M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	2027	**Press** ~~**Mis.**~~
	29. 30	
Dated	2 — 11 —	1860.

Not to be folded or roughly handled

No. 29. Read the following Petition from HANUMANTA RÁU, son of KISTNA RÁU residing at Cuddapah :—

Shows how the village of Sivalapalli in Cuddapah District having been granted to his father in 1805 on Jaghír tenure as a reward for services to Government has been usurped by another branch of the family under a Rázináma fraudulently entered into in 1819 by parties who had no right to alienate the said village, states that his right to it has been recognized by the Revenue authorities who placed him in possession thereof but that the Courts have given it back to his opponent contrary to the provisions of Regulation IV of 1831 and that his appeal to the Sudder has been of no avail.
Prays that on a consideration of the documents produced, the Government will order the village to be restored to him.

(Here enter 8th September 1860, No. 2,693.) omit

No. 30. ORDER THEREON, 2nd November 1860, No. 2,027.

1. This is a Petition from one Hanumanta Ráu who claims possession of a village in the Cuddapah District, on the ground that it was granted to his father by Government with a proviso that it should be enjoyed only by his descendants.

2. It appears that on the 7th June 1805 the Government of Fort Saint George granted the three villages of Etimapuram, Vukanampalli and Sivalapalli in Chitwél and Chinnúr Táluqs of the Ceded Districts, free of all assessment, to Kistna Ráu, Head servant to the Residency of Mysore, and his heirs.

3. Kistna Ráu died about 1818 leaving three sons and three brothers; the present Petitioner was the second son. In 1819 one of the brothers filed a suit in the Provincial Court claiming a fourth share in the jaghír villages and paternal property which were in the names of the deceased Kistna Ráu and his next brother. The defendants in this suit, viz., Kistna Ráu's eldest son Ranga Ráu, and Ram Ráu the uncle of the latter, effected a compromise before the Court, on the 29th November of the same year whereby they made over to the Plaintiff Strínivasa Ráu the jaghír village of Sivalapalli, with all its rights as stated in the Sanad, in liquidation of all demands.

4. From 1819 to 1849 the aforesaid village remained in possession of Strínivasa Ráu and his family. In the latter year, in consequence of a ruling* of Government in another case to the effect that a jaghírdár was incompetent to transfer any portion of his jaghír by gift to another branch of the family, to the prejudice of the interests of his own heirs, the Collector of Cuddapah, Mr. Cochrane, refused† to recognize Strínivasa Ráu's son Subba Ráu, as entitled to hold the village on jaghír tenure, and declared that the present Petitioner, second son of the original grantee Kistna Ráu, and then in possession of the other two villages, was the rightful owner.

omit

* *Extract Minutes Consultation, 26th June 1849 No. 604, Revenue Department.*

† *20th August 1849 and 4th September 1849.*

5. Petitioner was then, according to his own statement put in possession of the village, and retained it from 1849 to 1859, when his opponent Subba Ráu Petitioned‡ the Civil Court at Cuddapah to enforce the original Rázináma of 1819 and put the village in his possession; this was accordingly done, the Court deciding on 9th May 1860, that it had no authority to disturb a decision passed by the Provincial Court many years back. Petitioner then appealed to the Sudder Adalat, which tribunal he states, rejected his Petition on a point of form.

‡ *28th September 1859.*

Proceedings of the Madras Government, Revenue Department,
2nd November 1860.

6. He now comes to Government to obtain restoration of the village: he enters at length into a discussion on the impropriety of upholding a Rázináma which was fradulently entered into without the consent of the chief parties concerned and of allowing the intentions of Government to be frustrated. Into these arguments it is not the intention of Government to follow him. Subba Ráu and his father before him were in peaceable possession of the village for thirty years, from 1819 to 1849, in pursuance of a decree of the Provincial Court. The interference of the Collector with such possession seems to the Governor in Council to have been uncalled for and unjustifiable. Holding this view he has no doubt that its present enjoyment by Subba Ráu is according to right and equity, and he therefore declines to take any steps toward restoring the village to Petitioner.

