

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1344	Press Mis.
385-380	
Dated	20.7.1918

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
20th July 1863.*

No. 389. Read the following Petition from Rajah SIMHADRI APPARAU BAHADUR and Rajah VENKATADRI APPARAU BAHADUR, Zamindars and co-partners of Noozed and Nedadavole Zamindaris, in the late Masulipatam District, to the Right Honorable the Governor in Council, Fort Saint George, dated Ravecheilah in Gollapully Talook of Kistna District, 20th July 1860:—

HONORABLE SIR,

Being encouraged by the Proclamation issued on the occasion of the assumption of the Indian Government by Her Majesty, our most Gracious Sovereign, your Petitioners take the liberty to submit the enclosed three copies of a Memorial addressed to the Right Honorable Secretary of State for India, detailing therein the full circumstances appertaining to the open injustice done to your Petitioners and their late father, and solicit that you will be pleased to take the same into your Excellency's due consideration, and render justice to your Petitioners as your Excellency in Council may consider just and equitable.

For which act of justice your Petitioners will as in duty bound and ever pray.

No. 390. ORDER THEREON, 20th July 1863, No. 1,314.

1. With the foregoing Petition the two individuals named above forwarded for transmission to the Secretary of State, a Memorial setting forth certain claims which will be more fully noticed below. The disposal of these papers has been, from various causes, delayed until now, but this delay does not affect the Memorialists as the Government find that the principal prayer, put forward, for the bestowal of a share in the Noozed and Nedadavole Zamindaris, has been long ago negatived by the late Honorable Court of Directors.

2. The Memorialists' first request is that the one-third share of the abovementioned Estates to which they are justly entitled may be bestowed upon them. If this is refused they pray that the three following boons may be granted:—

(1.) That the village of Streeramaveram may be permanently restored on half beriz as originally conferred upon them or another village granted instead.

(2.) That the amount of Peshcush which they pay on the two Mootahs of Tangullamudi and Chevendra may be reduced to the sums originally stipulated by the Collector, viz., Rupees 5,228 in the former, and Rupees 4,738 in the latter case; and that credit may be given for, or re-payment made of, such sums as may have been collected in excess from them.

(3.) That a third village may be granted to them as originally promised. †

3. The Government gather the following particulars from their records relative to the circumstances alluded to in this Memorial.

4. The Zamindari of Noozed originally comprehended the Purgannas of Ellore and Condapalle. It was held by Rajah Naraya Apparau; but owing to his misconduct it was sequestered prior to 1802 and the Zamindar pensioned. On the introduction of the permanent settlement it was, however, considered desirable to restore the Estate; but as the Zamindar was then dead and his family consisted of two branches, viz., Venkata Narasimha Apparau, his son

* The present Memorialist's father.
† Report from Special Commissioner, dated 27th September 1802, paragraphs 83 to 88.

Paragraph 3 of the Memorial.

by the first wife, and Ramachendra Apparau and Narasimha* Apparau, his sons by the second wife, the Special Commissioner Northern Circars recommended† that in order to prevent future disagreement between the half brothers, the Estate should be divided into two portions, one being entrusted to the management of Venkata Narasimha Apparau, and the other placed in the possession of Ramachendra Apparau above referred to. This arrangement met with the approval‡ of Government; and that division of the Zamindari which comprised the Purgannas§ of Ellore was assigned accordingly to Venkata Narasimha Apparau, while the Purgannas|| of the Condapalle Circar were made over to Ramachendra Apparau, the elder son by the second wife of the abovenamed Naraya Apparau.

† E. M. C. 3rd December 1802, paragraph 17.
§ Now known as the Nedadavole Zamindari.

|| Now known as the Noozed Estate.

5. With this arrangement Narasimha Apparau, the younger son by the second wife, was dissatisfied, as his interests had not received any attention from Government. He therefore sued in the Established Courts for a share of the Estate, but failed to recover it, as the Court Sudder Udalut observed in their Decree, dated 2nd May 1819, that succession to Zamindari tenures was not governed by the laws of inheritance, but that the ruling power, created, tolerated, abolished or disposed of those tenures as might be considered most expedient for the purpose of realizing the public revenue, and that in dividing the Zamindari in unequal portions between the two original Defendants (Venkata Narasimha Apparau and Ramachendra Apparau) the British Government exercised a right which according to the declared usages of the country was vested in the ruling power.

6. Having failed to obtain any redress from the Courts Narasimha Apparau next applied to Government for relief. His Petition on the subject was referred* to the Board of Revenue, who were called upon to report the best means of making a provision for him either in money or land, and also to explain whether the existence of the second brother had been brought to the notice of the superior authorities when the arrangement in question was sanctioned by Government.

7. In reply† the Board stated that the existence of this individual, and the propriety of granting some pension to him, were expressly mentioned in a letter from Mr. Collector Brantford, which was duly laid before Government, who however took no notice of Narasimha Apparau's claims when they sanctioned the division of the Zamindari. In regard to his right to succeed to any portion of the Estate, the Board observed‡ that neither he nor any of the family could claim succession to it as a matter of right, but that it rested with the ruling power to make such arrangements as might, in their opinion, be best calculated to facilitate the collection of the public revenue; and that the exclusion of Narasimha Apparau from the arrangement did not originate in ignorance of his existence, but in the exercise of the discretion vested in the ruling power by law. In regard to providing a suitable maintenance for him, the Board expressed it as their opinion that his rights as an undivided member of the family were not affected by the settlement in respect of the family property, of which he was at liberty to recover his share.

8. The Government dissented§ from these sentiments, being of opinion that the exclusion of Narasimha Apparau might have arisen through mere oversight, or that it might have been thought that his claim to a suitable maintenance from his brother would adequately provide for his wants. The Collector was therefore instructed to use his influence to secure a suitable allowance for the support of the said individual from the revenues of the Zamindari. But should the Zamindar be advised to rest secure on the terms of the grant, Government added that it would then remain a matter for consideration what measures should be adopted to give effect to their intentions.

