract.)

(Signed) E. GIBSON,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department,
with two original enclosures (one in No. 2 and one in
No. 6 of 1881) to be returned.

Collector of the Kistna District.
Copy to the Government Pleader.

And A. Grubert.