M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 871

303 . 362

Dated 2 3 4 1862.

Press Mis.

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Revenue Department,*
*23rd April* 1862.

No. 303. Read the following Petition of SREEMATU HIRANYA GARBHA YAJI RAVIKULA VIJAYA RAGHUNADA RAJAH MUDDU RAMALINGA SETUPATY, present Zamíndár of Ramnad; presented on his behalf by his duly constituted Vakil V. SADAGOPAH CHARLOO, to His Excellency Sir WILLIAM DENISON, K. C. B., dated 26th March 1862:—

HUMBLY SHEWETH,

1. That the kingdom of the Setupaties was one of the most ancient sovereignties in Southern India, and the *Setupaty* race of kings were celebrated in times of yore.

2. That such kingdom of *Setupaty* embraced in ancient times a great portion of the Southern Peninsula. Its extent diminished by foreign conquest, till in the 18th century it only comprised the tract of country forming the two Zamíndáris of Ramnad and Shivaganga. In the latter part of that century the then ruler of Ramnad dismembered a portion which he erected into the Zamíndári of Shivaganga, which he conferred on his son-in-law Sasivarna Periya Oodaya Taven.

3. The rest of this principality now forming the Ramnad Estate, continued to be held by the descendants of the Setupaty dynasty till 1795, when it forfeited to the Government of the late East India Company in consequence of the rebellious acts of the then Zamíndár Mootoo-ramalinga Setupaty.

4. In 1803, however, the Madras Government conferred the Zamíndári on his sister Ranee Mangaleswari Nachyar under a Sanad-i-Milkat Istemirar or deed of permanent settlement.

5. The Ranee on her death was succeeded by her adopted son Annasawmy Setupaty, on whose demise the Zamíndári descended to his adopted son Ramaswamy Setupaty, who died in 1830 leaving behind him no sons, but a widow named Ranee Parvatavardhiny Nachyar, two daughters who were minors, and a mother named Mootooveeroy Nachyar.

6. At his death Ramaswamy Setupaty arranged that the Estate should devolve on his two daughters and their children, if any; but that if the daughters did not beget children, his widow Ranee Parvatavardhiny Nachyar should adopt a son.

7. Accordingly the daughters succeeded; but they dying shortly afterwards, the Estate reverted to Ranee Parvatavardhiny Nachyar in 1843.

8. In that year Ramaswamy's mother Mootooveeroy Nachyar instituted a suit No. 3 of 1843 against Parvatavardhiny Nachyar for the recovery of the Estate. This suit was met by Parvatavardhiny Nachyar, who in the pleadings of that suit and more especially in the supplemental rejoinder prominently set up the authority of her husband to adopt in bar of Mootoo-veeroy's claim. That suit, however, ended in a Razeenamah, dated in February and filed in March 1847, under which Parvatavardhiny Nachyar was left in undisturbed possession of the Zamíndári with liberty to adopt a son under the circumstances set out in the supplemental rejoinder aforesaid.

9. In May 1847, Parvatavardhiny Nachyar accordingly adopted your Petitioner with all solemnities and reported the fact to the Collector on the same day. But that officer objected to the adoption as having been made without sufficient authority.

10. In July 1855, Government recognized your Petitioner's adoption and his right to the Estate in virtue thereof. In November following Government, however, altered their opinion with reference to the advice of the then Government Pleader, Mr. John Bruce Norton, *(which advice was supposed to have already given by him)* and issued instructions to the Collector to assume possession of the Zamíndári on the death of the Ranee.

11. In 1856, your Petitioner attained his majority and sought possession of the Estate, which the Ranee hesitated to give in consequence of the last orders of Government dated in November 1855.

12. He then instituted Original Suit No. 1 of 1860, before the Civil Court of Madura against the Ranee and the Collector. The Civil Judge held that the Collector had no right or warrant to object to the adoption, inasmuch as by the Collector's own admission and the

evidence adduced by your Petitioner, it was evident there were heirs entitled to succeed to the Estate, and that the existence of such heirs was a complete bar to the pretensions of Government to escheat the Zamíndári.

13. Against this decision of the Civil Judge, the Collector has appealed to the Sudder Adálat, in No. 35 of 1861, which is still pending before that Court.

14. To avoid, however, the delay and costs of a protracted litigation and to remove the doubts entertained by Government in regard to the legality of the adoption, the Ranee on or about the 21st February 1862, executed in favor of your Petitioner a Deed of Gift, in confirmation of the adoption, with the consent of all her heirs, and on the same day put him in possession of the Zamíndári.

15. On the same day your Petitioner sent an application to the Collector to register the Deed and Zamíndári in his name, in his Kacheri. But that Officer refused to comply with that application pending a reference to the Board of Revenue. On such reference, your Petitioner addressed a petition to the Board, copy of which is enclosed herein for the consideration of your Excellency in Council.

16. Your Petitioner understands that the Board have referred the whole question for the final decision of Government and in deciding the same, he prays that this petition may be taken into consideration.

17. Your Petitioner has, he trusts, satisfactorily shown in his petition to the Board the legality and validity of the Deed of Gift above referred to. He will not reiterate the arguments therein set out to which he craves leave to refer.

18. He will confine himself in this address to a brief discussion of the validity of his adoption, a point which he did not notice in his Petition to the Board above adverted to.