9. In consequence of the death of Ramachendra Apparau, which occurred about the date of this Order, and the minority of his son and successor, it was impossible to effect any immediate arrangement towards the relief of Narasimha Apparau agreeably to the wishes of Government. The Board therefore suggested|| that the Government might, after a full consideration of the circumstances of the case, fix such amount as might be deemed sufficient for the maintenance of Narasimha Apparau, and then advance the required sums from the general funds to be reimbursed on the minor Zamindar coming of age. This suggestion was approved and an order¶ issued by Government permitting Narasimha Apparau to receive a monthly allowance of 800 Rupees from Government to be recovered eventually from the Estate of the minor, his nephew. The Board were at the same time desired to give their best consideration to the means of securing an equitable settlement of Narasimha Apparau's claims for past maintenance.

10. The negotiations of the Collector with the guardian and Manager of the Minor Zamindar, undertaken with the object of adjusting the claim for past maintenance, did not however lead to any satisfactory issue. The Government therefore determined* to refer the whole of the correspondence to the Court of Sudder Udalut, who were requested to suggest the most expedient means of carrying into effect the original intentions of Government, which intentions, it was stated, were beyond all doubt to divide the Zamindari of Noozed among the Apparau family in the manner best calculated to prevent disputes and preserve the peace of the family.

11. The Judges of the Sudder Court reported† that the only course they could recommend would be to enact a new law declaring the grants issued in 1802 void, as having been given contrary to the intentions of Government, and empowering the Executive Government to re-divide the said Estate into three portions to be assigned respectively to the three members of the family mentioned above in paragraph 4.

12. The Government concurred with the Sudder Udalut and a Regulation to this effect (No. IV of 1829) was accordingly passed‡ by the Madras Government in their legislative capacity on the 23rd June 1829.

13. The Supreme Government, however, questioned the justice and expediency of the Legislature interfering to disturb the original disposition of the Ellore and Noozed Zamindaris, as such interference would shake the confidence of the people in the stability of permanent Sanads granted to Zamindars: and they therefore directed that pending the orders of the Home Government the operation of the new Regulation should be suspended.

14. In reply this Government explained§ in full detail the circumstances which led to the enactment in question; and adverting to the remarks recorded by Sir Thomas Munro in favor of the course adopted by them they requested the concurrence of the Supreme Government in the necessity for the measure. At the same time the whole of the circumstances of the case were reported|| to the late Court of Directors.

15. The Supreme Government¶ adhered to the views already expressed by them, and reiterated their orders that the new Regulation should be held in abeyance till the receipt of final instructions from the Home authorities. These were contained in the Despatch from the Honorable Court, dated 31st August 1831, No. 2, from which it appeared that the course followed by this Government, was disapproved in England. The Court observed as follows:—"Narasimha Apparau had no well founded claim to a portion of the Zamindari, but merely to maintenance. Nevertheless he sued twice for the former and not once for the latter. It does not however rest with us or with you to determine a case of disputed right between individuals. This is not a function of the Government, but of the Judicial tribunals." Considering, however, the peculiar hardship of Narasimha Apparau's case the Honorable Court directed this Government not to withdraw the allowance of 800 Rupees which had been hitherto conceded, provided he gave his consent to take the necessary steps for bringing before the Courts his claim for maintenance, in which case they further authorized the grant of such funds as might be required to enable him to carry on the suit.

16. In the meantime Narasimha Apparau died, in consequence of which the Collector was instructed** to require the head of the family of the deceased to take the necessary steps to commence a suit without delay against both the Zamindars of Nedadavole and Noozed for past and future maintenance; and in order to stimulate the prosecutor to exertion it was ordered that the monthly allowance granted for the maintenance of the family should be reduced to 400 Rupees.

17. In 1835 when the then Governor Sir F. Adam passed through the District of Masulipatam, he took that opportunity to exhort the contending parties to forbear from further litigation in the Courts and to submit their differences to their mutual friend.

* Letter to the Court of Sudder Udalut, No. 250, dated 10th April 1829.

† Letter to the Chief Secretary to Government, dated 30th April 1829, paragraph 9.

‡ E. M. C. 23rd June 1829, No. 261.

§ Letter from the Supreme Government, dated 30th July 1829, No. 2120, recorded in E. M. C. 8th January 1830, No. 209.

|| Letter to Government of India, dated 8th January 1830.

¶ General letter to England, dated 9th November 1830.

** Letter from the Supreme Government, 4th May 1830, No. 1,003.

** E. M. C. dated 18th April 1834.

Vide Minute of Sir F. Adam, dated 7th February 1835.
See paragraph 9 of the Memorial.

for amicable adjustment. They accordingly agreed to enter into a negotiation. The Zamindars of Noozed and Nedadavole offered, on the condition of being released from all demands on this account for the past, to make a provision for the future maintenance of the late Narasimha Apparau's family by a monthly allowance of 600 Rupees and to present them with the sum of 6,000 Rupees for their marriage expenses. This was considered a very satisfactory settlement as the necessity of a suit in Court was obviated; the amount of the allowance was greater than there was any reason to expect would be decreed eventually by the Court; it was, besides, obtained at once without any costs being incurred. As to what had been already paid under the orders of Government*

* Dated 19th July 1822.

doubtful whether it could be recovered from the family by a suit at law, and it was therefore considered advisable to submit to the loss of what had been already paid in order to secure

† Letter to the Board of Revenue, No. 178, 20th February 1835.

‡ One of the present Memorialists.

immunity from any future charge. The proposed arrangement was therefore sanctioned† and Simhadry Apparau,‡ the eldest son of Narasimha Apparau, was informed that Government would not interfere further in his behalf, and that as the Zamindars above referred to were prepared to make a suitable provision for his family, the pension of 400 Rupees allowed up to that period by Government would be discontinued.

