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M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1126	Press ~~Mis.~~
85-86	
Dated 9-7-	1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
9th July 1860.

No. 85. Read the following Proceedings of the Board of Revenue, dated 20th June 1860, No. 2,907 :—

Read letter from the Agent to the Governor at Vizagapatam, dated 28th April 1860, No. 492, reporting on the Government Petition No. 2,976 of 1859, referred to the Board by Endorsement under Section 28 of the Agency Rules.

(In Cons., 8th May 1860, No. 2,145.)

The Petitioners claim the restoration of a piece of land named Erungunti Varripollam in the village of "Fakír Sáhib Petta" granted to their father Síta Ráma Ráz in 1822, by the late Zamíndár of Vizianagaram on a favorable rent of Rupees 250, to be enjoyed by him and his heirs.

2. In 1842, this land was sold under a Decree of Court in satisfaction of Síta Ráma Ráz's debts, and was purchased, it is said, with money belonging to Sundra Narsaya the wife of the half-brother of Síta Ráma Ráz, *but in the name of another person.*

3. The Agent shows grounds for believing that the family was and is an undivided one, and that this purchase was for the benefit of the whole family.

4. In 1845, on the death of the late Zamíndár, all grants made by him were attached by the Collector as a temporary measure in the absence of the present Zamíndár, and in 1854 this particular piece of land was released from attachment by the present Zamíndár and placed in the possession of the half-brother of Síta Ráma Ráz (who had died in the interval) on the original favorable rent.

5. Petitioners had from their father's death lived as an undivided family under the guardianship of their uncle, their father's half-brother, and to them and their sister was restored on the release of the sequestered grants, the village of Baulaváda which had been bestowed in "Mukhása" tenure as a marriage portion on their paternal grandmother in 1806, at a favorable rent of Rupees 500, the Revenues of the village amounting to Rupees 1,748-6-0 at that date.

6. In 1856, Petitioners' uncle above-mentioned died, when Petitioners claimed the land now in question; but the Zamíndár objecting, made it over to Sundra Narsaya the widow of the deceased, with whose money it is said to have been purchased in 1842 and raised the rent to Rupees 350.

7. It is against this proceeding that Petitioners protest on the ground that the grant having been continued in its integrity by the present Zamíndár to their deceased uncle who was the head of the undivided family after their own father's death, it was not competent to him under the decree of the Sadar Court in Appeal Suit No. 6 of 1821, to resume it on that uncle's death, or to increase the rent; and further that their uncle's childless widow is only entitled to maintenance from them, and has by a Rázináma filed in the Suit No. 4 of 1857 on the Agent's file, which was instituted between them after her husband's death, renounced all beyond a life interest in a portion of the family property, leaving the reversionary interest in the whole to Petitioners who became responsible for their uncle's debts. This widow is the daughter of the present Zamíndár's mother's sister.

8. The Zamíndár has addressed a letter to the Agent which forms an enclosure to the letter above recorded, objecting to the Petitioners' claim on the grounds that the sale under the Decree of Court cancelled the rights of the original grantee's (Petitioners' father's) family; that the purchase by Sundra Narsaya was made with her own private money; that the restoration of the land to Petitioners' uncle in 1854, was made to him in right of his wife; that the land being included in the "Jeraiti," and not Inám, is not affected by the Sadar Court Decree cited by the Petitioners; that he was consequently competent to resume it on the death of Petitioner's uncle; that it was re-granted to the widow for her maintenance on an increased rent in consideration of her *near* relationship; and that Petitioners are otherwise amply provided for by their tenure of Baulaváda on light-rent, and their other property, they being *distant* relatives.

9. The Board infer from the concluding part of the Agent's letter, that he is disposed to support the Petitioners' claim; but they think that the whole matter is beyond their jurisdiction, and must be adjusted by the Agent in his Judicial capacity.

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10. The Decree of the Court of Sadar Ádálat in appeal Suit No. 6 of 1821, declares that alienations to the prejudice of the rights of a successor to an Estate are voidable on the determination of the interest of the person making the alienation, and under this ruling the question arises how far it was competent to the present Zamíndár to resume or alter on the death of Petitioners' uncle in 1856, the grant made by his father in 1822 to Petitioners' father, and renewed by himself in 1853 or 1854, to the half-brother of the original grantee, on the original favorable rent, but in somewhat different terms.

