M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. ~~324~~ 343 Press ~~Mis.~~

361.362

Dated 17 - 2 - 1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 17th February 1862.

No. 361. Read the following Proceedings of the Board of Revenue, dated 19th November 1861, No. 6,388 :—

Read the following letter from E. G. R. FANE, Esq., Collector of Vizagapatam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated 22nd October 1861, No. 1,049.

SIR,

1. I have the honor to submit herewith a report on the case of the disputed Curnumship of Pulapurti, as requested in the Board's Proceedings, No. 855, dated 15th February 1861.

2. The following points were given to the respective parties:—

First.—Complainants to prove the nature of the relationship between them and late Jogamma.

Second.—That they (Complainants) performed funeral rites to Jogamma.

Third.—That 1st Defendant conducted the Mirási duties of Pulapurti village until Jogamma's death as her simple deputy.

Fourth.—To show cause for not preferring their claim to the Mirási until 1847, and what induced them to bring it then.

Defendants to prove:

First.—The nature of their right to the Mirási of the said village.

Second.—And generally to disprove any of the points given to Complainants.

3. Eleven witnesses were called for the Plaintiffs and eight for the Defendants.

4. From the evidence now given little or nothing new was elicited beyond what has been before proved by one party or the other; that the Complainants are simple "Gnathess" (distant cousins) of the deceased Patabulla Surpaya Razu was clearly proved, it was also proved that they upon his death mourned according to the custom of their caste. It appears also that a claim for the Mirási was made at the time to the proprietor Narrain Row by one of their portion of the family, but that the claim received no consideration.

5. For the defence, the evidence while admitting the relationship of Complainants to deceased Curnum, proves that at the time of Surapaya Razu's son's death Narrain Row advertised for *heirs*, but that no one of the family of Complainants responded or came forward to claim the Mirási, and the Defendant Jogamma's half brother's son was, at the request of Jogamma, appointed Curnum, he having agreed to pay all Surapaya's debts, and to maintain her during her life-time. In proof of Bapanna having been appointed Curnum *de facto* and not simply a deputy of Jogamma's. A translation of Narrain Row's letter to the Collector, dated 22nd December 1830, is enclosed. Narrain Row was perhaps wrong in not proceeding in this matter as laid down in Section 7, Regulations XXIX of 1802, but the fact is that the Defendant has been in possession and done the duties ever since, and could hardly now with justice be ousted.

6. In Law perhaps the Patabulla family are the parties on whom the Curnumship of Pulapurti should devolve, but their claim is barred by Statute of Limitation, as the claim should have been made upon the death of Surapaya Razu or his son, which occurred the one 22 years and the other 20 years before any complaint was field. Jogamma being a female* and her son a minor were neither of them competent to exercise the duties of Curnum, the office, therefore became in fact vacant on the death of the husband, and complaint should then or within twelve years of that time have been made. I would, therefore, recommend to the Board that in consideration of the trouble and expense R. Bapanna the present holder has been put to, that he be allowed to continue as Curnum, and only upon his death as decreed by Mr. Smollett, I would take the claims of the present family into consideration.

* *Vide* Commissioner's Proceedings in a similar cases, dated 24th March 1856, and also Sudder Adálat's Decree, No. 45 of 1852, page 137 of the Rulings of the Sudder.

7. But should the Board disagree with me and order that a member of the Patabulla family alone should be the Curnum, I beg they will be so good as to select the person out of the ten members† of the family who are now living, and for this purpose I send herewith a copy of the genealogical tree filed by Complaints before Mr. Knox in 1851. In my opinion Vencata Razu No. 5 is

† Numbered in red ink.

the person best fitted to succeed to the office, as he is said to be quite qualified, being of 16 years of age, and his father was the first man of the Patabulla family who was said to have laid claim to it.

13th July 1860, No. 3,214.
15th Feb. 1861, „ 855.

1. Ordered to be submitted to Government together with Board's Proceedings noted in the margin, with reference to their Endorsement on Petition No. 1,706 of 1860, dated 26th June 1860.

2. Petitioner's relationship to the deceased Curnum Surapaya Razu seems to be proved and even acknowledged by the opposite party, and from the genealogical tree furnished with the above letter, the 3rd Plaintiff would appear to be 4th in descent from that individual's brother, so that he would be included among those heirs termed "Sapindas" which extend to the fifth in descent from a brother.

3. It is clear that the Defendant was never legally recognized as Curnum, as the permission of the Civil Court was never obtained for the alienation of the Curnum's office, and it is now proved that at the time of Surapaya Razu's death, some of the members of the Plaintiff's family made application for the office to the Zamíndár, so that the latter's application to the Collector to nominate the Defendant as Curnum, and his assertion that Surapaya Razu had left no heirs, was clearly an attempt on his part to deprive the Plaintiff's family of their rights.

4. The Board would, therefore, recommend that the office, as well as that portion of the emoluments which is held in deposit, should be made over to Petitioner Narasa Razu, if he is competent to perform the duties of the office, he being undoubtedly the present representative of the Patabulla family. The Collector has recommended that Vencata Razu, the son of Chellamiah, who is now deceased but who was 1st Plaintiff, should succeed to the office, but the Board are unable to see why the superior claims of the four persons noted in the margin should be passed over in his favor, if any of them are able to perform the duties of the situation.

1. Narassa Razu.
2. Vencata Razu.
3. Surapaya Razu.
4. Tirapati Razu.

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

No. 362. ORDER THEREON, 17th February 1862, No. 343.

The Board's recommendation, as contained in the first part of paragraph 4 of the foregoing Proceedings is approved. They will take the necessary steps to carry it into effect.

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

No. 855.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 15th February 1861.

