Revenue Department

Minutes of Consultations

2nd Jan 1838

Back up 21422

GP&R No 12157 28 Jan 1838

பாதுகாப்பு பிரிவு-1

செப்பிடுபவர் பெயர்: Lo RM Collector

செப்பிடுவதற்காக எடுத்துக்- 07/08
கொள்ளப்பட்ட நாள்

25/ 26/9/08 — சரிபார்க்கும் முதல் பக்கம்
சரிபார்க்கும் 2ம் பக்கம்
சரிபார்க்கும் கடைசிப் பக்கம்

No. 21. Read the following Petition.

To His Excellency the LORD HARRIS, K. C. B. Governor in Council.

The humble Petition of Puttabulla Narsa rauz and Veeraranz of Pelapurty, Petitioners in Petition No. 2,791 of 1857, on the Register of the Board of Revenue, dated 8th December 1857, No. 2957.

In appealing against the order of the Board of Revenue under date the 10th September 1857, the Petitioner submits herewith also the orders of the Principal Assistant Collector and Collector of Vizagapatam under dates the 4th November 1856 and 11th June 1857, which have reference to the point in issue in the Board's order alluded to above.

As the Principal Assistant Collector's decision shows at full length the feature of the case, it is unnecessary for the Petitioner to reiterate it at this place, which, if done, will be a teazing for your Lordship, and hence the Petitioner begs to be permitted to state that it only remains for him to solicit your Lordship's interference with the orders appealed against, and weigh which of the 3 orders is just under Hindoo Law under the existing Regulations.

Before arguing on the propriety or otherwise of the 3 orders, the Petitioner thinks it proper to impress on your Lordship's mind that the point in issue is not such as can be solely determined upon the length of the possession and enjoyment of the Curnum Merassi right by the Defendants with the concurrence of the widow last in possession: but a question of law point, which if the controlling power disdain, the party aggrieved by the Collector's and Board's orders is likely to be doubly aggrieved.

The geneological tree which accompanies this petition will clearly show to your Lordship that the Petitioners and the widow last in possession of the Curnum Merassi right, are kins of one and same Hindoo family.

The original ancestor of the family had the Curnum Merassi right of two villages, namely Kistnapoorum and Rolapurty; the former fell to the ancestor of the Petitioners, and the latter to that of the widow's husband in the *Division* which had taken place long ago. The village fell to the share of the Petitioner's ancestor is to this day in the possession and enjoyment of the Petitioners and other Coparceners. The village Polapurty in question being divided property the Petitioners have no right to claim it until the life time of the widow, but on her death, the Petitioners are entitled to succeed to the Property under Hindoo law. So 2 years before her death she having attempted to alienate her property in favor of the Defendants, the Petitioners filed a complaint before the Collector in 1847, which altho' was laid in abeyance in the office the Petitioner never ceased to give Petitions repeatedly. At last it was referred to the Tassildar for enquiry and report. It was satisfactorily proved before the Tassildar that the Petitioner's ancestor and the ancestor of the widow's husband are the brothers of one and same parents, but divided ones. The Tassildar submitted a report to the Hoozoor stating that it having been proved that the family is one and same, and the widow having died, the Curnum Merassi right which the widow enjoyed by employing the Defendants as her Gomastahs, should, under Hindoo law, descend, or go to the Petitioners as next kins. The Principal Assistant Collector has arrived at a just and correct decision which is consistent with the strict letters of Hindoo sastro, and with the several judicial Decrees that the Petitioners are as next kins entitled to enjoy the widow's Merassi right. But the Collector in appeal reversed that order solely with reference to the Defendants long possession and enjoyment, and the Board of Revenue also founded their confirmation upon the same principle as the Collector adopted.

This being a case not to be decided with reference to the length of possession and enjoyment, but to the Coparcernership however 100 years have elapsed, and the Petitioners having no course to carry on their case in the Courts under the recent orders regarding the Enam lands, &c., it is wholly incumbent on your Lordship itself to compare the propriety of the Principal Assistant Collector's reasonings with those of the Collector and Board of Revenue and reverse the orders of the two latter authorities confirming the one of the former officers with reference to the several circular orders in the Curnum's cases. If your Lordship entertains a doubt as to the precedence which a divided kin may have in the participation of his divided kin's property on his death in

preference to any others who may be in possession for a number of years, it is prayed that a query may be submitted to the law officers of the Sudr Udalut, and their replies obtained, as is the practice with the Government to do so in several cases on former occasions, and then dispose the present case.

No. 22. ORDER THEREON, No. 121; dated 28th January 1858.

The Government having considered the papers submitted by Petitioner, see no reason to interfere on his behalf with the decision of the Collector and Board of Revenue declining to remove the present incumbent from the office he has held for 27 years; Petitioner's claim to succeed to the office will be considered when it becomes vacant.

