M.P.O. 14—10,000—21-6-22.

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No. 1400 Press ~~His.~~

Dated October 13, 1859.

91-92

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, from 5th to 21st October 1859.

No. 91. Read the following Proceedings of the Board of Revenue, dated 7th September 1859, No. 3886.

Read letter from the Collector of Malabar, dated 19th July 1859, No. 181.

(In Con. 27th July 1859, No. 3737.)

The Board of Revenue resolve to submit, for the orders of Government, the above letter relating to the succession to the property of certain Numbiddy Brahmins deceased without natural heirs.

2. Mr. Grant proposes to claim it as an escheat to Government; but the Board observe that in a decree now under appeal to Her Majesty in Council, the Court of Sudr Udalut declared that the property of a Brahmin can never escheat to Government by default of heirs, and while this decree stands it would bar the claim of Government in the present case.

Decisions of the Sudr Udalut for 1858, *page* 99.

(A true Extract.)
(Signed) W. HUDLESTON, *Acting Secretary.*

No. 92. ORDER THEREON 13th October 1859, No. 1400.

Before passing orders on the question referred in these proceedings, the Government desire to be informed as to the parties who have been and are at present, in enjoyment of the deceased Numbiddies' own property and of that belonging to the Pagoda. The property is of large amount, and cannot, therefore, have been left uncared for during the many years that have elapsed since the demise of the Numbiddies.

(Signed) T. PYCROFT,
Chief Secretary.

No. 3886.

PROCEEDINGS of the BOARD of REVENUE, dated 27th September 1859.

Read letter from the Collector of Malabar, dated 19th July 1859, No. 181.

(In Con. 27th July 1859, No. 3737.)

The Board of Revenue resolve to submit, for the orders of Government, the above letter relating to the succession to the property of certain Numbiddy Brahmins deceased without natural heirs.

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Decisions of the Sudr Udalut for 1859, page 99.

(A true Extract.)

Acting Secretary.

To

T. PYCROFT, Esq., Chief Secretary to Government.

Copy to Collector of Malabar.

In Con. 27th July 1859, No. 3737.

From P. GRANT, Esq., Collector of MALABAR,

dated Calicut, 19th July 1859, No. 181.

I have the honor to submit for the consideration and orders of the Board the following case:—

2. Two individuals named as per margin died without heirs, many years ago, leaving property to the value of Rupees 40,180. This should escheat to Government, and I may mention, that the late Mr. Conolly as well as Mr. Robinson was of this opinion.

1. Chathotath Numbiddy.
2. Koomoolly Numbiddy.

3. The property consists of lands and gardens, which are all held by tenants under various titles.

4. The deceased were also "Oorallers" or proprietors of a Pagoda in Cartenaad, denominated "Iringanoor Chetrom," with an endowment in land now valued at Rupees 1,31,639-12.

5. This property should be placed in trust of such parties as may be selected for the charge, the duty of appointing trustees to the institution resting entirely with the Government authorities.

6. In a suit preferred so far back as 1803, before the former Zillah Court in North Malabar, by one* of these Oorallers then living, in conjunction with the "Karallers" or managers of the Pagoda, against the Cartenaad Rajah, for the cancelment of a purchase which the latter had made, for a price below its actual value, of certain property belonging to the other Ooraller, who was insane at the time; they alleged that the property of the Oorallers dying without heirs, should devolve of right on the temple, and pretended to the power of adopting a person into the family of the insane Ooraller by virtue of such right.

* Koomoolly Numbiddy.

7. In the Zillah Court's Decree, the purchase made by the Rajah was pronounced null and void, and the Plaintiffs' pretensions to the power and right just adverted to, were, inferentially, recognized. But such parts of the decision as contained this recognition, were, on appeal, wholly annulled by the late Provincial Court of the western division. They declared* that "the Zillah Decree admits and confirms the rights of the Iringanoor "temple, in the estates of Chathotath Numbiddy, and the power of "the managers to adopt any person into the Stanom, to the exclusion of the wife and children. These "rights and this power not being in any wise proven or established by the pleadings, and adverting to "the circumstances of the party principally affected, viz., the Chathotath Numbiddy, his wife and "children, not having had any opportunity of opposing their rights, which by consequence renders the "whole an exparte proceeding.

* In a decree dated 5th January 1803.

"Resolved that Respondents have not made good their assumed rights and interests in the estate "of Chathotath Numbiddy, and therefore that such parts of the Decree which go to admit the same be "annulled."