§ Letter from the Board of Revenue, No. 143, dated 16th April 1835. Simhadri Apparau at first declined§ to agree to the course proposed, being impressed with a belief that, if he withheld his assent, the Zamindaris would be re-settled according to the intention of Regulation IV of 1822. Upon this the Collector of Masulipatam was authorized|| to inform Simhadry Apparau that Government had determined absolutely, since the said

Zamindars had consented to make a suitable provision for him, to withdraw the allowance hitherto granted, and that if he did not agree to the arrangement made with the sanction of Government, not only would the said allowance never be restored, but the countenance and support of Government would be entirely withdrawn from him: that, further, the proposed re-settlement of the Zamindaris having been disapproved by the Court of Directors there was not the least ground for expecting any more favorable arrangement; and that, finally, it was the intention of Government to rescind Regulation IV of 1829.

18. Simhadry Apparau still held out for a time, but subsequently,** in May 1836, having addressed a Petition to the Board of Revenue, he was informed, that the indispensable preliminary to any further interposition of Government in his behalf must be his free, unreserved, and unconditional accession to the terms of the arrangement agreed to by the Zamindars of Noozed and Nedadavole in which his next undivided brother, if of age, should join.

†† The two present Memorialists. This produced the desired effect. Simhadry Apparau and his brother†† immediately expressed their full consent to the stipulated conditions, and the Zamindars of Noozed and Nedadavole further undertook to pay arrears of maintenance at the rate originally agreed on, from the date of the agreement.

19. In reporting on the arrangements for carrying out the compact the Board observed†† that it was advisable for Government to give some assistance to Simhadry Apparau and his family, and that it would be a fit way of disposing of the village of *Rauricherla* (which formerly appertained to the Apparau family and had some time before reverted to Government) by bestowing it as a *Surva Mukasa* on Simhadry Apparau. They further supported the Collector's recommendation that the village of *Streeramavaram*, which had been previously purchased on account of Government in satisfaction of an arrear of revenue, should be granted to the same individual, subject to the permanent assessment and to the terms and conditions of the permanent settlement: and in order to give Simhadry Apparau the means of bringing this village into a flourishing condition, the Board further proposed that half of the permanent Jamma should be abated for five years.

‡‡ Letter dated 26th October 1837, No. 600. These recommendations were acceded* to by Government, who directed that the usual Sanad granting the villages in question to Simhadry Apparau and his family should be prepared.

§ Letter from the Board of Revenue, 30th July 1835. ¶ Vide letter from the Board of Revenue, dated 26th October 1837, No. 600. ¶¶ The two present Memorialists.

* 17th November 1837, No. 1,666

See paragraph 10 of the Memorial.

These recommendations were acceded* to by Government, who directed that the usual Sanad granting the villages in question to Simhadry Apparau and his family should be prepared.

20. After some correspondence* the Supreme Government approved generally of the abovementioned arrangements which were also brought† to the notice of the Court of Directors and finally sanctioned‡ by that authority.

* From Government of India, 18th December 1837.

To do. do., 19th January 1838, No. 154.

† General letter No. 1 of 1839, dated 8th January 1839.

‡ Despatch from the Court of Directors, 19th August 1840, No. 12.

21. The family of Simhadry Apparau having subsequently experienced difficulty in recovering, without the intervention of Government Officers, the allowance which the Zamindars of Nedadavole and Noozed had agreed to give, the Collector of Masulipatam was authorized§ to collect and pay the same. Notwithstanding this it fell into arrear, the balance due by the Zamindar of Noozed (at 200 Rupees a month) having in 1846 reached the amount of Rupees 18,470, in satisfaction of which and of all future demands on this account the Zamindar agreed to assign to Simhadry Apparau permanently the Mootah of Chevan-

§ E. M. C. 2nd May 1843, No. 441.

dra forming a portion of the Noozed Zamindari and to pay in addition thereto a sum of 4,000 Rupees. This arrangement to which Simhadry Apparau assented, was finally sanctioned by Government on the 17th June 1846 (No. 617), the Peshcush on the Mootah being fixed|| at Rupees 5,172.

¶ From Board to Government, 18th May 1846, No. 255.

Vide paragraphs 10 and 15 of the Memorial.

¶¶ From Board to Government, 18th May 1846, No. 255.

¶¶ From Board to Government, 18th May 1846, No. 255.

22. The portion of the allowance due by the Nedadavole Zamindar was, as appears from the present Memorial, subsequently commuted for an assignment of land; the correspondence relating to this exchange cannot however be traced on the records of Government.

23. The Peshcush due on the village of Streeramavaram was not punctually paid, and the arrear against it amounted to Rupees 2,023-4-1 in March 1843.

Vide Memorial, paragraphs 11, 12 and 13. The Board of Revenue observed that the annual collections of the village, had fallen much short of the reduced Jamma, at which it was allowed to be held during the first five years of the grant, and therefore recommended that the whole of the arrear should be remitted and the village continued on the same terms for a further period of five years, in order to enable the grantee to improve it.

24. These recommendations of the Board met with the approval of Government who, however, directed that Simhadry Apparau should be informed that any further failure to discharge the Government demand would entail the sale of the property. Accordingly, when Simhadry Apparau again fell into arrears in 1847, the village was put up to sale and purchased on behalf of Government for 800 Rupees. This circumstance was reported to the late Court of Directors in Despatch, dated 14th January 1848, No. 8.

25. From the foregoing resumé it will be observed that the Memorialist's claim to a share in the original Noozed Estate cannot now be re-entertained.