11. The Enclosure No. 3 in the Government Petition, which is a copy of the Sanad issued to Petitioners' uncle Nárayana Ráz on the renewal of the grant, contains no special provision to support or to preclude such an assumption on the part of the Zamíndár; the family were in possession; the evidence is decidedly in favor of the supposition that they were undivided, and that the purchase at the Court's sale was a family arrangement for the general benefit; the interest of the Zamíndár in the Estate has not determined, and under these circumstances the Board doubt whether the partial alienation made by the favorable lease can be arbitrarily modified or cancelled in the manner complained of by Petitioners to their prejudice as their uncle's next heirs, during the lifetime of the present Zamíndár.

12. But the question involved is essentially one for the decision of a legal tribunal; and the Board do not see that their interference can in any way facilitate its settlement.

13. These Proceedings will be submitted for the information of Government to whom the Government Petition No. 2,976 of 1859 will be returned, and an Endorsement will be passed on Board Petition No. 1,387 of 1860 on the Board's file, informing the Petitioners that their case is now before Government.

(A true Extract.)

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

No. 86. ORDER THEREON, 9th July 1860, No. 1,126.

1. In the foregoing Proceedings the Board of Revenue have given a concise and clear account of the facts of the complaint preferred by Jógi Jagannád Ráz and Venkata Patti Ráz against the Rájá of Vizianagaram.

2. The Government are quite of the Board's opinion that "the question involved is "essentially one for the decision of a legal tribunal." They have already in their Order of the 23rd June last, No. 1,034, decided, in a case very similar to the present, that redress must be sought at the constituted tribunals. In that case the actual possession was with the Zamíndár's opponent, in this case it is with his nominee; in either case the possession must remain as it is, and the opposite parties must seek redress in the Courts.

3. Ordered that the following endorsement be passed on Petition No. 2,976 of 1859:—

"The Government have received a report on the subject of this Petition from the Board of "Revenue, and on a full consideration of the claim put forward by Petitioners, decline to "comply with their request to be put in possession of the land referred to. The petitioners are "free to seek redress in the constituted Courts."

(Signed) C. G. MASTER,
Deputy Secretary to Government.

Rev. Dept.

№ 1126

Proceedings of the Madras Government

Under date the 9th July 1860.

Read the following Proceedings of the Board of Revenue.

Submitting for information with the Board's observations a letter from the Agent to the Governor at Vizagapatam reporting on Government Petition № 2976 of 1859 claiming the restoration of a piece of land named Erunguti Varripollam in the village of Takinalib Pettah granted to the Petitioner's father by the late Zamindar of Vizianagram on favorable rent to be enjoyed by him and his heirs.

(Here enter 28th June 1860 № 2907)

1. In the foregoing Proceedings the Board of Revenue have given a concise and clear account of the fact of the complaint preferred by Jógi Jagannád Ráz and Venkata Patti Ráz against the Rajah of Vizianagram.

2. The Government are quite

quite of the Board's opinion that "the question involved is essentially one for the decision of a legal tribunal." They have already in their order of the 23rd June last, No. 1034, decided, in a case very similar to the present, that redress must be sought at the constituted tribunals. In that case the actual possession was with the Zamindar's opponent, in this case it is with his nominee; in either case the possession must remain as it is, and the opposite parties must seek redress in the Courts.

3. Ordered that the following endorsement be passed on Petition No. 2976 of 1859.

"The Government have received a report on the subject of this Petition from the Board of Revenue, and on a full consideration of the claim put forward by Petitioners, decline to comply with their request to be put in possession of the land referred to. The Petitioners are free to seek redress in the constituted Courts."

C. J. W.

J. H. A.

"Copies to the Board of Revenue. Disp. 10
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Revenue 1860 Sept.b.
Pro: of Govt for July.

No. 1126.

Pro: of the Madras Govt.
Dt 9th July 1860.

Passing orders on a Complaint preferred by Jógi Jagannáda Rāz and another against the Raja of Vizianagaram and his Vizagapatam.

No 85 to 86.