

Revenue Department

Minutes of Consultation

23rd Feb 1858

Book No. 4 1448

Order No. 237 of 23rd Feb 1858

27

Fort Saint George, Revenue Consultation of 23d February 1858.

No. 47. Read the following Extract from the Proceedings of the Board of Revenue ; dated 4th February 1858, No. 493.

Read the following letter from CLEMENT DALE, Esq., Government Pleader Sudr. Udalat; to GORDON S. FORBES, Esq., Secretary Revenue Board, dated Madras 2nd February 1858.

SIR,

Para. 1. With reference to the Proceedings noted in the margin, I have the honor to report for the information of the Board that I have carefully perused and considered the whole of the papers forwarded to me with reference to the O. S. No. 9 of 1857 on the file of the Civil Court of Madura, as also the several papers connected with the O. S. No. 3 of 1853, on the file of that Court and the A. S. No. 66 of 1857, in the Sudr Udalat, and I now forward for the consideration of the Board the form of an answer which I think it desirable should be put in on behalf of the Defendant.

2. With reference to the 1st ground raised in the 7th para. of the answer I would remark that that question is raised by one of the claimants to the property, but that at present I have not been able to find any dictum whereon such a position can be supported nor so far as I can see has the question ever been raised ; I however see no objection to it's remaining in the answer.

IN THE CIVIL COURT OF MADURA O. S. No. 9 of 1857.

Poradavardane Natchear Zemindar of Ramnad and guardian and adoptive mother of the minor Moottoovejia Ragoonada Moottoo Ramalinga Saithoopady. Plaintiff. Versus. R. J. SULLIVAN, Esq., Acting Collector of Madura. Defendant.

The answer of the above named Defendant to the plaint filed in this suit.

I. This Defendant not confessing or acknowledging all or any of the matters or things to be true as in the said plaint are mentioned and set forth for answer thereto saith.

II. He submits to the judgment of this Honorable Court that the suit is improperly brought by or in the name of the above named Plaintiff, she having no such interest in the subject matter submitted for the decision of your Court as entitles her to the relief prayed.

III. He further submits for the like judgment that if it were intended or it be sought by such suit to establish any alleged rights of Moottoo Ramalinga in the plaint named, the suit should have been brought in his name, and if the said Moottoo Ramalinga were a minor at the time the suit were instituted then that the suit should have been brought in his name by his guardian legally and duly appointed.

IV. This Defendant however believes the fact to be that the said Moottoo Ramalinga was not a minor when the said suit was instituted, but that he was then in the 20th year of his age. The Plaintiff having represented the said Moottoo Ramalinga to have been of the age of 9 years in the month of May 1847.

V. This Defendant further submits to the like judgment that any opinions expressed by former Collectors or by Government on ex parte Statements laid before them are not binding either on your Honorable Court or on the Government. He therefore submits that paras. 2 and 3 of the said plaint are impertinent and need not be further answered by this Defendant.

VI. This Defendant further submits as a question of law for the judgment of your Honorable Court that the alleged adoption of the said Moottoo Ramalinga by the said Plaintiff (if a form of adoption were really and in fact made which this Defendant does not admit) was made contrary to and not in conformity with Hindoo Law.

VII. This Defendant submits (amongst other reasons) 1st, that if the property in question be ancestral family property of her deceased husband then the Plaintiff even with the consent of

பாடுகாப்பு பிரிவு-1

செய்யுதலுக்கே பெயர்:

செய்யுதலுக்காக எழுதல்-
கொள்வதில்லை நான்

செய்யுதலுக்கே
பெயர் கொடுக்க
கொள்வதில்லை

செய்யுதலுக்கே
பெயர் கொடுக்க
கொள்வதில்லை

செய்யுதலுக்கே
பெயர் கொடுக்க
கொள்வதில்லை

Fort Saint George, Revenue Consultation of 23rd February 1853.

her husband and relatives could not by Hindoo Law adopt; 2ly, that if it should be decided that the property in question were not the ancestral family of the deceased husband and that the foregoing objection is not well founded then that such alleged adoption by the plaintiff was invalid, the consent of her deceased husband or her relatives not having been previously obtained.

VIII. This defendant denies that if the allegations contained in the 4th para. of the plaint were true (which this defendant does not admit to be the case) such circumstances would not according to Hindoo Law entitle the said Mootoo Ramalinga to succeed to the Zemindary as is in that 4th para. alleged and he prays, the judgment of your Honorable Court thereon.

IX. This defendant moreover submits to the judgment of your Honorable Court that this suit would not have been cognizable by your Honorable Court even if the adoption were valid and the suit had been brought by or in the name of the said Mootoo Ramalinga in as much as he has no present interest in the said Zemindary, and never may have any such interest nor may any cause of suit arise, and this defendant submits to the judgment of your Honorable Court that it is inconsistent with the principles by which Courts of Justice are guided to adjudicate on interest which are claimed as mere contingencies and expectancies.

X. And this defendant submits that there is not any other matter in the said plaint material or necessary for him to make answer unto and not herein well and sufficiently answered or denied and he humbly prays to be hence dismissed with his reasonable costs and charges in the behalf most wrongfully sustained.

A copy of the above letter, with the original draft prepared by the Government Pleader, will be forwarded to the Acting Collector of Madras, with reference to the Board's Proceedings dated 15th January 1853.

2. Copies of both documents will also be submitted to Government for their information.

(A true Extract and Copies.)

(Signed) G. S. FORBES, Secretary.

No. 48.

ORDER THEREON, No. 237; dated 23rd February 1853.