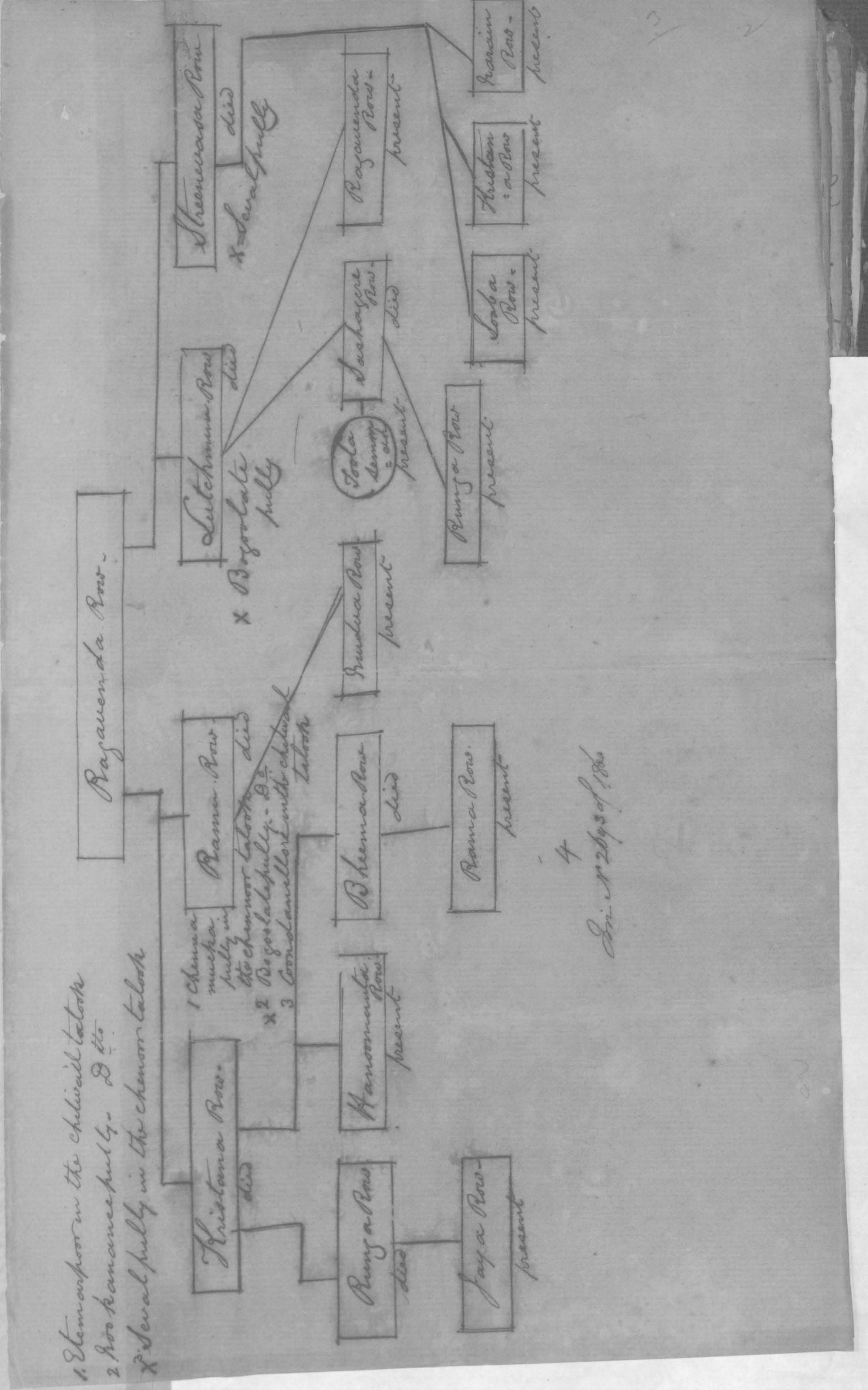
7. The assertion that the village has been restored to Subba Ráu, contrary to the provision of Regulation IV of 1831, is incorrect. The restoration was in pursuance of a decree passed many years before the passing of the Regulation referred to.

