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Revenue Department

Minutes of Consultations

31st March 1857

Back Nos 22-23

Order 295 dated 27th March 1857

17 3/4 30

Fort Saint George, Revenue Consultation of 31st March 1857.

Read the following letter.

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No. 22. From C. Vencatanarrainiah Memorialist ; to T. PYCROFT, Esq., Chief Secretary to Government Fort St. George ; dated Madras 15th January 1857.

SIR,

I have the honor to forward a Memorial to the Honorable Court of Directors, in Triplicate, and respectfully request that you will do me the favor of transmitting the same for the favorable consideration of the Honorable Court.

No. 23. ORDER THEREON, No. 295 ; dated 27th March 1857.

Ordered that the Memorial received with the above address be transmitted to the Honorable Court, and that intimation of its despatch be made to the Memorialist.

(Signed) H. FORBES,
Acting Secretary to Government.

பாதுகாப்புப் பரிவு-1

செப்பனாபவர் பெயர்

செப்பனாபவர்க்காக எடுத்தக்
கொள்ளப்பட்ட நாள்

செப்பனாபு முடித்த நாள்

கோ. 28/9/56
சரிபார்க்கும்
முதல் மு. நி. பா. எ.
கையொப்பம்

சரிபார்க்கும்
2-ம்-மு. நி. பா. எ.
கையொப்பம்

சுராபிச்சி
உதவியாளர்
கையொப்பம்

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X22 From the following letter
to the Hon^{ble} Secretary of the Hon^{ble} Court of Directors

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To

J. Pycroft Esq^r
Chief Secretary
to Government

Fort Saint George

Sir,

I have the honor to forward
a Memorial to the Honorable Court of Directors
in Triplicate, and respectfully request that
you will do me the favor of transmitting the
same for the favorable consideration of the
Honorable Court.

I have the honor to be,

Sir,

Your Most Obedient Servant

C. Venkataramaiah

Madras
6th January 1857

Notes. In this case the
fact of the adoption appears

to be fully admitted, and the Board accordingly recommended that the Enam should be continued to the adopted son. The ground of refusal by Government was that an order requiring that in such cases the adoption should be reported to the Collector at least six months before the death of the adopter. The object of this order was to guard against fictitious adoptions; and it is doubtful whether it can be fairly applied to a case in which the adoption is admitted to have been properly made. If Government concur in this view, though they may not be prepared to suspend the operation of the order of their own authority, they may be willing to accompany the

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J. Pycroft Esq.
Chief Secretary to Government
Fort St George

Sir,

With reference to my letter to your address, dated 15th January 1857, submitting a Memorial to the Honorable Court, regarding the Enam village of Parlapully, in Kallur. They respectfully request that, the usual intimation of the despatch of the Memorial, may be made to me at Madras, my residence being No 29 Kingumbakum.

I am naturally anxious to receive the intimation as early as possible, which will be the case if sent to me directly.

I have the honor to be
Sir,

Your Most Obedient Servant
C. Venkatanamaiah

Madras
Kingumbakum }
3rd February 1857

Revenue 1857 Sept 58

N^o 106 55

From Venkatanarra-
nich

Dated 23rd Feb^ry 1857
Recd

Adverting to his
Memorial to the Hon^{ble} Court
regarding the Inam
Village of Parlapully
in Nellore & requesting
that the undisturbed
possession of its desputes
may be made to him at
his residence N^o 29,
Kungumpantham,
Madras.

For the same

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To

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The Honorable the Court of Directors
Leadenhall Street
London

The Humble Memorial
of C. Venkatanaraini-
ah father of Ingooah
Ramasaminah, adopted son
of Ingooah Rammachandrich,
Enamdar of Parlapully in
Nellore.

Respectfully Sheweth,

That your Memorialist is the father
and hence the natural Guardian and Advocate of the
interests of the minor Ingooah Ramasaminah, a lad
of only 15 years of age who was adopted into the family
of Ingooah Rammachandrich, late Enamdar of Par-
lapully in the Nellore District. That your Memorialist
having failed in his appeals to the Collector, the Board of
Revenue

Revenue, and the local government to establish the
just claims of his son, more humbly begs to submit
the following representation for the favorable yet
impartial consideration of your Honorable Court.