26. As to the other requests the Government find that the village of Streeramavaram, which was granted on low terms for a period of ten years, fell in through the Memorialist's failure to pay the Peshcush. In paragraph 13 of the Memorial it is alleged, that even under the Collector's management the actual produce was insufficient to meet the Government demand. The Board of Revenue will now be called upon to report whether there is reason to suppose that the Peshcush was originally fixed at too high a rate and whether the Memorialists are on this account entitled to any consideration.

27. The statements made in paragraph 15 of the Memorial regarding the alleged high Peshcush assigned to the Thungalamudi and Chevendra Mootahs should also be enquired into.

28. The last prayer of the Memorialists is for the grant of the third village originally promised to them. No mention of any such promise is found in the papers on record in the Government Office. The Board of Revenue will be requested to investigate this claim.

29. On receipt of the Board's reply it will be decided what steps shall be taken in regard to the transmission of the Memorial under review to the Secretary of State.

(Signed) J. D. SIM,
Secretary to Government.

TO

THE RIGHT HONORABLE

THE SECRETARY OF STATE FOR INDIA,

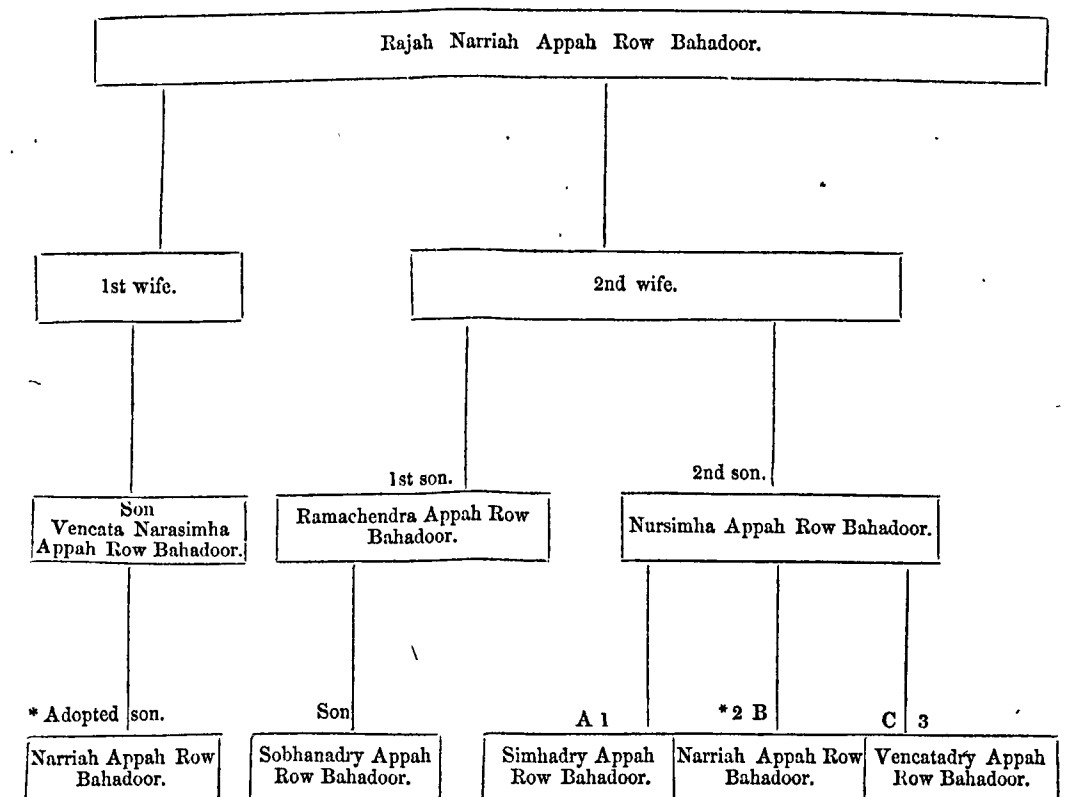
&c. &c. &c.

*The humble Memorial of RAJAH SIMHADRY
APPAH ROW BAHADOOR, and RAJAH
VENCATADRY APPAH ROW BAHADOOR,
Zamindars Moostaphanagur, partners of
the Noozed Zemindaree in the Talook
of Yaloor of Masulipatam District, un-
der the Government of Fort St. George.*

HUMBLY SHEWETH,

1. That with profound respect, your Memorialists beg leave to lay in the following few lines a succinct account of circumstances which have befallen them, in order that on a review of them, it may occur to your Lordship to afford such relief as in your wisdom it may be deemed proper, and consistent with the principles of British justice.

2. That your Memorialists are the Grandsons of the late Rajah Narriah Appah Row Bahadoor, Zemindar of the two Estates of Noozed and Nedadavole in the District of Masulipatam, as will be seen by the geneological tree hereunto annexed.



* B has been adopted to his Grand Uncle Vencatanarasimha Appah Row Bahadoor, Zemindar of Yaloor Purgunnah.—A and C or 1 and 3 are the present Memorialists whose claims are overlooked.

3. That on the demise of Narriah Appah Row Bahadoor, both Estates were taken under management by the Government, and the following monthly allowances granted

To Vencata Nursimha Appah Row Bahadoor, (1st wife's son,) Pagodas 810

To Ramachendra Appah Row Bahadoor, and Nursimha Appah

Row Bahadoor, 2nd Wife's Sons..... „ 560

until 1802,—when the Estate was divided. On this division, the Nedadavole Estate bearing a Peishcush of Rupees 2,10,000, was given to Vencata Nursimha Appah Row Bahadoor, and the Noozed Zemindaree of Rupees 1,05,000, to Ramachendra Appah Row Bahadoor and Nursimha Appah Row Bahadoor. Both were given on permanent Cowle; but the name of Nursimha Appah Row, (then a minor) was omitted in it: on Nursimha Appah Row attaining his majority, he claimed his share of Noozed Estate by O.S. No. 167 of 1805, against his brother in the Zillah Court of Masulipatam,—and in 1809 obtained a Decree that Star Pagodas 300 per mensem should be paid by his brother to him. The Suit was for a share in this Estate, but as the Decree gave him an allowance only, he appealed from it to the Provincial Court by Appeal Suit, No. 37 of 1809. This Court decreed him entitled to a moiety of the Estate and required it to be made over to him. Ramachendra Appah Row appealed from this to the Sudr Udalut in Spécial Appeal No. 4 of 1812; the question was referred by that Court to the Pundits, who declared Nursimha Appah Row entitled to $\frac{1}{3}$ d share of the whole Estates of Noozed

and Nedadavole: the Decree of the Provincial Court was thereupon set aside by its order, dated 20th April 1815, and

