

MADRAS RECORD OFFICE.

Government of Madras.

Revenue

DEPARTMENT.

G.O. No.

1167

Press
Mis.

Dated

2nd September 1859.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
from 27th August to 2d September 1859.*

No. 32. Read the following letter from J. D. SIM, Esq., Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government Revenue Department; dated 24th August 1859, No. 3332.

I am directed by the Board of Revenue to submit, for the consideration and orders of Government, the accompanying letter from the Collector of Madura, dated 12th August 1859, forwarding the pleadings in the suit noted in margin, in which the eldest son of the Poligar of Pooliencolum seeks to oust his father from the possession of the estate, on the ground of his incapacity to manage its affairs, and to have himself installed as his successor.

Civil Court of Madura O. S. No. 2 of 1857.
Plaintiff.—Mootoomadava Naicker, son of Shunmoogamadava Naicker by his first and lawful wife, residing at Pooliencolum in the Zemindary of Pooliencolum in the Trinungalom talook

In Con. 17th Aug. 1859, No. 4111.

versus.
1. Shunmoogamadava Naicker of Pooliencolum (Zemindary).
2. Veerasinoo Ummaul alias Pereavallayumal, younger wife of the 1st Defendant.
3. Owloo Chinnama Naicker, father of the 2nd Defendant.
4. His son Mootoomadavanna Naicker.
5. Vullymootoo Nadan of Shippeepaury in the talook of Sangerainar Civil in Tinnevely district.

ing letter from the Collector of Madura, dated 12th August 1859, forwarding the pleadings in the suit noted in margin, in which the eldest son of the Poligar of Pooliencolum seeks to oust his father from the possession of the estate, on the ground of his incapacity to manage its affairs, and to have himself installed as his successor.

*From Collector 2d April in Con. 9th May 1853.
Board's Proceedings 9th May 1853.
From Collector 6th Oct. in Con. 10th Nov. 1853.
Board's Proceedings 10th November 1853.*

2. Some years ago the present Plaintiff preferred an application to the revenue authorities, with the view of having the estate taken under management of the Court of Wards, on similar grounds; but the Collector having reported that the peishcush was but slightly in

arrears, that there was not much room for misappropriation, and that the ryots were satisfied with the management of the Poligar, who they said conducted his business personally, the Board of Revenue stated that they saw no reason for their interference as a Court of Wards.

3. In his present communication the Collector states that he entertains some doubt whether the Civil Court is competent to determine the point of incapacity of the Poligar to administer his own affairs, such power appearing to him reserved by Regulation V. of 1804 to the Court of Wards established for this very purpose.

4. As regards this point the Board would remark, that as the Plaintiff appealed for the interference of the Court of Wards in the first instance, without avail, there would seem to be no objection to his now bringing the matter before the Courts of Adawlut. Should the imbecility of the present Poligar be established to the satisfaction of the Civil Court, it would then have to be determined how the property should be managed during his incapacity, and whatever the decision might be, the interests of Government would in no way be affected, as their rights could be secured under whatever management the estate might be placed.

5. But there is another question connected with this estate to which the Collector draws attention. Pooliencolum is an unsettled Zemindary, and by the decrees of the Sudder Adawlut noted in the margin, the right of determining the succession to such properties is vested in the ruling power, which decides to whom possession should be given.

*From Collector 2d in Con. 6th April 1859.
Board's Proceedings 8th April 1859.
From Collector 7th in Con. 11th March 1859.
Board's Proceedings 11th March 1859.
From Collr. 31st May in Con. 16th June 1859.
From „ 27th July „ 9th Aug. „
Board's Proceedings 9th August 1859.*

6. On a recent occasion the Collector of Madura, with the concurrence of the Board successfully resisted the sale of an unsettled polliem, on the ground that its transfer by purchase would invade the rights of Government, and establish fresh claims and interests adverse and antagonistic to those of Government. The correspondence which passed on the subject is herewith submitted for the information of Government.

7. In the case now reported on, the Plaintiff, it is true, seeks to be put in possession of the estate, but the Court cannot deal with the question of succession during the life time of the present Poligar. The only matter which the Court can possibly take cognizance of seems to be the capacity or incapacity of the owner to manage his own property, and if the latter be proved, the manner in which the property shall be administered during his incapacity for the benefit of those interested in it. The interference of Government is not, therefore, specially called for. The Board propose, therefore, to instruct the Collector to desire the Government Pleader in the Civil Court to watch the proceedings on behalf of Government, and should the right of succession be in any way involved, to request immediately that the Government may be made a party to the suit. The Collector will then have an opportunity of pleading the rights of Government, but it would seem premature for him to take any action in the present stage of the proceedings.

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8. The Collector will be instructed to report the result of this suit in the usual course.
(A true Extract.)

(Signed) J. D. SIM, *Secretary.*

No. 33.

ORDER THEREON, 31st August 1859, No. 1167.

The Government approve of the instructions which the Board propose to issue to the Collector in the case reported.

(Signed) J. D. BOURDILLON,
Secretary to Government.

[Handwritten notes and signatures]

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