2nd That the said Angerach Ramachen-
driah being destitute of Male issue took your Memori-
alist's son in adoption in accordance with the
Shastras of the Hindu religion, in order as therein prescribed
in case of his death, that his adopted son may deliver
his soul from the infernal regions of Put. That his
adoption took place in the presence of a large and
respectable community in the Town of Madras, some
eight months previous to the death of the late Ramachen-
driah; and that by virtue of his lawful affiliation
Angerach Ramaswamiak performed the funeral
ceremonies to the deceased. That Ramachendriah
during his life time performed the ceremony of *Upana-
yaman* or the investiture with the sacred thread for
Ramaswamiak in a very public manner, and
that the latter who has performed the funeral cere-
monies of his adoptive father, is performing the
annual ceremonies & on account of him to this day
and will continue to perform them during his life
time, his sons continuing the duty after
him.

That

3rd That your Memorialist mentions this
fact, in order to show that the adoption was recognized
by the friends and relatives of the late Esquire; as
that fact established, the claims of Angerach Rama-
swamiak to succeed to his adoptive father's property
stand on high ground; but your Memorialist will
demonstrate his position more forcibly, as he advances
with his representation. The fact of the adoption was
from ignorance not immediately reported to the
Collector by Ramachendriah, but the required notice
was given by him fully & truthfully before his death;
and when the death of the Esquire actually took
place the claims of his adopted son were at once sub-
mitted to the Collector both by the widow and your Memo-
rialist. While the case was still pending before that
Officer, the widow of Ramachendriah influenced by
the advice of interested parties, actuated by motives
of personal and selfish interest, and contrary to the
intentions of her deceased husband which she was
bound to respect and carry out, thought fit subsequently
to deny the validity of Angerach Ramaswamiak's
adoption by her husband, and put forth her own
claims instead to enjoy the village of Parlapully during
her life time.

The

See Chap. III on
adoption page 12
of the Memorial of
Angerach Ramachendriah
to the Hon. Secy. of
the Revenue Dept.

14th The right to succeed to the Parlasully property came regularly before the Board and Government; and two questions came under consideration in regard to the title of your Memorialist's son. They were 1st whether his adoption was legal; 2nd if legal, whether it should be recognized by Government. On the first point, viz the legality of the adoption, the questions turned upon the fact that Rammachenniah was the son of his adoptive father's sister. The bare circumstance of raising an enquiry of this nature demonstrates that the fact of the adoption itself was at once conceded, viz that Angerach Rammachenniah died before his death took your Memorialist's son Rammachenniah, and adopted him as his own son. It was too notorious to require proof; it was a public ceremony in a populous town, conducted in the presence of a large circle of relatives and friends, respectable members of the Hindu community, and among those present were the Sheristadar of the Madras Collectors' Court, and one of the Panchits of the Sudr Udalt, neither of whom would have countenanced an improper adoption. It remains therefore to be proved that this adoption was legal; it

it was an enquiry raised by the authorities themselves, and must be set at rest by the opinions of their own Law Officers. The validity of the adoption rests on the question whether a sister's son can be adopted; on that point, your Memorialist begs your Honorable Court to refer to page 17. Para 92 of a Comprehensive Little Manual on Hindoo Law recently compiled by that able member of your Honorable Court's Honorary Civil Service, Thomas Lumsden Strange Esq., son of Chief Justice Sir Thomas Strange, and himself a Judge of the Sudr Udalt at Madras. Para 20 is to the following effect:—
“According to an original text the child to be adopted should be such as may be looked upon as the reflection of a son. This is held to mean the resemblance of a son, or such a one as the adopter might have legally begotten, that is one whose mother he might have legally married. E.g. Pursuant to this rule a brother, a paternal or maternal Uncle, or a daughter's or sister's son, could not be adopted. 98. Sudras are however specifically exempted from this rule in so far that ^{they} may adopt daughter's or sister's sons. 99. All classes may make such adoption in emergency.—

92. The custom of making such adoption seems without emergency, prevails in South India, that is in the Tanjore County. Pro. of the Sudri Udalat 14th and 25th June 1836²

5. Independently of this authority, the question of validity which was raised by the authorities was by themselves conceded in obtaining the opinions of the Law Officers of the Sudri Udalat. The legality of Ramaswami's adoption by the late Enamdar of Parlapully, is then established; for it is not at variance with Hindu prescription in Southern India, and it is admitted by the authorities themselves. The next and only point to be determined is, whether the Government ought to recognize the adoption of Ramaswami, and allow him to succeed to the Parlapully Enam. In arriving at a just determination, it is to be considered in the first place, whether the Parlapully Enam village is one of those *Shobdars* or *Enams*, to which Government have reserved to themselves the right to decide the succession. The Enam village in question was a free gift of a Zemindar, one of the hereditary lords of the soil. It was alienated more than a century ago, and was excluded from calculation in fixing the *Pidavath*.