8. About 25 years after the passing of this Decree, one of the two Karallers then existing, brought an action* against the Pattally† and Accountant of the temple, as well as the other Karaller, before the late Auxiliary Court of Tellicherry, claiming the production of accounts, and the payment of net income of the institution, which had been in arrears for 11 years, and praying for the dismissal of the Pattally from his office.

* No. 2 of 1834.

† A person collecting the rents, and defraying the expenses of the Pagoda.

9. In their answers, two of the defendants, (Pattally and accountant), made allegations to shew that the Rajah of Cartenaad possessed some right over the temple—one of them, the Pattally, asserting that he held his appointment by virtue of a tharaga, or writing, from the Rajah; and the other, that that appointment was, under the orders of the Rajah, conferred by the Ooraller and Karallers of the Pagoda. These assertions necessarily led to the inclusion of the Rajah as a supplemental defendant in the case.

10. The Pundit Sudr Ameen, the Hindoo Law Officer of the Court, who investigated the suit, dismissed it, on the ground that it was apparently the offspring of collusion between the plaintiff and the defendants to have certain rights, which they did not really possess, secured to them by a decree of Court.

Nothing indeed could be clearer than the fact, that in utter disregard of the spirit of the Zillah Court's decision above adverted to, which declared that the Cartenaad Rajah had no particular right to the Pagoda, a declaration impliedly confirmed by the appeal decree of the higher Provincial Court, the Rajah, in concert with the Karallers, &c. of the Pagoda, appointed the Pattally in question, in defiance of a notice issued by the same Zillah Court in 1811, by which it was patent that such appointments rested with the Government, as the "Mel Koyma," or sovereign authority of the country.

11. The Sudr Ameen, under such circumstances, could not but dismiss the suit, as a compliance with the prayer of the Plaint would imply an acknowledgment of the rights which they had thus im-

properly assumed. He declared it as his opinion, that a party should be appointed by Government to manage the affairs of the temple.

12. The Rajah appealed* to the Auxiliary Court against the Sudr Ameen's judgment, contending that the Pagoda was his own property, and that he alone possessed the right of appointing and removing the Oorallers, Karallers and Pattally of the temple. But the Court dismissed this appeal with the following remarks: viz., "As the present "suit is not only for the dismissal of the Pattally under the rights contended, but also for every des- "cription of claim upon the Pagoda, an investigation should be entered into, and a decision arrived at, "as to the real claimant on the institution; consequently, it is necessary to prefer an action for the "amount value of the produce of the whole of the temporalities of the Pagoda."

* Under No. 40 of 1835.

"By the account drawn up by the Ameen appointed by this Court, the amount value of the entire "produce appears to be above 5,000 Rupees. This Court cannot, therefore, take cognizance of the pre- "sent suit, within the power vested therein."

13. The Rajah however, brought no action of the nature here pointed out by the Court. He would, in all probability, have done this, had it been possible for him to make out his case.

14. The notice quoted above shews explicitly, that the Oorallers and Karallers of the Pagoda, as well as the principal inhabitants of the place, had themselves applied to the then Civil Judge of North Malabar for the appointment of a Samoothayom* to the institution.

* A persons that collects the rents and defrays the expenses of the Pagoda, and signs all documents connected with its temporalities.

They represented that they were unable to carry on the duties relative to the temporalities of the Pagoda, and that the Circar should consequently as "Mel Koyma," appoint a "Samoothayom" for the purpose. Upon this representation, the notice was issued, in which they were required to nominate and send a person to the Court, with a view to his being appointed accordingly.

* The offices of a Samoothayom and Pattally are nearly similar.

15. Thus the right of Government to appoint persons to such offices* in the Pagoda was unquestionably recognized by its very Oorallers or proprietors. This renders it clear that the Rajah had no right of control over the institution. Even if he had possessed such right in former days, it must have ceased with his sovereignty in the country.

16. As regards his pretension to the ownership of the Pagoda, as shewn in his appeal to the Auxiliary Court, it is sufficient to refer to the Civil Decrees already in existence, to establish its utter baselessness. Moreover, in a deposition subsequently given by his vakeel, as well as in his own letter to the Collector, the claim advanced is of a far inferior type. All that is asserted is, that the affairs of the temple have continued under his management from a remote date, while, at the same time, it is plainly admitted, that he is not certain himself as to what right he possesess on it.