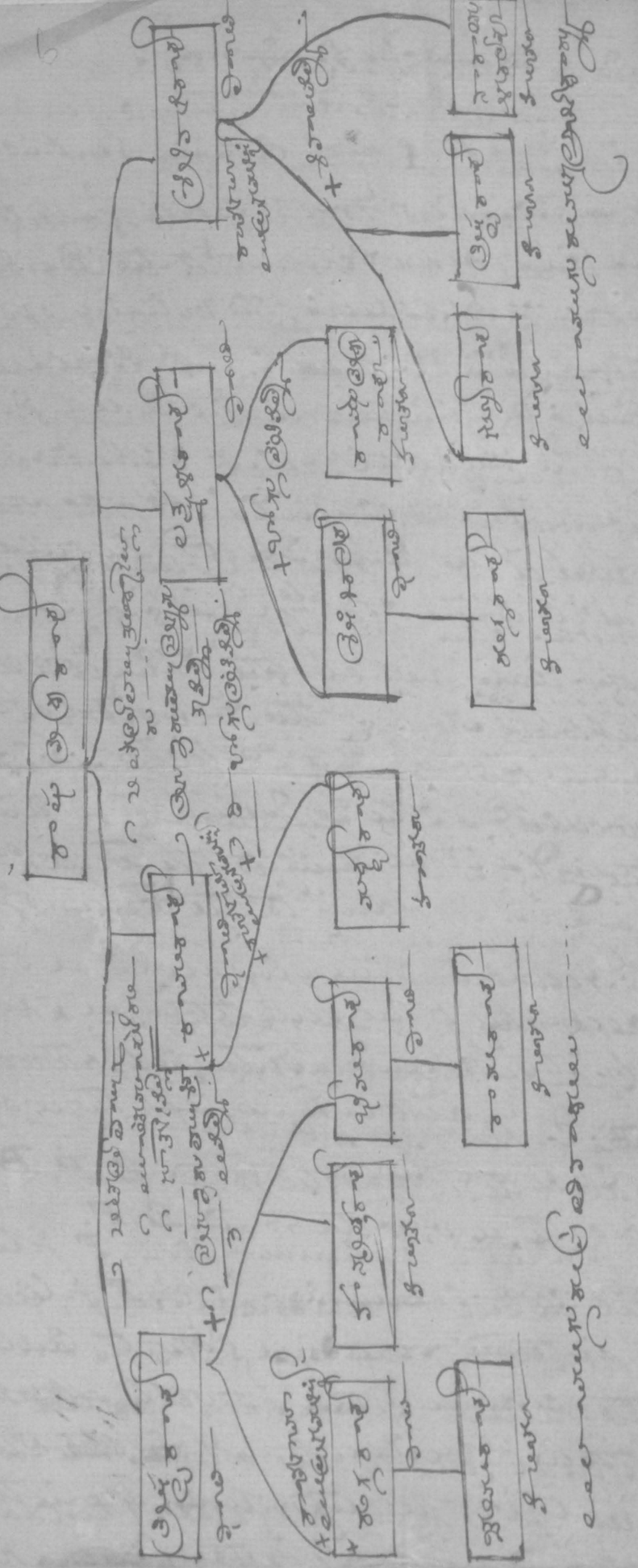
8. These Proceedings will be communicated to the Board of Revenue for the information of the Collector of Cuddapah.

9. Ordered that the following endorsement be passed on Petition No. 2,693 of 1860.

"The Governor in Council is of opinion that the present enjoyment of the village of "Sivalapalli by Subba Ráu, is according to right and equity and he therefore declines to take "any steps towards restoring it to Petitioner."

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





Memo on Petition 2693 of 1860.

On the 7th June 1805 Lord William Bentinck Governor in Council of Fort St. George, granted "to Kistna Rám, Head Servant to the Resident "of Mysore, and his heirs, the villages of Eti- "mapúram, Nukanampálli, and Siralpalli "in Chitwél, & in Chinnúr in the Ceded Dis- "tricts of the annual value of Rs. 5061, "free of all assessment." It was pro- vided that if the heirs failed, the villages shd revert to the Honble Company.

Kistna Rám died about 1818, soon a doubt expressed by the Tahsildar of Chitwail Taluq, the Collector Mr Hun- bury directed on the 20 January 1818 that the deceased shd be succeeded by his sons in the jahgir, according to the terms of the grant.