99 93.
the adopter's death, as required by the Government. Notification of the 16th March 1846. Not to notice that the Telugoo version is liable to mislead in that it renders the passage "within six months," your memorial begs to point out how inapplicable the operation of the requirement is to the case of your memorialist's son. The object of the notification is to prevent the recognition of fraudulent adoptions; but it is believed that it was never contemplated to adhere to the strict letter of it in the case of bona fide adoptions; and the adoption of the Minor's nephew, Ramaswami, was strictly a bona fide adoption; and yet it is treated as though it were a fraudulent one, simply because the letter of the notification was not fulfilled in a six months notice. It may not have struck the framers of this notification that there is a very curious inconsistency involved in it. It requires that every adoption to be recognized by Government must be reported six months previous to the death of the adopter; does not this require that every adopter must know the exact time when he is to die? Again there is great hardship in the notification. It deprives the Hindu from making adoption at the time of death and even after death by authority.

Reversion of the *Parlapully* Estate - Succession to the *Parlapully* property was always determined according to the usual *Hindoo* Law of Inheritance, so that it is quite as much private property with which the Government have no concern as any other species of private property. The right of ^{the} Government to determine succession never did exist at any time; and their interference therefore in placing the *Enam* Village of *Parlapully* in the possession of the widow of the late proprietor, while he has a recognized legal heir in the person of his adopted son, is an arbitrary exercise of power which cannot be maintained in any principle of justice.

6th Granting even that the Government had the right to determine the succession to this particular property, your Memorialists submit, that it is but reasonable to suppose that the Government would exercise their right in accordance with the Law and usage of the people they rule - No objection being raised to the validity of the adoption, the only exception that has been taken to its recognition, is that notice of the fact was not given six months before the date of the

authority transmitted to his widow. In adoption it should be remembered is the means which the Law provides to enable a *Hindoo* to obtain a substitute for a son of his own body, to succeed to his temporal rights, and to save his soul from *Pit*; and at the same time it must be borne in mind that as the Law invests the adopted son with the rights and privileges of a legal heir, it is but natural that every *Hindoo* would postpone the performance of an act prejudicial to the interests of the son of his own body subsequently begotten.

But to return to the case of your Memorialists' son, - the only question determining his right to the *Parlapully Enam* should have been, did his adoption take place at all; and if it did, was it a legal one? And if these questions are determined in favor of your Memorialists' son as they have been, then your Memorialists respectfully submit that he ought to be put in possession of his lawful rights. Having been the recognized adopted son of *Rama Chinniah*, having lived with his adopted father, and having by right of his adoption performed the funeral obsequies of his adoptive father, the minor *Ramaswaminiah* should have been at once placed in possession of

of the Parloputly Enam. Your Memorialist respectfully submits that it was not the province of the Collector to decide a question of civil rights; his proper duty was to register the property in the name of the party who had the apparent title of heir, to the last incumbent, in this case the adopted son of the Enamdar, and he should have left the widow to contest her rights if she thought fit in the Courts of Udatut. On the contrary, the widow a consenting party to the adoption, who herself assisted in the ceremony, and who therefore ought to have been the last person to raise any objection to a recognized Act of her deceased husband, was allowed to put forth her own claims, and have the village registered in her own name. Your Memorialist begs to be excused in remarking that this means a loss of suspicion. The widow has no heir, but the adopted son, and the village registered in her name would lapse to the State; whereas there is every probability of the son marrying and begetting issue, and if placed in possession of the property transmitting it in perpetuity to his posterity.

It was gratifying to your Native Subjects to learn of the benevolent intentions of

113
your Government to raise the tone of the Native community; and one of your plans for their moral elevation, was the education of all the Native proprietors of Land under the Court of Wards, in order that an educated body of Landholders and Native Gentry should disseminate the benefits of civilization among their dependents. With reference to this, your Memorialist begs to state that his son Injovak Namisawnuak is now being educated in the University which your Government has established in this Presidency; that on arrival at maturity he has every chance of being of use to those around him who have not had similar educational advantages, - that placed in his proper sphere of a landed proprietor he will be looked up to, and respected by his countrymen, while forced to seek his daily bread solely by labor, he will mix with the rest of the body, and lose those opportunities of assisting in the work of a peoples elevation, which he would otherwise possess.

