Revenue Department

No 345

Dated 17 — 3 — 1859

345

Fort Saint George, Revenue Consultation of 22d March 1859.

No. 14. Read the following Extract from the Proceedings of the Board of Revenue, dated 4th March 1859, No. 805.

Read letter from Acting Collector of Malabar, dated 10th February 1859, No. 25.

(In Con. 18th February 1859, No. 647.)

In Con. 18th May 1858. Resolved that the above letter be submitted to Government, with reference to the Board's Proceedings of 14th April last, under consideration in Extract Minutes Consultation dated 6th May 1858, No. 593, R. D.

2. In 1840 Mr. Conolly decided on paying the Malikanah allowed to the Karyat Numbiar family, to Koonjee Shungara Numbiar as its head, and he based his decision entirely on the interpretation he adopted of the decree passed in 1808 by the Sudder Court on Appeal, which in his opinion excluded the claim of the present Petitioner Coonhyoony Numbiar to be head of the family.

3. The Appeal Decree of the Civil Court of Tellicherry, and the Special Appeal Decree of the Court of Sudder Udalut have now decided that this interpretation of their former decree was erroneous, and they have upheld the present Petitioner in his asserted position, in which in fact as regards the family Estate he has never been disturbed since he succeeded to it on the death of his elder brother.

4. The facts of the case as they now appear are that two sisters Oomamah and Oopatty were adopted into the Kariat Pulloly family in default of heirs, that Oomamah's son Pydul Numbiar in course of time succeeded to the position of head of the family, and that after his decease the succession passed according to the peculiar law of inheritance existing in Malabar to Koongam Numbiar, the eldest son of the second sister Oopatty. This was in 1831, and between that time, and 1840, the date of Mr. Conolly's order, Koongam Numbiar who had meanwhile been declared by a decree of Court to be the undoubted head of the family died, and was duly succeeded by his brother [Koonhyoony] Numbiar the present Petitioner. The entire management of the family Estate was in his hands, and the Malikanah received by him up till 1840, when on the application of Oomamah Mr. Conolly directed payment of the allowance to be made to her grandson Koonjee Shungara Numbiar, holding that the S. U. decree passed in 1808, by the Court Sudder Udalut did not recognize the adoption of Petitioner's mother Oopatty. Koonjoony

5. The Court of Sudder Udalut themselves have now decided that this interpretation of Mr. Conolly's was erroneous, and that the adoption of *both* sisters had been recognized, and under these circumstances there can be no doubt, (as indeed Mr. Conolly himself admitted in his order must be the case) that Petitioner is the legitimate head of the family, and as such, according to the rules that have invariably guided the distribution of Malikanah allowances on that coast, is undoubtedly the person to whom it ought properly to be disbursed.

6. It is evident from Mr. Conolly's own decision that this would have been his own view of the case had he put on the Sudder Court's decree of 1808, that interpretation which the recent decree of the same Court shews to be the correct one, and the Board have therefore no hesitation in requesting the reconsideration by Government of their orders contained in the Extract Minutes Consultation above referred to, which they fear were mainly induced by the erroneous recommendation of the Board based on a less minute sifting of the facts of the case than has now been made.

7. The individual Shungara Numbiar in whose favor those orders were passed is dead, and the present recipient of the allowance is his younger brother Coonhee Rama Numbiar.

8. The Board request authority to the Collector for its future disbursement to the Petitioner Coonhyoony Valia Numbiar, declared to be the head of the family by the decree of the highest Court of Law in the Presidency.

(A true Extract.)

(Signed) W. HUDLESTON, *Sub-Secretary.*

No. 15. ORDER THEREON, No. 345; dated 17th March 1859.

In accordance with the recommendation of the Collector of Malabar, the Right Honorable the Governor in Council sanctions the disbursement of the Malikanah to Petitioner Coonhyoony Valia Numbiar, the recognized legitimate heir of the Karyat Numbiar family.

(Signed) W. C. SIM,
Ag. Dy. Secretary to Government.

IN CON. 18TH FEBRUARY 1859, No. 647.

From P. GRANT, Esq., Acting Collector of MALABAR,
dated Tanoor, 10th February 1859, No. 25.

I have the honor to forward a Petition* from Coonhyoony Valia Numbiar, the Head of the Kariat Pulloly Eddatil Tarwaad, addressed to the Board of Revenue.

* Dated 31st January 1859, with 3 Enclosures marked A. B. and C.

2. In submitting this Petition I would remark that by Extract Minutes of Consultation Revenue Department No. 593, dated 6th May 1858, it was decided that the Malikana should be disbursed to Koonjee Shangara Nambiar as head of the family. Without entering into the merits of the claims of the two parties, I will merely refer you to Mr. Robinson's letter (dated 27th January 1858, No. 13) in which they are clearly and fully set forth.

3. The present recipient of the Malikanah is Coonhee Rama Nambiar, younger brother of Koonjee Shangara Nambiar in whose favor the Government orders were passed and who died on the 4th January 1851.

4. It may be said that in passing orders in favor of the deceased, Government virtually establish the claim of his heir, but as the question is an open one, I venture to bring the matter forward (as requested by Petitioner) for such consideration as the Government may deem proper.

5. Government having once passed an order in favor of Koonjee Shangara Nambiar, it is with some diffidence that I give it as my opinion, that, that order is erroneous, and that it should have been passed in favor of Petitioner, who has been declared both on Appeal and Special Appeal to be the head of the family.

—

ENC.—1 Petition with 3 accompaniments.

Rev Depr

No 345

Extract from the Mins of Cons.
Under date the 17th March 185

Read the following
Extract from the Proceed
ings of the Board of
Revenue
Received under 4 March/59
No 505

In accordance with
the recommendation of
the Collector of Malabar,
the Right Hon'ble the
Governor in Council
sanctions the disbursement
of the Malikanah to
Petitioner Coonhyssony
Kalia Kumbiar, the
recognized Hereditary
Heir of the Karyah
Kumbiar family

3 Copies to the Bd of Rev Dept 18th with 5 Encls
" Accountant Genl
" Paml Auditor

Revenue 1859 Dep.tt.
Dº to Cons 22d. March.

Nº345.

Extract Mins of Cons:
Dd 17th March 59.

21.2
11-5-58

Sanctioning the dis-
-bursement of the Malikanah
to Petitioner Coulyoony Valia
Nambiar, the recognized legi-
-timate heir of the Kary-at
Nambiar family.

Nº14 & 15.