Nursimha Appah Row was directed to prefer his claim *de novo* in accordance with the views of the Pundits. He did so by No. 47 of 1816 in the Provincial Court, Northern Division, and received a Decree in his favor, dated 30th July 1817 accordingly; but the other parties appealed from it to the Sudr in

Suit No. 4 of 1818. This Court on the 20th May 1819 altered its views, and ruled that it was unable to order the division of an Estate which was protected by a Cowle, but that Government should exercise the provisions of Regulation 25 of 1802,—and that costs should be borne by Nursimha Appah Row.

4. Nursimha Appah Row then appealed to the Government, and Regulation 4 of 1829 was enacted for the division of the two Estates into

three shares, but this was kept in abeyance by Regulation 4 of 1830, until the opinion of the late Court of Directors should be known. Act 12 of 1835 rescinded both these enactments—the creation of this latter act alone stood a bar to the obtaining to your Memorialists their $\frac{1}{3}$ d share to which they are justly entitled according to Dhurmasastrahs. Since the death of Memorialists' father, repeated representations were made to the Authorities on the subject; but to no effect. Your Memorialists beg leave to remark here, that the late Honorable Court of Directors, in forwarding their orders for rescinding the above said two Regulations made no provision for an alteration of the said Milkiet Istimrar Sunnuds,—that your Memorialists may justly obtain their lawful share; nor did the Government issue any orders up to this day as to the measures to be adopted for obtaining the right of Memorialists; consequently Memorialists are necessarily obliged to lay this their respectful representation for your Lordship's favorable consideration.

5. It should be also observed that the Court of Sudr Udalut were not right in their last decision as above adverted to—because the Milkiet Istimrar Sunnuds were granted in accordance to the provision of Regulation 25, which are of a subsequent date to Regulation 2 of 1802, and as Section 19 of the last mentioned Regulation declares full authority to the Civil Courts to enquire into and pass decision as to the division of the Zemindary Estates, it is therefore apparent that it is not provided for in any part of the

above said Regulation 25, that Section 19 is rescinded in any wise, and the object of that Regulation (25) was enacted chiefly as to the stipulation of a permanent Peishcush on all Zemindaries as expressed in the preamble of that Regulation, and it is also provided in the said Regulation that any portion or portions of the Zemindary Estates may either be sold in satisfaction of Decrees of Civil Courts or otherwise, or given in rewards at the pleasure of the Zemindars as the circumstances might demand. Notwithstanding these, it is again provided in Regulation 26 of 1802, that whenever it may happen to make a division in a whole Zemindary either on account of sale or for any other reason, and to deliver over that portion to the party for whom it was intended, that the Peishcush or Beriz may also be proportionately divided and fixed upon;—hence it is quite clear that the Civil Courts have every power in virtue of the said Regulation to effect a division in the Zemindaries to which Milkiet Istimrar Sunnuds are granted, and this practice has been acted upon in several other instances, and if it was not for that reason, it is apparent that the Court of Sudr Udalut would not have ordered a regular Suit against both the Zemindars to be brought.

6. Should it be considered still that it is not within the jurisdiction of Civil Tribunals to award any decision as to the division of the Zemindary Estates to which Milkiet Istimrar Sunnuds are granted, Memorialists respectfully beg permission to urge for your Lordship's information certain instances in which the Civil Tribunals took cognizance in the division and alienation of the like Zemindaries, *i. e.*, in the District of Rajahmundry one Milkiet Istimrar Sunnud was granted to the Rajah of Peddapore for the whole 18 mootahs as contained in that Zemindary which so happened subsequently both in virtue of the decrees of Civil Courts and sales caused by Government, that several sub-divisions were effected and made over each of them to the parties respectively in whose enjoyment they yet continue; while such is the case, Memorialists are at a loss to know why that rule should not be made applicable in their case? and it is within the province of your Lordship alone to adopt necessary measures in behalf of your Memorialists as to obtain their lawful right according to Dhurmasastrahs, as it becomes the British character to maintain the lawful and legal rights of each of their subjects.

7. That for the purpose of obtaining his lawful right, your Memorialists' late father having sacrificed a large sum of money filed his Suit twice in Courts of Justice, and they the Sudr Udalut the highest Appellate Court who once being fully convinced of the justness of his cause, directed Memorialists' late father to file in his Suit against both the Zemindars, decreed again on the contrary that it is not a matter of their jurisdiction to obtain for him his just claims, and upon subsequently representing the matter to Government, they having at first enacted a Regulation to remedy the grievance of your Memorialists, again rescinded the same without any other provision being made for rendering justice to Memorialists, although it was declared by the given opinion of the Court *Pundit* or Law officers, and admitted even by Government that all the offsprings of a father should indiscriminately enjoy their paternal estate without any exception, and it was with that view alone that the then Provincial Court of the Northern Division have passed their Decree in favor of Memorialists' late father. Consequently if justice is not rendered duly by your Lordship after so late a period at least as at present, because your Lordship is the highest Appellate authority next to our Most Gracious Queen (as your Memorialists been hanging in vain all along for justice on the local Government) to whom else could your Memorialists appeal of their grievances.

