

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 552

Press

~~Mis.~~

103-107

Dated

10-4-1860.

Not to be folded or roughly handled

31

*Proceedings of the Madras Government, Revenue Department,
for the month of April 1860.*

No. 103. Read the following Proceedings of the Board of Revenue, dated 24th March 1860.
No. 1,492:—

Read letter from the Collector of Madura, dated 16th March 1860, No. 50.

(In Con. 19th March 1860, No. 1,253.)

In the above letter, the Collector of Madura reports the institution of a Suit in the Civil Court of that District by Vijaya Ragunáda Mutturámalinga against the present Zamíndáráni of Rámnád and the Collector, to establish the validity of his alleged adoption by the former and his consequent title to the Estate.

Civil Court of Madura, O. S. No. 1 of 1860.
Plaintiff.
Strimatu Muttu Vijaya Ragunáda Mutturámalinga Sétupati, adopted son of Ramaswami Sétupati, late Zamindár of Rámnád.

Versus.
1. *Strímatuhiranniyagerbhayáiravikula Vijaya-ragunáda Ráni Parvatavardani Nachiyár, Zamindárni of Rámnád.*
2. *T. Clarke, Esq., Collector.*

Civil Court of Madura, O. S. No. 9 of 1857.
Plaintiff.

Parvata Vardani Nachiyár, Zamindár of Rámnád.

Versus.
R. Sullivan, Esq., Acting Collector of Madura.

From Madura 1st, in Consultation, 5th August 1859, No. 3,909.

Board's Proceedings, 11th August 1859, No. 3,107.

387, From Government Pleader 26th, in Consultation, 26th January 1860.

547, Proceedings, 1st February 1860.

7. It will be necessary that, in addition to framing the answer, Mr. Dale should notice the several points raised by the Collector in his letter, and furnish explicit instructions for the Collector's guidance.

8. As regards engaging a Barrister to conduct the defence at Madura, the Board reserve their opinion until they have an opportunity of discussing the matter with Mr. Clarke (whom they expect in the course of next week), and with Mr. Dale.

(A true Extract.)

(Signed) J. D. SIM, Secretary.

*Proceedings of the Madras Government, Revenue Department,
for the month of April 1860.*

No. 104.

MINUTE BY THE HONORABLE THE PRESIDENT.

Rámnád Zamíndárí.

It is so desirable that we should not go before the Courts with a bad cause in a matter of this importance, and that we should not appear to the Natives to be desirous of absorbing into the fisc the patrimonies of their ancient landholders, that I strongly advise a close reconsideration of the case, before we direct a renewal of the legal proceedings on the part of the Government.

According to the terms of the Permanent Settlement, the *Rámnád Zamíndárí* was constituted *private property with full power of alienation*. The *Zamíndárí*, therefore, cannot be an escheat, if the present possessor is entitled, as owner, to alienate it; or if, supposing her to have only a life interest, there are other heirs between her late husband and the Government.

A *Zamíndárí* under the Permanent Settlement might, no doubt, become an escheat, if the only person who had a title to it died without heirs and without making any legal transfer of the property, in the same manner as any private property not held under the Permanent Settlement would become an escheat under similar circumstances. In such cases, however, Common Law founded on established practice is more to be regarded than texts from ancient commentaries.

In this case public policy is on the side of maintaining the existing status. The *Rámnád Zamíndár* collects the Revenue and performs the duties which, time out of mind, have belonged to this extremely ancient chiefship; and it is not desirable that the few remaining representatives of the historical families of the country should be obliterated, and that all should be reduced to the same level. This is the first case within my experience in which the Government has shown any solicitude in regard to the succession to a *Zamíndárí*.

(Signed) C. E. TREVELYAN.

Gindí, 29th March 1860.

No. 105.

MINUTE BY THE HONORABLE E. MALTBY.

In this case Government does not sue for the Estate; but is brought into Court as a Defendant by a party who lays claim to it.

According to the Government Pleader, Mr. J. B. Norton's opinion, the present holder has only a life interest and cannot alienate the Estate to the injury of her deceased husband's heirs. Should there be no relatives of the husband entitled to succeed, Government stands in the position of that heir.

(See Government Order, No. 1,191, 29th October 1855, paragraphs 4 and 5.)

Again, Mr. Norton's opinion is clearly against the validity of the alleged adoption.

(See Proceedings of Revenue Board, 13th November 1857, No. 3,920, paragraph 13.)

I think, therefore, that Government should appear in the Suit, according to the summons from the Court, to prevent a decision being given entirely *ex parte*, or without any reference to its possible rights.

But I concur with the President in thinking it inadvisable for Government to take any active part or appear to press a claim to the Estate.

Might not the representative of Government on the occasion be instructed to confine himself to stating the circumstances under which Government considers that it would have a claim to the Estate, leaving the Court to decide on the evidence brought forward by the other side whether such circumstances exist? If the other side can satisfy the Court that they have a right either by adoption or by relationship to the *Zamíndár's* late husband, Government may, I think, acquiesce without adducing counter evidence or contesting the point.

(Signed) E. MALTBY.

31st March 1860.

*Proceedings of the Madras Government, Revenue Department,
for the month of April 1860.*

No. 106.

MINUTE BY THE HONORABLE W. MOREHEAD.