17. I trust the summary I have given of the case, will satisfy the Board that the property left by the deceased Numbiddies, is beyond all question escheatable to Government, and that the general superintendence of the property of the Religious Institution above adverted to, and of which the Numbiddies were the Oorallers or proprietors, should rest with us.

18. I therefore solicit the Board's authority to take possession of all the private property left by the deceased, and to place that appertaining to the Pagoda aforenamed, under the management of such trust-worthy parties as I may deem eligible for the charge as trustees.

19. In reference to the first mentioned property, I would also solicit the Board's instructions, whether it should be retained in its present state, in the hands of the various tenants now holding it, or disposed of in the mode observed in regard to the Betutnaad Rajah's escheat, viz., selling the jenm (proprietary) right to the tenants at favorable rates. The latter course is in my opinion the most desirable.

20. In respect to the property belonging to the Pagoda, I shall duly inform the Board of the names of the parties whom I may select as worthy of being appointed as trustees.

The Rajah of Cartenaad, as I have already shewn, has advanced claims which afford strong grounds for conclusion, that he cannot safely be entrusted with the charge of this property.

No. 1. 21. I enclose a statement exhibiting in detail the particulars of both properties.

Enc. 1.

Abstract.—Statement exhibiting the particulars of the property belonging to the Iringanoor Devasom (Pagoda) and the deceased Koomoolly and Chathotath Numbiddies, situated in the Cartenaad talook.

For Orders

Revenue Department No. 1846

Proceedings of the Board of Revenue 27 Sept 54

Submitting with the Boards observations a letter from the Collector of Malabar proposing to claim the property of certain Numbiddy Brahmins deceased without natural heirs as an escheat to Government

This should be referred to the Hon. the Governor—

The parties should merely be

No measure needed by the Collector as to the parties

at present the property and
of the Municipality Judicially or
of that belonging to the Payada
Municipality from 15 Lacks Rs =
2 Million to the Jolpamiers
of the Juvenile Judges of the
deceased Municipality — & to
hold such Trials & take Charge
to the Payada under charge
of Trustworthy persons as
Trustees — the Judges in ch
large accordant & related

Rec Jobs Jaca Lecce left for
Juvenj Jaca unheeded for I
would ask for Directions there
Tesabara Jocuti -

When Rec Jocuti Jaca Lecce
decided up - it will be time
enough for Jocuti to
decide, how they take act
the respect to the addition Judges
of the Juvenile Judicial Officers to the
of the Proceedings of the Board
of Trustees

dated 27th Sept 1859

W. Moreland

1859 Dispatch

Enclosure in Proceedings of the Board of Revenue to the Chief Secretary to Government dated 27th September 1859 No 3886.

P 1846/59

Letter from the Collector of Malabar to the Board of Revenue dated 19th July 1859 No 181. regarding the claim of Nambiddy Brahmins.

1859

Enclosed Despatch
a letter from
Chester of Malahon
dated 19th July 1859

No. 181
1859

P 1840/59.

No

Statement exhibiting
the Particulars of the
property belonging
to the Insurgents by
Donation of the deceased
Pagoda
Rockwally & Chakkotalli
Vambidies, situated in
the Cartenaad Talook

In Ltr 3/3/ of 19 1859

In Com 7 July "

91-92.

Rev. Dt 28 &

No 1400

Proceedings of the Madras Govt
Under date the 13th October, 1859.

Read the following Pro-
ceedings.

From the Board of Revenue
Submitting for orders
a question relating to the
succession to the property
of certain Numbiddi Brahmans
in Malabar.

Before passing
orders on the question
referred in these Pro-
ceedings, the Govt
desire to be informed
as to the parties who
have been and are,
at present, in enjoy-
ment of the deceased
Numbiddies

Numbiddies' own
property and that
belonging to the
Nagorda. The Pro-
ceeds are of large
amount and Com-
therefore, have been
left unclaimed for
during the many
years that have
elapsed since
the demise of the
Numbiddies.

J.P.

6 Copies. Boards of Revenue
Circ. 13

No 91+92

Revenue 1859 Septr.
Pro: of Govt. 21st October.

No. 1400.

Pro: of the Madras Govt.
Dy 13th Octr. 59.

Rec. of the Bd. of Rev. 21/18:
Jany 1860. C. Qs. 134. Covs:
20 Dy - 59-60 -

Information on the
question of succession to the
property of certain Nambiddi
brahmins in Malabar, called
for -