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

(A)

Recorded 1858 Regist.
[illegible]
f 120

Thos Talbot-alias Tuckey
=many and Estates &c
Estepany in Intestacy
Talbot Vigezephatam.

Dated 11th
Filed 11th December 1857
Sch. 131. 28th January 1858.

Filed & endorsed
Appearing 2 Sol.
Sum the decidum
Affd. Coll. and Sgd.
Affd. Rev. Lejecting
Rejd. claim
a Curium "Recedd
a Petit. ejus Lis
decreed accordingly

Sr Chas. Lewis Petitioner
Coffin Defendant.

No 21.

(A)

Genealogical tree of the Curnum
Merassudar of Tezayabalam
Dishad - Pr. Tursoorenz.

Lingamgoo

No 1. 1st Son R. Speereng.

No 2. 2d Son Edimaveerag

No 3. 3d Son Soorapareng.

No 4 Son

No 5 Son

No 6 Son

No 7 Son

No 8 Son

No 9. Son

No 10. 2d Son

No 11. 3d Son

No 12 Son

No 13 Son

No 14 Son

No 15 Son

No 16 Son Soorapareng.

No 17. Son

No 18 Son

No 19. Son Soorapareng. Last living.

No 20 Son Living

No 21. Son living

No 22 Son living

No 23 Son Soorapareng. died 2. s/p

No 24. Son aged 4 years. Died -

No 25. Ws Widow Jagamah. died.

No 26 2d Son

No 27. 3d Son

No 28 Son

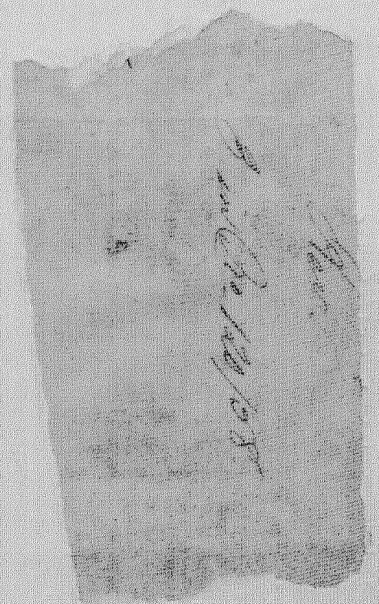
No 29. Son

No 30. Son living.

Her half brothers are the 1st 2d & Defendants, who now is in possession of the Curnum Irrespe rights -

No 3. It would appear that the Plaintiffs No 26 & 27, and the widow No 25 are descendants of two brothers No 2. and 3. of the one and same family. These two brothers having divided their Estate and lived separate, the Curnum Merapse right which fell to the share of the No 3 descended to his Son, and so on to the Widow No 25. The widow having died the Curnum Merapse should, under Hindoo Law, descend or go to the sons No 26, 27. & 23. the Principals Assistant Collector decided, and not to the Defendants who are brothers to the widow No 25. as supported by the Collector and Board of Revenue.

Sworn before me



(2)

Read original Petition of 1792
of 1857 from Pantabundla Varasaraz
& Veeraz of Polapurty in Jurisdiction
Palook in the Vizagapatam District

1 The Board concur in
the view taken of this case by the
Collector.

2 The present incumbent
was appointed Curnum by the Zemindar
in 30 in contention of his supporting the
widow of his predecessor and paying
her debts, and although formal
sanction appears to have been given
to this arrangement, intimation of
the appointment was sent to the
Collector and the Curnum entered
upon his Office & has continued
to hold it ever since or for a
period of 77 years.

3 Without waiving the
question of the applicability of
the statute of limitation to a
claim

claims for services [illegible], which is at least a doubtful point, the Board consider the length of time Baptiste has been in possession of the Office on his own right is a strong reason for recognizing him as rightful Claimant, and that the very slender link of relationship which exists between Petitioners and Baptiste Ruly the late incumbent affords but little support to the claim they now put forward to be placed in possession.

Ordered that Copy of the above Proceedings be forwarded to the Collector for his information and for communications to the parties.

Rec'd Br. Office } Sd/ J. Forbes
Fort St. George } Ag. Sub Secy
10 Sept. 1827 } A True Copy
Sd/ J. Forbes
Ag. Sub Secy

[illegible]

[illegible] opinion was made as to their authenticity through the Collector

(2)

Copies of Decree of the Collector of Trichinopoly

In this Case two Parties styling themselves Baptiste Savarimuttu and Baptiste Arokiaraja claim a Sum of Rupees 11 to the credit of Pooliapanty or Kayarvarum Mottah in the Pergunnah of Coonjaveram the last incumbent of that Pooliapanty

That more than 40 years ago Kayarvarum Pooliapanty was an Village of Kayarvarum Estate owned by the late G. F. Savarayaroa Nayer

Savarayaroa Nayer on the 22d December 1802 addressed a letter to the then Collector stating that after enquiry he had ascertained that no Head to the office existed, except at Segamook, the

[illegible]

[illegible] of Soorapurmeze the Karyama [illegible]
At her request had mamlooled the widow's
Nephew (her brothers son) on the condition
that he would support her and during
life. Narain Rau requested that this pro-
vision should be sanctioned and the name
of Rayaneapa Bafanah entered in
the list of Pensions in the C. Pleadings
Custody.