I believe the Hindu Law permits a widow devoid of heirs to the remotest grade, to dispose of her property, however obtained, or of whatever description it may be, as she may see fit to do. This the Ranees has not done. The plea set up by Plaintiff is that of adoption. The Ranees can only adopt in accordance with the provisions of the Hindu Law. It is alleged that these provisions have not been attended to in this instance. It is to test this point that the Plaintiff sues. If the Ranees died without transferring the property by sale or gift, and there were no heirs, this Plaintiff would not take the Estate on an invalid plea of adoption, as against Government. I would, therefore, allow the suit to go on, and let the Courts pronounce as to the validity or otherwise of the adoption pleaded. If the adoption is pronounced bad, I can discover nothing in the Hindu Law to prevent the Ranees executing as against Government, a deed of *gift* transferring to this very Plaintiff this Estate. Why, therefore, they should get up this doubtful plea of adoption seems singular.

(Signed) W. MOREHEAD.

No. 107.

ORDER THEREON, 10th April 1860, No. 552.

1. The Government do not desire to press the strict rights of the Government in a case of this nature to an undue length, but they consider it to be important that those rights should be ascertained. They therefore resolve to defend this action, in order to bring the question as to the validity of this adoption to an issue.

2. The Board's Proceedings above recorded will therefore be referred, together with the enclosures, to the Government Pleader, who will prepare an answer, and advise the Government as to any further measures to be taken.

3. The Government learn from the Board's Proceedings of the 4th instant, No. 1,685, that the time for filing an answer has been extended by the Court for six weeks from the 10th instant.

(Signed) J. D. BOURDILLON,

Secretary to Government.

Minute by the Honorable the President
Rammad Jamindari

It is so desirable that we should not go before the Courts with a vague case in a matter of this importance, and that we should not appear to the Natives to be desirous of absorbing into the State the patrimonies of their ancient Land holders, that I strongly advise a close reconsideration of the case, before we direct a renewal of the legal proceedings on the part of the Government.

According to the terms of the Permanent Settlement, the Rammad Jamindari was constituted private property, with full power of alienation. The Jamindari, therefore cannot be an estate, if the present possessor is entitled, as owner, to alienate it. or if, supposing her to have only a life interest, there are other Heirs between her late Husband and the Government.

A Jamindari under the Permanent Settlement

Settlement might, no doubt, become an
estate, if the only person who had a title
to it died without heirs ~~and~~ without making
any legal transfer of the property, in the same
manner as any private property not held
under the Permanent Settlement would be.

come an estate under similar circum-
stances. In such cases, however, Common
Law founded on established practice is
more to be regarded than texts from ancient
Commentaries.

In this case public policy
is on the side of maintaining the existing
status. The Raminad Zamindar collects
the Revenue ~~and~~ performs the duties which,
time out mind, have belonged to this extremely
ancient Chiefship; and it is not desirable
that the few remaining Representatives of
the historical families of the Country should
be obliterated, and that all should be reduced
to the same level. This is the first case
within my experience in which the
Government

Government has shown any solicitude in
regard to the succession to a Zamindari.

Girdi 29 March
1855

L. R. Mundy

In this case Govt does not sue for the Estate but
is brought into Court as a defendant by ~~the~~ ^{a party}
~~the person~~ who lays claim to it.

- According to the Govt Pleader Mr. S. B. Norton's opinion
the present holder ^{has only a life interest in} cannot alienate the estate to the heirs
of her deceased husband's heirs. Should there be
no relations of the husband entitled to the estate
Govt stands in the position of that heir

(See Govt order No 1191 - 29 Oct 1855 P 4 & 5)

Again Mr. Norton's opinion is clearly against the
validity of the alleged adoption.

(See Pro of Res Board 13 Nov 1857 No 3920 P 13)

I think therefore that Govt should appear in the
suit, according to the summons from the Court, to prevent
a decision being given entirely ex parte or without
any reference to its possible rights.

- But I concur with the President in thinking it
unadvisable for Govt to take any active part
or appear to press its claim to the Estate.

- Might not the representative of Govt on the occasion

be instructed to confine himself to stating the circumstances under which Govt considers that it would have a claim to the Estate, leaving the Court to decide on the evidence brought forward by the other side, whether such circumstances exist? If the other side can satisfy the Court that they have a right either by adoption or by relationship to the Zamindar's late husband Govt may, I think, acquiesce without adducing counter evidence or contesting the point. W

31 March 1860.

[Vertical text on left margin:]
 I have not taken the State in any way but place of
 the estate, as appears from the documents before me
 and the fact that the State has not taken any action
 in the matter. I have not taken any action in the
 matter. I have not taken any action in the matter.
[Vertical text on right margin:]
 Mr. Justice
 will

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 Proceedings of the Madras Government
 Under date the 10th April 1860 No 552

Read the following
 proceedings of the
 Revenue

Submitting a letter from the
 Collector of Madras reporting
 the institution of S. No. 1 of 1860 in the
 Civil Court of that District by Vi-
 gajaya Raganadu Inturamalinga
 against the present Zamindari
 of Raminad and the Collector
 for the establishment of the va-
 lidity of his alleged adoption by
 the former and recommending
 that the conduct of the case be
 entrusted to the Government
 Pleader Mr. Dale.

(Here enter 24th March 1860 No. 1492)

1. The Government do not
 desire to press the strict
 rights of the Government
 in a case of this nature to
 an undue length, but they
 consider it to be important
 that those rights should be
 ascertained. They therefore
 resolve to defend this action
 in order to bring the question
 as to the validity of this adop-
 tion to an issue.

2. The Board's Proceed-
ings also recorded will
therefore be referred to-
gether with the enclosed,
to the Government & leader,
and will prepare a reply
and advise the Government
as to any further measures
to be taken.

3. The Government
learn from the Board's
Proceedings of the 4th instant,
at 1685, that the time for
filing an answer has been
extended by the Court for
several days from the 10th instant.

Yours
J. H. A.

Dep 10th April 1860
D^r with name enclosed copy
of the 10th Post