8. It has been shown above that the Court of Sudr Udalut have altered their original decision in the instance of Memorialists' father, that his two brothers who were equally sons like himself of the same father, were unquestionably enjoying their paternal estate, while himself alone was deprived of his legal rights, and that representations were made to Government on the subject;—the Government being then fully convinced of

the open injustice done in this case, chiefly owing to the oversight of the Authorities, ordered that a sum of Rupees 800* per mensem should be paid from the Public Treasury for his subsistence, and further enacted the Regulation 4 of 1829, purposely to serve as to alter the Cowles granted to the abovesaid 2 Zemindaries, and to grant the one-third share of them to Memorialists' late father as he was fully and justly entitled to; but the provisions of the above adverted Regulation were not acted upon, and in the meanwhile Memorialists' father departed this life. Ever since, the Authorities continued to pay to your Memorialists a sum of Rupees 400 for their subsistence.

9. That while thus going on in the year 1835, when Sir F. ADAM, the then Governor of Madras, visited the Northern Circars on his tour, a representation was made to His Lordship regarding the injustice done to Memorialists as already adverted to. His Lordship was then pleased to issue orders that an allowance of Rupees 600, *i. e.*, Rupees two hundred from Sobhanadry Appa Row Bahadoor, Zemindar of Noozed, and Rupees four hundred from Narraiah Appa Row Bahadoor, Zemindar of Nedadavole, should be granted for the subsistence of Memorialists, and a sum of Rupees 6,000, that is to say Rupees 2,000 from the former Zemindar, and Rupees 4,000 from the latter Zemindar, to be disbursed for the marriage of Memorialists, and obtained a Kararnamah to the above effect from the above adverted two Zemindars, under date the 4th February 1835. After which His Lordship having sent for Memorialists intimated the arrangements which His Lordship has been pleased to effect for them, and desired that they should accept the same when Memorialists represented the injustices which they all along experienced and the indignity to which they will be subjected in allowing themselves dependant on the above said Zemindars, by yielding to the allowances that may be paid by them; while they who have equally descended from the same father as your Memorialists enjoy the indulgence of possessing separate divisions of Zemindaries. His Lordship having taken these facts into his due consideration, caused an Enayetnamah* to be issued to your Memorialists through the Collector of the District—
(Not forthcoming.) to say that the stipulated allowance in question will be caused to be paid from the Public Treasury, that three villages free from any demands of Government will be also separately granted, and if consented to these conditions, that Government will consider for prospering Memorialists' interest still further for the future to which your Memorialists agreed, purely with a view to gain the mercy of the Ruling Authorities, and therefore filed in their Kararnamah as were ordered.

10. That when Memorialists complained to the Collector of the District and the local Government, that notwithstanding the deprivation of their share from their paternal estate, that even the allowance which was allotted for their maintenance was not paid either by the abovenamed two Zemindars or from the Public Treasury, whereupon the Authorities were pleased to sub divide 8 villages from the Zemindaree of Nedadavole, and 6 villages from that of the Noozed Zemindaree conferred on Memorialists, with instructions to enjoy them after the payments of Circar Peishcush instead of the allowances; besides which, one village called Ravecherla was granted free from any demand of Government, and another village Streeramavaram on a half Beriz of Rupees 530-8-9 for the first five years, and afterwards to pay to Circar the full Sist of Rupees 1,061-1-8, because it was a quite waste—these two latter mentioned villages were granted by Extract Minutes of Consultation, dated 17th November 1837, instead of the three villages which were originally promised by the Authorities as already detailed.

11. That since the date of the grant of the above said village Streeramavaram up to Fusly 1251, there was hardly a return of Rupees 284-2-6 annually in the said village, even after your Memorialists sacrificing a large sum of money, and labor for

its improvement, and your Memorialists were therefore obliged to borrow from abroad the remaining sum of Rupees 345-10-5, and discharge the Circar Peishcush during the first five years. This disadvantageous circumstance when brought to the notice of the Board of Revenue through the Collector of the District, that authority ordered a remission of the balance of the Peishcush then due, and instructed that the village should again continue for a further period of five years on the same terms of half Sist as was originally granted. In Fuslies 1252 and 1253, there was an income of only 302-0-3 and 216-11-9, or in the whole a sum of 518-12-0, which was also proved by a report of the Tahsildar at the requisition of the Collector, and your Memorialists however paid up Rupees 600 on account of Circar Peishcush.

12. That under such circumstances there accrued an arrear of Peishcush of 501-11-1 up to the month of June 1854, when Memorialists applied to allow them some time for its discharge. This request was not complied with, and the village was immediately attached and continued so up to the 22nd December 1846, by which time the balance increased to sum of 677-2-5, together with principle and interest, as well as other costs attendant during the attachment. Consequently, the balance amounted to 1094-11-3, or in the whole amount due was 1771-13-8; of this balance, the Collector of the District intimated to your Memorialists through an Enayetnamah, dated 1st December of that year, intimating that in case of the balance, being not forthwith paid up, that the village will be sold in a public sale, when Memorialists having sent a sum of Rupees 850 in part payment of the balance, requested a time of 10 days from that date for the discharge of the remainder, which request was not complied with, and the money was returned; while the village was immediately knocked down in the name of Government for a sum of Rupees 800, which is clearly 50 Rupees below than what your Memorialists offered in ready money.

13. That the above said village Streeramavaram was presented to your Memorialists on a permanent Cowle, and a fixed Peishcush of 1061-1-8 with a pure motive of redressing the several misfortunes which befell them since the time of their late father, and it was with that hope alone that your Memorialists labored and sacrificed large sums of money for its improvement, with a view that with the assistance of the above village that your Memorialists would be enabled to discharge the debts which they were unavoidably obliged to contract; but on the contrary all their hopes were frustrated, because it hardly produced at least half of its fixed Peishcush, which fact was apparently known to the District Authorities; besides this, in the course of the two years and six months, during which period the said village was under the Collector's management during attachment; there accrued a balance of 1094-11, after deducting the actual produce realized from that village; by this alone your Lordship could plainly see that the village was not a profitable one. However, as it was one which was conferred on Memorialists by the Government, it was not the wish of your Memorialists to part from it, and they requested the Collector through an Arzee, under date the 7th January 1847 to restore them the village, in on payment of the whole balance, which was not complied with—whereupon Memorialists appealed to the Madras Government who also took no notice of it. If the ruling Authorities will not give consideration to the distressed case of Petitioners, to whom else could they be represented to for redress.