According to the genealogical table given by the present Petitioner, which is appended, Kistna Rau left three sons A, B, C. of whom the Petitioner is B. and also three brothers D, E, F.

On the 21 September 1849, F filed a suit in the Provincial Court, Central Division, claiming one fourth share in the jahgir villages and [illegible] whole paternal property which are in the names of D and A's father (Kistna Rám) who must have been dead nearly two ye-

On the 29 November 1819, the parties entered into a rayinâma, whereby the defendants D and A agreed that out of the jahgir villages which were at the name of A's deceased father Kistna Rau, the village of Sivalapalli with all its rights as stated in the same should be given up to the Plaintiff F. This was on the understanding that as long as the Govt continued the Jahgir villages to the defendants and their heirs, so long shd the Plaintiff enjoy possession of it.

It will be observed that the present Petitioner B, and his brother C, had apparently no voice in the arrangement thus entered into by their elder brother A and their uncle D. Petitioner protests that such an alienation by a single member cannot operate to the prejudice of other members having equal right to the property.

From an order of Mr Cochrane Collector of Cuddapah, dated 20 August 1849, and addressed to the Tahsildar of the Chinnúr Taluq, it appears that F's son G was then in possession of the village of Sivalapalli. A ryot in the village having failed to pay his cist G sent his name to the Tahsildar with a view to the confiscation and sale of his property. The Tahsildar thereupon applied to the Collector, who noticed

that G was not really the jahgirdar, but that the village was the property of the heirs of the sarnadar, and that any application for sale for arrears of Rents must be made by them.

On the 4 Sept. 1849 Mr Cochrane sent a communication to Petitioner B who was holding the village (jahgir) of Etimapuram &c. to the same effect as the previous order to the Tahsildar; the Collector noticed that the village of Sivalapalle was in common with the other two given as jahgir to Krishna Rau, whose descendants shd enjoy the same: and that it did not appear under what circumstances G had made any attachment. He further remarked that the Government had ordered in a similar case that the jahgirdar was incompetent to transfer any portion of his jahgir by gift to another branch of the family, to the prejudice of the interests of his own heirs. He therefore declared that the right to the village of Sivalapalli was vested in Petitioner B and not in G.

* E. & C. 24 July 1849 No 604. N. B. This 2d in 26 June 1847 see E. & C. enclosed

The village referred to in the E.-C. of the 24 July 1849 was re-transferred to the heirs of the original grantee through whom it had been for 30 years in the possession of the relations from whom the grantee had drawn it.

G thereupon made an application to the Collector for a recall of his previous order saying that G had no rights in the village.

The Collector held proceedings, that the execution of the Razinama by A, one of the three sons of Krishna Rau, the original grantee, (while the other two sons are equally interested in the village) in conjunction with D, who had no concern therein, was contrary to the spirit of the sanad. He noticed that no order was produced either from Govt or any other Lower authority, civil or Revenue, directing the delivery of the village by B in the terms of the Razinama: and from certain correspondence which he states had passed between the Govt, Board of Revenue, and Collector, he infers that the village was in the enjoyment of the sons of the sanad-dar even subsequent to the execution of the Razinama. He considered that any order whatsoever given in the case by any Lower authority subsequent to the issue of the sanad in question by the Government, would not affect its validity. and that the grantee had no right to transfer it to any other person on the same tenor and condition on which he himself held it. He therefore rejected the petition

From the petitioner B's own account he remained in possession of the village (Sirala pally) from that time (1849) to 1859. From an endorsement of the Collector's dated 10 September 1859 it appears that G had petitioned the Board of Revenue that the village might be restored to him, and that an order had been passed in accordance with Mr Cochrane's previous decision.

G then presented a petition to the Civil Court at Cuddapah on the 28 September 1859, praying that the Razinama of 29 November 1849 might be put in force and a warrant issued against B to order the petitioner G the enjoyment of the village under the Razinama. The Court directed that 30 Sept/59 a warrant should issue, if the facts were found correct.

Petitioner states that the village was at once attached.