19. The fact that your Petitioner was adopted in 1847 is fully admitted. The objection is only as to the legality of such adoption. This objection embraces four points, 1st, that the Ranee's husband did not give authorization; 2nd, that the authorization by Mootooveeroy is insufficient to render the adoption valid; 3rd, that the heirs did not consent to the adoption; and 4thly, that there are no heirs whose consent would legalize the adoption.

20. On the first point the chief and indeed the sole argument of the Collector against the probability of Ramaswamy's authorization consists in the fact that such authorization is inconsistent with his application to the Collector to continue the Zamíndári to his daughters. But the weight of this argument vanishes when it is seen that the authorization given was *conditional* on the daughters having no children, and that such condition is consistent with all the probabilities of the case. The dying Zamíndar had then two young daughters capable of begetting issue, and whose children, if born, would continue the line. It was therefore unlikely that if he gave any authority, he would have given it unconditionally. That such authority was so given was prominently put forth in the pleadings of a Civil suit; and the contending party in that suit admitted it in her Razeenamah which terminated that suit.

21. On the 2nd point, your Petitioner submits that even if there was no such authority from the husband, the authority given by Mootooveeroy Nachyar the mother of such husband, and the mother-in-law of the Ranee would quite suffice for legalizing the adoption. That she did give such authorization is evident from the said Razeenamah. Nay it is not disputed. That it is sufficient in Law must be obvious from any work on Hindu Law. See Sir Thomas Strange's Vol. I, pages 79 and 80, Strange's Manual, Clause 73, also *Sreeruma Pundita* who says, "An "issueless widow may with the permission of the *parents*, brothers, &c., take a son in adoption." And there is no point of Hindu Law and usage more clear than that in the absence of husband's authority, his mother can supply the omission.

22. Your Petitioner will dispose of the third point with a few observations. The same authorities quoted in the preceding paragraphs together with Nanda Pandita, 1—17 show beyond all doubt that in default of the husband's or parent's authority, the kinsmen can authorize an adoption by a widow. That the heirs did consent to the adoption is shown by their signature to

*Proceedings of the Madras Government, Revenue Department,*
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the Deed of Gift, and will be proved by ample evidence, if an opportunity is afforded your Petitioner.

23. The fourth point is inconsistent with the third. If there are no heirs whose consent would legalize the adoption, then their consent was needless. But that there are such heirs is shown in your petition to the Board (see second and third grounds under paragraph 7 of that Petition), and will be proved by Decree of the Civil Court in No. 1 of 1860, above adverted to, by Decree of the Sudder Adálat in No. 66 of 1857, and by further evidence if an inquiry is ordered.

24. On all these grounds your Petitioner submits that the adoption is good and valid and cannot be objected to by any one. But even if it were not, the Deed of Gift executed by the Ranee *with the consent* of the heirs is enough to remove all objections to the registry of the Zamíndári in your Petitioner's name.

25. The objection to your Petitioner's adoption raised in 1847 was in July 1855 withdrawn by Government. In November following it was revived on the conflicting opinion of Mr. Norton.

26. Your Petitioner is grieved to find that although the policy of Government in regard to their treatment of Native chiefs has of late been entirely changed; that notwithstanding their renunciation of their right to lapses of *Ináms* of even the most fraudulent character from one end of the Presidency to the other, your Petitioner should be the only person that has met with their disfavor in these days of liberal administration; that while millions of Inámdárs and numerous landholders are rendered happy and contented by the liberality of Government, he alone should be doomed to disappointment and misery. He would respectfully ask what has he done to deserve this treatment at their hands? For upwards of half a century the Zamíndárs of Ramnad have paid their tribute with a cheerfulness and loyalty which is scarcely inferior to that of any other Zamíndár. The Ranee in her old age has made a provision under sanction of Hindu Law and usage for the continuance of the race of the ancient family of Satupaties, and it only remains with your Excellency in Council with a full liberal heart to save your Petitioner from an uncertain tenure and prolonged litigation, and all the evil consequences of a subject litigating with his rulers for his rights which it is in their power at any moment to bestow.

Your Petitioner therefore most submissively but most earnestly prays that he may be confirmed in his possession of the Zámindári as its rightful owner and possessor.

And your Petitioner shall ever pray,

*26th March* 1862. (Signed) V. SADAGOPAH CHARLOO, *Vákil.*

No. 304. ORDER THEREON, 23rd April 1862, No. 871.

The Board of Revenue will obtain the opinion of the Government Pleader on this Petition.

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

Copy in a Letter to England
No 2 dated 7th of May 1862.

No 303 & 304.

Received 18th August 1862
Rec'd of Gen. Van Dorn Capt.
No 900

From
Vice Admiral
Don Jose Primo Valdez
Present Governor
& Capt. Gen. of Cuba
&c &c

Dated 16th July
Received 28th " 1862

E-1

Protesting against
the Resolutions
passed by the
present Spanish Cortes
made, for saying that he may
be considered as the first
servant of the Government
and the right hand man
of the Queen.

No 303 & 304.

Copy in Spanish

Received 18th August 1862
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No 303 & 304.

Copy in Spanish

No 671.

the Board of
must with sublime the
of the Government. Thank
in this Station.

Port of Spain
23rd April 1862

The Captain of the Port of Spain
with the Compliments