It does not appear that any official
answer was given affirming of the decision,
at least none is forthcoming, but Bafanah
assumed the office, and both professed the
arrangement to be without dispute.

The matter so continued
till 1827, when one Gopalrao Chellapah
presented a petition claiming the Karnamik
and the property of the family to the exclu-
sion of Soorapurmeze. Narain Rau appeared
on the 29th June 1827.

The claim of Gopalrao and his adherents
was founded on Jogeppa's death, most im-
portant

questions was made as to their authenticity through the head officers, reported upon on 18th September and 6th Nov. 1851.

The evidence produced for the Respondents and Mary Payne. The relationship to Soorapurmeze was very slight and they claim to be descendants of a grand father's brother, but the witnesses produced state that mourning and other family ceremonies were observed equally in the two families of Chelamick and Soorapurmeze. The Defendant Rayaneapa Bafanah's witness deny this statement & in fact called many witnesses to show that the family of Complainants did not perform the funeral Ceremonies of Soorapurmeze of his widow.

The Court Lay great weight that on authentic since session till 1856. 4th November, when the Principal of the Mahratta received the whole record.

Having considered Respondents question fully, held that as descendant of the family of the Inamdar must be decided the Mahratta stated the present incumbent was Gomastah of the inamdar, and must of opinion that as the present claimants had produced their [illegible] 1827, they were in enjoy secured by the [illegible] limitation.

Attested with these comments

directed that for the purpose of ascertaining the appearance of the Ground the Complainants Son appeared before the Commissioners and that the Commissioners were satisfied that the Complainants Son was the person described in the Complainants Bill as the Son of the deceased Soorapparauze

From the above circumstances and the Petition having been considered it would seem that there are sufficient grounds have been shown for distributing the funds in question of the Deceased. We therefore recommend that it is necessary that a regular Commission should be granted for the purpose of ascertaining the Heirs of the deceased Soorapparauze and distributing the funds in question of his property in this case the Commissioners appointed the fourth November Current as per Board's order the year 1850. The Complainants made no Demurrer on the matter till 18th May 1854 when they joined in the same Petition together these Claims seemingly made apparently supported by the evidence produced to prove their respective kindred to the late Soorapparauze

The Court resolves therefore to withhold the further payment of the Property belonging to the deceased Soorapparauze from his Heirs the Complainants pending their Claims they will then receive such Consideration as

10th June 1857

Ellis
Grant
Lee

Ellis
Grant
Lee

Extract from the Proceedings of the Court of Requests held at the Court House in Seringapatam

Complainants
Vaitalinga Chinnaraya & Payaradapa Parapanna
& Doo Seeranga & Doo Ramaranga

Defendants

Formerly there was a certain Soorapparauze who died in the year 1827 aged 4 years. He Soorapparauze died intestate till the 29th June 1849. He left from the date of Soorapparauze's alleged death till his widow's death Rupees 1 & 0 Pankanna her half brother was allowed by the Government to enjoy the privileges of the Commissioners Office in consideration of his paying the debts and recovering her viewing them therefore as her deputy. there was no objection to the Government arrangement, but the question

question to be decided in the Cause, is
who is to be Tenant and enjoy the Pro-
perty Lord Cromarty, forgamah is dead.
The Estate passed into the Government
hands on 5th December 1849 by sheriffs
from the Commissioners. The Plaintiffs Counsel
accept a Rent to Hoorn Farmage, accord-
ing that Sogarmah as tenant had only
a life interest in the office and its Emo-
luments, & on his decease had not Pro-
vided to a Fee proprietary right of inhe-
ritance and at her death, her heir
the next heir of the person from whom
the received it.
The Defendants Claim is recommended
by the Commissioners, and is accepted by
Sogarmah in consideration of her Main-
tenance and debts being paid, and
moreover they admit that Defendants
are the Relations of Hoorn Farmage.
The Rule is very positive that the
heir of the preceding Tenant must be
selected by the Commissioners authority
provided he is eligible and capable
of