On the 25 November 1859, Petitioner B presented a counter-petition to the Court, setting forth that the Razinama had been made without his consent, that therefore it was contrary to Hindu Law; that it had been cancelled by the decree in suit No. 1182 of 1822 on the file of the Sadr Adalat: and that his right to the village had been acknowledged by the Collector & Bd of Revenue.

G replied on the 30 November 1859 that no mention of the Razinâma was made in the decree of the Sadr Adâlat referred to by B; that B had allowed his (G's) enjoyment of the village from the time of the said Razinama; and that the cancellment of any decree by an order passed upon a petition is contrary to the C.P. of the Sadr Adalat.

The Court decided on the 9 May 1860 that it had no authority to disturb a decision passed by the Provincial Court many years back; and considered that decision being final no appeal can now be made against it, the more especially as it was on Razinama.

Petitioner B presented another petition on 28 June 1860 praying the Court to cancel or postpone execution of the Warrant making over the village to G, pending an appeal to the Privy Council. The Court accordingly suspended execution of warrant, pending such appeal.

6 July 1860. B then petitioned Govt. and was told (27 August 1860) to appeal to Sadr Adalat. He had in the mean time done so. see Memorandum of Appeal dated 6 August 1860 (Enclosure No 13 to present Petition) He now states that his Vakil has informed him that the Sadr rejected his petition under sec. 364 of Act VIII of 1859.

which runs as follows.

"No appeal shall lie from any order "passed after decree, and relating to "the execution thereof except as in "hereinbefore expressly provided"

Petitioner finally states that he has no remedy judicially except by bringing another suit, for which he will require the sanction of Govt under Reg IV of 1831. and that as it is a matter clearly within the jurisdiction of Govt he prays that the Governor in Council will cause his claim to be investigated & restore to him the said village.

orders are requested

(1) Whether the Petition should be returned under para 7 of the Revised Petition Rules, as relating to a matter which forms the subject of Judicial Proceedings.

(2) Whether as long as the village in question is in the possession of others than the direct heirs of the original sanaddar, the full assessment should not be imposed thereon.

(3) Whether permission should be given to Petitioner to sue under sec II. Reg IV of 1831.

CJ
Oct 6.

J. O.

(29)

not. The possession of the village by E & G was in pursuance of a Decree of the Provincial Court passed on Razinamah in 1819, long before Reg 4 of 1831 was passed. That Reg. therefore did not apply.

The village has been thus peaceably enjoyed for 30 years, prior to the re-called for & unjustifiable interference (as it seems to me) by the Court in 1849.

There seems no doubt that the possession of the village by G. is according to right & equity; & that it would be wrong to take it from him & give it to B. I believe that such an order as that of June 26/49 would not have been passed at any other time; but just then some members of the Govt. held very high notions on the subject of Inams & the reversionary rights of the Govt.

I should decidedly uphold Petitioner - Make the Boundaries those of Pattah - & let the Collr & Petitioner settle the Amount Rent

I agree in not disturbing G's possession - but as the Sudr rejected Petrs appeal petitioner on a point of form ought not perhaps be given leave under Act 4 of 1831 to bring the whole matter under judicial decision by a new Regular Suit if he sees fit?

R.D.

No 2027

Proceedings of the Madras Government
Under date the 2nd ~~October~~ November 1860.

Read the following Petition from Hammanta Row son of Krishna Row residing at Cuddapah

Rau

:dafsala-

Shews how the village of Sawalapalli in Cuddapah District having been granted to his father in 1805 on jaghir tenure as a reward for services to Government had been usurped by another branch of the family under a Razinama fresh entered into in 1819 by parties who had no right to alienate the said village - states that his right to it has been recognized by the Revenue authorities who placed him in possession thereof but that the Courts have given it back to his opponents contrary to the provisions of Reg IV of 1831 and that his appeal to the Sadr has been of no avail.

Prays that on a consideration of the documents produced the Government will order the village to be restored to him.

Judder

(Hereafter 8th September 1860 No 2693)

Ordered This is a petition from one Hammanta Rau who claims possession of a village in the Cuddapah District, on the ground that it was granted to his father by Government with a proviso that it should be

only by
be enjoyed, his descendants.