14. Your Memorialists further beg to urge for your Lordship's information, certain instances in which the Government have treated certain other Zemindars more liberally than your Memorialists, viz;—when one Peddapore Estate in Rajahmundry District was sold for arrears of Revenue, certain Moottahs of that Zemindary were once retained under Government management, while others were made over to certain other purchasers, but subsequently on the representation of that Zemindar the Estate was again restored to him—in like-manner the Moottahs of Yaloor and Cavullee in the District of Masulipatam were also restored to their respective proprietors after they were once sold

and resumed by Government permanently. Similar indulgence was shown to several other proprietors residing in different Districts under the Madras Government. But your Memorialists are at a loss to know, why not the like indulgence shown to your Memorialists who have actually suffered, not for want of prudence on their own part, but by the oversight of the Authorities at the beginning, and the subsequent unavoidable adverse circumstances as already detailed. Do not the ruling authority (Government) adopt some measures in cases of several other proprietors or Zemindars that they may by that arrangement be redeemed from the difficulties of the debts which they might have contracted, and so retain for them the possession of their Zemindary Estates? Is it the misfortune of your Memorialists alone that they are not so treated, while they bound themselves by the orders of Government with the expectation of being still indulgently treated as they were originally promised.

15. As has been shown in the preceding paras., that 8 villages having been separated from Nedadavole Zemindaree formed them under the denomination of Thungallamoody Mootah, and conferred it upon one of the Memorialists named Simhadry Appa Row with an annual Peishcush of 6,172; while 6 more villages were separated from Noozed Zemindaree, formed under the designation of Cheyendra Mootah, and conferred upon the other Memorialist, Vencatadry Appah Row with a Peishcush of Rupees 5,172 per annum; subsequently when the Nedadavole Estate was sub-divided, and a permanent Peishcush was established, the amount of Peishcush which was stipulated on the above two Mootahs according to the sub-division accounts of the Collector were as follows:—

Names of Mootahs or Purgunnahs.	Temporary Peishcush.	Peishcush according to the account current of the sub-division.	Peishcush as connected to the actual collections.	Peishcush according to the account entered in the sub-division.	Peishcush as connected to the Zemaubundy Sisto.
1 Nedadavole.....	1,35,830	1,35,912	1,37,612	1,38,350	1,40,551
2 Thungallamoody...	6,170	5,262	5,591	4,605	4,524
3 Pentapaud.....	62,828	64,088	61,515	62,929	60,339
4 Cheyendra.....	5,172	4,738	5,218	4,116	4,586
	2,10,000	2,10,000	2,10,000	2,10,000	2,10,000

In preparing this sub-division accounts, the Collector having well scrutinized the accounts of all sorts of collections of each village for the previous 12 years formed the sub-division accounts; thus the Collector having stipulated a permanent Sist upon Circar land, accordingly fixed annual Peishcush upon the above Estates as shewn in column 3 of the above statement, and applied for the sanction of the then Commissioner for the Northern Circars. But the Commissioner without heeding the application of the Collector, with the only view of lessening the Peishcush on the Pentapaud Estate, which was then in the enjoyment of Noozed Zemindar burdened the above adverted two small Mootahs, Thungallamoody and Cheyendra, which are granted to Memorialists for their maintenance with the addition of Peishcush of a sum of Rupees 1,342, and submitted for the final sanction of Government, who also without noticing the apparent variance in the above two accounts simply sanctioned the proceedings of the Commissioner. Further it is to be remarked here that the above 2 Mootahs were conferred on Memorialists purely in lieu of the allowance fixed by Government for their maintenance, and in such case a full amount of Peishcush was collected from Memorialists without any consideration being allowed for the object of the grant of those Mootahs. Moreover, the Collector in Fusly 1254 issued an Enayetnamah* to your Memorialists, fixing a temporary Peishcush of Rupees 6,170 on the Mootah of Thungallamoody, and Rupees 5,172 on the Mootah of Cheyendra for Fusly 1255,—and stating that should on an examination of the sub-division accounts it be found that the Peishcush was in excess, the amount of the increase would be returned, but in a case of a

* Dated 29th April 1844, No. 6, to Rajah Simhadry Appah Row, and to Rajah Vencatadry Appah Row Bahadoor, dated 10th July 1846, No. 8.

deficiency, the decrease must be made good by your Memorialists. The Collector after carefully examining all the accounts of the sub-division, and for several reasons requested the Commissioner to obtain sanction from Government that a permanent Peishcush of Rupees 5,262 be fixed on the Mootah of Thungallamoody, and Rupees 4,737 for the Mootah of Cheyendra. The Commissioner from feelings of partiality to the Zemindar of Noozed rejected the Collector's recommendation which was just, reduced the Peishcush on the Purgunnah Goondoogollanoo and Pentapaud, but increased the Peishcush on the small Mootahs of Cheyendra and Thungallamoody which were given to Memorialists, in lieu of allowance for maintenance. It will appear from this, that the Commissioner did your Memorialists an injustice. From Fusly 1254 and 55, in which the Mootahs were put in your Memorialists' possession up to Fusly 1267, or during the last 13 or 14 years, it will be seen that according to the Peishcush fixed by the Collector an excess of Rs. 13,647 or Rs. 7,510 have been collected on the Mootah of Thungallamoody, and Rs. 6,146 on that of Cheyendra from your Memorialists, who entreat that an order may be issued by your honor, directing that this excess be returned or refunded to them, and that the Peishcush in future be fixed as recommended by the Collector.