Ordered that the foregoing Extract be recorded.

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

Revenue Department.

1853

Extract from the Proceedings of the Board of Revenue, dated 15th January 1853.

W

From Colonel R. B. Eg. Government Pleader, Fort St. George,
To Order, J. Forbes Esq. Secretary Revenue Board.

Sir,

Foras With reference to the proceedings in the margin I have the

honor to report for the information of the Board that I have carefully perused and considered the whole of the papers forwarded to me with reference to the O.S. No. 9 of 1852 on the file of the Civil Court of Madras as also the several papers connected with the O.S. No. 3 of 1853 on the file of that Court and the A.S. No. 66 of 1852 in the Sub. Appeal, and I have for and for the consideration of the Board the form of an Revenue which I think is desirable should be put in on behalf of the Government.

Worth

Well I refer to the reasons given
 in the 7th page of the answer. I would remark
 that that question is raised by one of the
 demands of the plaintiff but that at present
 I do not feel able to find my decision
 that such a question can be supported
 in the law. I am so here the question
 was then raised. However so no objection
 to the remaining in the answer.

Respectfully
 I have the honor to be
 Sir, C. Oak
 Chas. H. H. H.

In the Court of the District
 Oct. 11th 1847.

Plaintiff
 The undersigned of the above named
 Defendant to the plaintiff filed
 in this suit.

Defendant
 The Defendant not confessing or
 acknowledging all or any of the matters or
 things to be true as in the said pleadings
 mentioned.

The Defendant not confessing or
 acknowledging all or any of the matters or
 things to be true as in the said pleadings
 mentioned.

mentioner and set forth for answer that to wit
 II. The subject to the judgment of this
 Honorable Court that the suit is improperly
 brought by or in the name of the above named
 Plaintiff, the having no such interest in the
 subject matter submitted for the decision
 of your Court as entitles him to the relief prayed.
 III. He further submits for the like judgment
 that if it were established as it has been
 by such suit to establish any other right
 of the said Plaintiff in the said name
 the suit should have been brought in his
 name, and if the said Plaintiff Plaintiff
 were a minor at the time the suit was
 instituted then that the suit should have
 been brought in his name by his Guardian
 legally and duly appointed.
 IV. This Defendant however believes the
 fact to be that the said Plaintiff Plaintiff
 was not a minor when the said suit was
 instituted but that he was then in the
 20th year of his age. The Plaintiff however
 represented the said Plaintiff Plaintiff to
 have been of the age of 9 years in the month
 of May 1847.

V. This Defendant further submits to the like judgment that any opinions expressed by former Collectors or by Government on Cinchona statements laid before them are not binding either on your Honorable Court or on the Government. We therefore submit that paras 2 and 3 of the said plaint are impertinent and need not be further considered by this Defendant.

VI. This Defendant further submits as a question of law for the judgment of your Honorable Court that the alleged adoption of the said Mios Mios Ramalinga by the said Plaintiff (if a form of adoption were really and in fact made which this Defendant does not admit) was made contrary to and not in conformity with Hindoo Law.

VII. This Defendant submits (amongst other reasons) that if the property in question be ancestral family property of the Occasional Husband then the Plaintiff even with the consent of the Husband and his relatives could not by Hindoo Law adopt a son. That if it should be decided that

the property in question were not the ancestral family of the Occasional Husband and that the foregoing objection is not well founded then that such alleged adoption by the Plaintiff was void of all legal effect and that the said Plaintiff is to be held to have been previously satisfied.

VIII. This Defendant denies that if the adoption contained in the 11th para of the plaint were true (which this Defendant does not admit to be the case) such circumstances would not amount to a Hindoo Law within the said Mother Ramalinga's consent to the Plaintiff as is in that 11th para alleged and he prays the judgment of your Honorable Court thereon.

IX. This Defendant likewise submits to the judgment of your Honorable Court that this suit would not have been cognizable by your Honorable Court even if the adoption were valid and the suit had been brought by or in the name of the said Mother Ramalinga inasmuch as he has no present interest in the said property and even if he may have any such interest now or may acquire

of suit arise, and the Defendant submits
to the judgment of your Honorable Court
that it is inconsistent with the principles
by which Courts of Justice are guided to
adjudicate on matters which are claimed
as mere controversies and disputes.

And the Defendant submits that
there is not any other matter in the said
plaint material or necessary for him to
make common with, and not have well
and sufficiently answered or denied and
he humbly prays to be taxed and satisfied
with his reasonable costs and charges in
the behalf most wrongfully sustained.

A Copy of the above letter
with the original draft prepared
by the Government Pleader, will
be forwarded to the Acting Collector
of the above, with reference to
the Board's Proceedings dated 15th
January 1855.

Copied

2. Copies of both documents will
also be submitted to Government for
their information.

(True Extract Copies)

E. D. Jones
Secretary

To

H. J. Jones Esq.

Actg Secretary to Government

W. C. Jones Esq.

Copied

(1)

Dec 17 24 1853 / 1854

Com. S. C. 1853
at 10:00 AM

From the U. S. & A. 1853
Dec 21 1853 by A. H. 1854

Dec 24 1853

Received 1853 / 1854
Dec 21 1853

Contract from the
Board of Prisoners
of the State of Ohio

Dec 24 1853
Dec 21 1853

Dec 24 1853
Dec 21 1853

Information & letters
from the Government
of the State of Ohio
of an answer in U. S.
of 1853 on the part of
the Civil Court of Prisoners
from the State of Ohio
Dec 21 1853

Dec 24 1853

To be received

Dec 24 1853