Read the following letter from E. G. R. FANE, Esq., Collector of Vizagapatam, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated 24th January 1861, No. 61 :—

* Herewith returned.
† 1. P. Nurasaraz.
2. P. Veraraz.

1. Upon receipt of the Board's Proceedings of the 13th July last, No. 3,214 with enclosures,* I requested my Acting Principal Assistant to institute inquiries into Petitioners† asserted relationship to the late Kurnum Mirasidar, Suraparaz of Poolapurty.

2. From the evidence produced before Captain Owen both oral and documentary, as shown by the accompanying abstract, it is apparent that Petitioners are "Gnathees," or members of the same family (distant cousins) of the late Suraparaz; so much the Defendants do not deny; but at the same time they contend that the relationship of Petitioners is so distant, that they did not mourn with the family, or perform the ceremonies usual for Hindoos to perform on the death of their relations, and are consequently not more eligible than Defendants as heirs.

3. As far as this argument goes, Defendants would seem, in equity, to be right; and from all the circumstances of the case, I am inclined to take the same favorable view of their case that Mr. Smollett did.

4. But if the Board consider that none but relations, however distant, should succeed to the office of Curnum, then Petitioners have a right to the Mirasi.

5. After the case was sent up to the Huzur, Defendants solicited an opportunity of refuting the evidence of the Petitioners; time was given them; but up to this moment neither they nor their witnesses have attended, and the excuse has been that they are engaged in the Jummabundy of the Taluk, which is the fact; but as the Board have again called for an answer, I now at once report what progress has been made in the case.

6. The proceeds of the Maniem now in deposit have been retained as directed in paragraph 7 of the Board's Proceedings above referred to.

ENCLOSURE No. 1.

ABSTRACT.—Abstract of evidence in the Poolapurty case.

ENCLOSURES NOS. 2 to 5.—Petitions.

1. The Board observe that the Collector's report is still incomplete, and moreover judging from the abstract of the evidence forwarded by him, the character in which the Defendant held the office does not appear to have been tested.

2. All the allegations made by Petitioners in their address to Government, should be carefully tested, and their truth or otherwise stated by the Collector.

3. The Board request him to expedite the conclusion of the inquiry, and to submit his report without avoidable delay.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Sub-Secretary.

To E. G. R. Fane, Esq., Collector of Vizagapatam.

Exd. J. Wright.

No. 3,214.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th July 1860.

Read Endorsement of Government on Petitions Nos. 1,706 and 1,758 of 1860 from P. Narsa Raz and P. Vera Raz of Vizagapatam, dated 15th and 29th June 1860.

Forwarded to the Collector for early report as to the truth of Petitioner's asserted relationship to the late Kurnum Miras dar Surapaya Raz.

2. On reviewing the papers connected with this case in accordance with the Order of Government, the Board see cause to doubt the correctness of the decision come to by them in their Proceedings, dated 10th September 1857, on Petitioner's appeal.

3. There can be no question that under Section VII, Regulation XXIX of 1802, the Zemindar was not competent to alienate the Kurnum's office from the original family, unless for cause shown to the satisfaction of the Judge of the Zillah, which was not done in this case so far as the Board can discover.

4. From the copy of the Appeal Decree of the Collector submitted by the Petitioner, it appears that the Zemindar reported to the Collector that having ascertained that the deceased Surapaya Raz had *no heirs*, save his widow, he had at her request nominated her brother's son to perform the duties of the office, on condition of his maintaining her during her life.

5. If present Petitioner's asserted relationship be really as stated, there can be no doubt that *heirs*, though distant ones, *were existing* in the family of the deceased Kurnum, and, therefore, although the widow might have been admitted to a life interest in the office and its emolument, neither she nor the Zemindar were competent to alienate it absolutely from the original family without the permission of the Civil Court which was not obtained.

6. Petitioner's plea that their right did not arise absolutely till after the death of the widow, and that their claim is, therefore, not barred by the Statute of Limitation appears to be a good one; and if the first Petitioner P. Narasa Raz is able to make out his relationship as asserted, the Board consider that his right to the office must be admitted. The Collector will please to submit an early reply to these Proceedings.

7. With reference to Petition No. 1,826 of 1860, the Board desire, that pending their final decision in the case, the Collector will take no further proceedings in the matter, and that any proceeds of the Manium that may be now in deposit, be so retained for the present.

(A true Extract.)

(Signed) W. HUDLESTON,
Sub-Secretary.

To E. G. R. Fane, Esq., Collector of Vizagapatam.

Exd. J. Wright.

Encl^r N^o. 8 in the Proceedings of the Board of Revenue to the Sec^t to Government R. D. Dated 19^th November 1861 N^o. 6388.

Rev 2/751/61

Proceedings of the Board of Revenue to the Collector of Vizag^m Dated 13^th July 1860 N^o. 3214. Reg^d Cummunicn.

D 17th July/62
O N. 345
D 361-362

R-28th January/58 Nos 21-22

1861 Department.

Pros. of Govt for 9 February/62

No. 2/51

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 19*th November* 1861.
Despatched. 22. 11
Received. 23
(8th 9-) 50 Rs with three Encs
12 12 and 2 Acquittance

No. 6388.

Submitting with remarks a letter from the Collector of Vizagapatam reporting on the case of the disputed curnumship of Pulapurti.

Nos 361 & 362

Nos 3 to 3 - 17 Feby

William Taylor

Copy 25 Feby

R 343.

The Boards see no reason to dissent from the conclusions contained in the first part of paragraph 8 of the foregoing Proceedings in as far as they advert to the necessary steps to carry them to effect.

From 4th George
17th July 1862

1st Copies to the Govt as stated
with Proceedings 18
3 — Acct Sundry
3 — Letter Boards
2 — Do Depy with Encls