2 It appears that on the
7th June 1805, the Government of Fort St. George granted the three villages of Etimapuram, Vilkonampalli and Sivalapalli in Chitoor and Chinnur Talugs of the ceded Districts, free of all assessment, to Kistna Rau, Head Servant to the Residency of Mysore, and his heirs.

3 Kistna Rau died about 1818 leaving three sons & brothers. Three, the present petitioner the second, son three brothers.

In 1819 one of the brothers filed a suit in the Provincial Court claiming a fourth share in the jahgir villages and paternal property which were in the names of the deceased Kistna Rau and his next brother. The defendants in this suit viz. Kistna Rau's eldest son Ranga Rau, and the uncle of the latter, Ram Rau effected

before the Court, effected a compromise, on the 29th November of the same year whereby they made over to the Plaintiff Srinivasa Rau the jahgir village of Sivalapalli, with all its rights as stated in the Sanad, in liquidation of all demands.

4 From 1819 to 1849 the aforesaid village remained in possession of Srinivasa Rau and his family. In the latter year, in consequence of a ruling of Government in another case to the effect that a jahgirdar was incompetent to transfer any portion of his jahgir by gift to another branch of the family, to the prejudice of the interests of his own heirs, the Collector of Cuddapah, Mr. Cochrane, refused to recognize Srinivasa Rau's son Subba Rau, as entitled to hold the village on jahgir tenure, and declared that the present Petitioner, second son of

Ex: all: 6: 26th June 49 & 7: 60th - R.D.

20th August 1849.
& 4th September 1849.

of the original grantee Kistna Rau, and then in possession of the other two villages, was the rightful owner.

5 Petitioner was then, according to his own statement put in possession of the village and retained it from 1849 to 1859, when his opponents Subba Rau petitioned the * Civil Court at Cuddapah to enforce the original razinama of 1819 and put the village in his possession; this was accordingly done, the Court deciding on 9th May 1860, that it had no authority to disturb a decision passed by the Provincial Court many years back. Petitioner then appealed to the Sadr Adalat, which tribunal he states, rejected his petition on a point of form.

6 He now comes to Govt to obtain restoration of the village: he enters at length into a discussion on the impropriety of

* 28th September 1859.

Sudder

of upholding a razinama which was fraudulently entered into without the consent of the chief parties concerned and of allowing the intentions of Government to be frustrated. Into these arguments it is not the intention of Government to follow him. Subba Rau and his father before him were in peaceable possession of the village for ~~30~~ thirty years, from 1819 to 1849, in pursuance of a decree of the Provincial Court. The interference of the Collector with such possession seems to the Governor in Council to have been uncalled for and unjustifiable. Holding this view he has no doubt that its present enjoyment by Soobba Rau is according to right and equity, and he therefore declines to take any steps towards restoring the village to Petitioner.

7 The assertion that the village has been restored to Subba Rau, contrary to the provisions

provisions of Regulation IV
of 1831 ~~in awarding the~~ incorrect. The pro-
~~Gration~~ was in pursuance
~~Razinama having been~~
~~of a decree passed~~ many years before
~~entered into long previous to~~
the passing of the Regula-
~~tion~~ referred to-

8 These Proceedings
will be communicated to
the Board of Revenue for
the information of the
Collector of Cuddapah.

9. Ordered that the fol-
lowing endorsement be
passed on Petition No.
269 of 1860.

"The Governor in Council
"is of opinion that the
"present enjoyment of
"the village of Sirala palli
"by Subba Rau, is accor-
"ding to right and
"equity and he therefore
"declines to take any
"step towards restoring
"it to Petitioner"-

C.G.M.

1 Copy for Mr Pelly
to the Petitioner

12 Copies
To the Board of Revenue Circ. No 3

Rec'd 5th Feb. 22 60
5

Reported to England
Dy 25th February No. 130 of 1867
Mis:

Petition from Manumanta Rau

Revenue 1860 Depart.
Pro: of Govt. for November
No. 2027.

Pro: of the Madras Govt.
Dy 2. November 1860.

Declining to take any steps towards restoring the Village of Sivalapalli in Cuddapah to the Petitioner Manumanta Rau.

No. 29 & 30.

No. 29 Petn returned to the party.

Op 20 October 1824