9th Lastly your Memorialist begs
Strongly

Strongly to impress upon your benevolent
consideration that from the fact of his adoption,
Ramasawmiah has lost all his natural rights.
He cannot inherit any property from your
Memorialist; and if the Government deprive
him of the rights which he has acquired by
adoption, he loses the right of inheritance altogether.
And yet altho' he forfeits inheritance, he has
still to perform the funeral ceremonies of his
adoptive father in pursuance of the rules of
Hindoo Law. Your Memorialist therefore
humbly begs that you will take the case of
Ingovah Ramasawmiah into your impartial
consideration, and having maturely weighed
all the papers in the subject which the Government
will doubtless submit with this Memorial, your
Honorable Court will order the Village of Perlapully
to be registered in the name of Ingovah Rama-
sawmiah, and placed in possession as of right
it belongs to him. And your Memorialist
as in duty bound

Will ever Pray
Veneatamainiah

Madras
15th January 1857

Memorial with a recommenda-
tion in the Memorialist's favor

2. The Memorial contains
some matter very much to the
purpose, and well put

and also a good
suggestion of an im-
position against the
Government. The right
the widow was recognized
with a view to secure the
ultimate lapse to the
State. The Government
has the credit of the one
been the descent of the other part.

J. D.
Jan 22

11 13 12

For Orders

Revenue Department A61.

From C. Venkatanarainiah father of
Ingooah Ramasamiah adopted son of
Ingooah Ramachendriah Gounder of
Pudupully in Nellore of 15 January 1856.

The order requiring 6
months notice previous to
death is certainly a very
curious one - & presumes a
degree of certainty to human
life - what facts do not
warrant - the whole proceeding

Recd: 29th July 1851 No 142
— 2nd Dec 1851 — 15416

Copy of order of 11.11.51
of 2nd Dec 1851 No 142

Revenue 1857 Report
No 2 of 31st March

No 61.

From C. Venkatanarainiah
father of Ingooah Ramasamiah
adopted son of
Ingooah Ramachendriah
Gounder of Pudupully in Nellore of 15 January 1856.

Recd: 15th January 1857
No 16 of 15th January 1857

From C. Venkatanarainiah
father of Ingooah Ramasamiah
adopted son of
Ingooah Ramachendriah
Gounder of Pudupully in Nellore of 15 January 1856.

2220 July 1851 No 142
217 March 1852

appears unquestionably in the case
of independent properties - such
as this appears to be.

I think this ought to be pointed
out to the Court - which is further
evidenced by the case requested

The memorandum is a
strong case the addition
being so undoubted and
being taken place about
6 months previous to the

14 5 13

death of the addition
father - & the only son
to its recognition by
him - being the deferring
to make the addition
whole - the case may
well be laid before
the Hon: Court for their
particular attention
& orders - W. H. G.

In this case an exception
may fairly be allowed to what
I cannot help thinking a
very ~~obvious~~ & necessary rule
W. H. G.

B.D.

No 295 15 3

Extract from the Minutes of Consultation
Under date the 27th ~~February~~ ^{March}, 1857.

Read the following
address from C. Venkatanarasimha
father of Sugooval Ramaswami
adopted son of Sugooval Rama-
chendriah Enamdar of Parlapully
in Nellore.

Presented 15th January 1857.

A
L
P
M. S.

Ordered that the
Memorial received with the
as as as above address
be transmitted to the Honorable
Court, and that intimation
of the ^{its} dispatch be made to
the Memorialist. B.D.

of the new and better English
of 3. of June 1857. 1857.

Received 1857 Sept 10th
Doris and 3rd March.

No. 295.

Arthur Livingston Esq.
Sept 27th March 1857.
P. M. C. 5 May 1857. No. 287.

Ordering these items:
one from L. Livingston Esq.
with, father of August
Rumford and ad of the son
of August and Rumford Esq.
at, the son of August
and Rumford Esq. the son
of August and Rumford Esq.
the son of August and Rumford Esq.

No. 22423.

No. 6

c 18th July. A. M. c 17th March 1857.