(21)

discharging the duties and the appoint-
ment of any other is in itself illegal &
void. Consequently neither the re-
commendation of the Commissioners
Concurrence of the deceased's Cummun
Orum confers any right on Defendants
Land and cannot possession must be
decided from the date of Sogarmah's
death in 1849. The Plaintiffs
Claim is not barred by the
Law of limitation his first com-
plaint is dated 20th August 1847.
The question is who are those par-
ticular heirs according to Hindoo
Law, his children having died suc-
cessively to the death of his Son
that Son, whose great grand
grand father had died descendants
alive appeared clear and although the
family are divided they are heirs
in preference to Defendants and
here it may be remarked that
the

the Defendants may have performed the funeral rites. the act of performing does not give any title to the Succession if the Defendants were not the proper persons to do so and the non performance by Plaintiff of any or all the disagreeable according to their religious creed, would not bar their Civil rights it is proved that when he held to take part in the funeral ceremonies they refused

the Principal Assistant Collector is of opinion that Defendants title to the Common Office and emoluments is utterly bad, and if sanctioned these offices would go to families of another name to that entered in the Public accounts. which never

never yet have been allowed, but on the subject of dereliction of one so replete with contradictory opinions & abdications as the Defendants have been in engagement for many years and will be many unwilling to relinquish their possession the Principal Assistant Collector will give them ample time to shew such must get their rights considered by higher authority. The Principal Assistant Collector orders that

that proclamation be made
requiring all persons who have
better claims than Dan Griffith
as heirs of Soorapaingee to
appear within one Month and
prove their Claims aforesaid
else the Defendants will be
ordered to remain over the Office
& Lands to the most eligible
heirs that may be then selected.

15th October 1806

Vizagapatam
Revd. Kutcherry
4th November 1806

Sig'd J. J. Thorp
P. A. Coll.r

True Copy
Signed J. J. Thorp
P. A. Collector

No 2
Ext

Fol. 2957 - f. 537.

In Ritchelli Iterazy.
and Verazy. Polapity
in dispute Pattah
Vizagapatam —

Appeal & Petition
the decision of the Collector
Pt. of Chicacole Zyllah
Pt. claim & a Claim
Pt. claim & a Claim
"Heerandi: a Pt. of
tion & the deceased late
incumbent.

Pt. claims the Ceremonial
Office of Poligary in
Sungaram District —
in Vizagapatam — on
the Death of the late Incumbent
Somla Raz. who died in
1825. and which Office has
since been discontinued
by Government in consequence
of Regulation Banjarah &
Collection of Assessment in lieu
of Peishcush —

in part of the case
as stated.

In 1825. Somla Raz
who appears to have inherited
the Office, and in 1830
the Zemindar deprived &
the Office for having
been concerned in the Murder

In 1850. the Parliament
passed the first decision in
the case.
The Lords Justices
unanimously
that consequently Benjamin
Lord Stanley &c. &c. &c.
is duly elected.
But a petition for appeal
under the proclamation
dated within the
proper time.
After that. Benjamin
was declared duly elected
and took his seat.

In 1851. the Cobden
appeal. Edward Pearce
petition. Sitting Member
Lord Castlereagh
Same case appeal
petition, Lord Eustace
Cecil Conservative
Majority.

The Manchester Act
for the more effectual
Registration. Proclaimed 1852
and further enacted
after 1st July

In 1853.
the Parliament commenced

(121)

the Session of the Lords
Justices declaring
Lord Stanley duly elected
and no petition having
been presented within the
proper time. Writ issued
for Bamford
rendered void by
the Act of 1850.
Two decisions
of the Lords Justices
appeals 2 Sept. —

Writ issued
for the Borough
of Clare claimed
Lord Castlereagh
petition presented
by Mr. Bagwell
Sitting Member
Lord Castlereagh
Mr. Bagwell

L: B.7 C. Fol.
Lage 124. Forstschlag.

L: B.7 C. Fol.
Lage 296. Forstschlag No 4

Revenue Dept.

No 121

Extract from the Minutes of Consultation

Under date the 28th January 1858

Read the following

Petition from

Mahadeo Shivaram

and Veeraraj of Dale-

-part in Devanelly

Taluka Vingurla-

Letter dated 11th December 1857

from Government

Secretary communicating for

Revenue purposes a letter

Collector dated 5th ditto

forwarding with the opinion

of the Collector and

Joint

Board of Revenue &c.

Relating to Persons who

Proceed Overland from

this Office for Appointments

in Bengal &c &c

Read

Referred to the Secretary's Office

for Bengal Establishment

Read

Referred to the Secretary's Office

for Madras Establishment

(121) Back

Revenue 1808 Depart.
De la Cha. 3d. February

No 121.

Colonel Hall of Cha.
Dy 28th January 1808.

Tom. B. Pain 17th Foot
Cn 2457

Cn 31 P 22.

Intimating that the
Govr are unwilling to interfere
with the decision of the Collectors
of Cogapatam and Dy of Chr
directing to remove the present
incumbent from the Office of
Canam Moraly in Chinnapatty
Talook of this above District and
the Petitioner claim to succeed
to the Office, will be considered
when it becomes a vacant