16. It has been already shown fully in the foregoing paras., that the right of Zemindary which descended from generation to generation had failed from the time of Memorialists' late father, chiefly owing to the oversight of the Authorities, and the circumstances which was the cause of your Memorialists not obtaining their one-third share in the Zemindaries of Noozed and Nedadavole to which they are justly entitled, according to Rules and Dhurmasastras; the fixing of an allowance of Rs. 800 per mensem to Memorialists' father during his life time, after his death an allowance of Rs. 400 in the names of Memorialists, both to be disbursed from the Public Treasury,—and further that the Government had enacted Regulation 4 of 1829, to serve to alter the Cowles granted in 1802, to the above said two Zemindaries, and that in consequence of the death of Memorialists' father and the return of the then Governor to England, in the meanwhile, was the cause of the said Regulation not being enforced. Notwithstanding these, Memorialists beg to bring to your Lordship's notice another remarkable circumstance, which since took place, that is to say, Mr. Wroughton, the late Collector of Masulipatam District, sent an Enayetnamah to your Memorialists to say, that he was directed by Government to intimate to Memorialists, that in the event of their agreeing to the terms of arrangement proposed by the Authorities in their behalf, that the fixed allowance will be caused to be paid from the Public

Treasury, that three more villages will be also given free from all demands of Government, and that Memorialists will be excluded from all responsibilities of the debts contracted up to that date, either by themselves or by their late father. Your Memorialists having placed full confidence on the punctuality of these conditions, gave their consent accordingly; but to their great misfortune and astonishment, not one of the above specified conditions was kept up, and your Memorialists never failed to represent to the Authorities those failures.

17. Mr. Brandford, the then Collector sent for your Memorialists' paternal uncle, and told him that the Government has permanently given him and his brother Narasimha Apparow 6 Purgunnahs attached to the Condapilly Sircar in lieu of the monthly allowance of Pagodas 560 given them by Government, and that as Narasimha Apparow was then a minor, the Government would secure the Purgunnahs until he attained his majority, when they would be made over to them. That thereupon your Memorialists' paternal uncle requested that as your Memorialists' father was living in an undivided family with him, the Purgunnahs may be placed under his management until he attained his age, when he would make over the same to him. An agreement was also given to this effect, which was communicated to the Board and Special Commission. In accordance

with these facts, the Courts have on three different occasions passed decisions, declaring that one-third of the Estate should be made over to your Memorialists' father. However these Decrees were never carried into effect. Regulation 4 of 1829, was enacted by Government with reference to your Memorialists' right to one-third share of the Purgunnah, but this was also afterwards annulled. This is very strange. The people of India view the Government documents and proceedings as valid papers, but in your Memorialists' case they have proved nothing. In none of the Presidencies of Madras, Bombay and Calcutta have the Authorities decreed, that a brother living in a joint family should be disinherited of a share in the patrimonial Estate. Even in the Presidency of Madras, there are many instances where the Government and Sudr Udalut have, contrary to the permanent Cowle made over portions of an estate to others. Your Memorialists have hitherto failed to discover why the Authorities have only in their case failed to render that justice which has been meted out to others. Your Memorialists beg your Lordship will attentively peruse the facts stated in this petition, together with the whole proceedings connected therewith and relieve them from their present distress, by granting the expectation of their family which is to obtain possession of a moiety of the Estate of Condapilly. Your Memorialists also pray for an order reducing the Peishcush on the Mootahs of Thungullamoody and Cheyvendra, which was raised to Rupees 1,342 by the Commissioner, and relieve them from distress.

18. That in consequence of the Government not keeping any of the above enumerated conditions, Memorialists were exposed to a still greater difficulty than what they were struggling with from the commencement; because the allowance which was ordered by the Right Honorable the Governor in 1835 to be paid from the Public Treasury, was not so paid until 1843, although eight years have elapsed since, neither the ruling Authorities adopted any measures to cause the allowance in question to be paid by the Zemindars at least already named, of which Memorialists submitted several Petitions, which if referred, the truth of the circumstance will be apparent; but no notice was taken of them. Further, Memorialists respectfully beg to bring to your Lordship's notice, that the Government having once promised through an Enayetnamah, that they will relieve Memorialists from the responsibility of all liabilities which may have been contracted previous to that date, took no notice when they were applied to by Memorialists, upon their being pressed by the Civil Courts to answer the claims preferred by certain creditors. Nor the Civil Court who have seen the Enayetnamahs above adverted to, regarded its tenure. Consequently, it becomes the bounden duty of Memorialists to represent that it is left to your Lordship alone to consider, how unjust it was on the part of the local Government to expose these poor Memorialists to such innumerable difficulties, while they have yielded to all the orders and wishes of Government, even at the loss and sacrifice of their due right of the one-third share of their paternal Estate, and agreed to take the small allowance fixed by Government, purely on the strength and reliance of the promises of the ruling Authorities.

19. Under these circumstances, your Memorialists most humbly and respectfully solicit that your Lordship will be pleased to take into your serious consideration the circumstances detailed in the foregoing paras., and issue orders to the local Government to bestow on Memorialists their one-third share to which they are justly entitled, and which they were quite unjustly deprived, by making over to them the Purgunnahs of Pentapaud, Goondoogolnoo, Yaloor, Cauvellee and Pedapaud, which are already under Circar alienation, with a certain amount of Government demand being fixed upon them, in accordance to the provisions of Regulation 4 of 1829; because by so conferring without detriment to the interests of the State, all the injustices and difficulties which your Memorialists have all along experienced will be remedied, and they will be also enabled to enjoy some comfort; if not, to grant at least the following requests for the sake of justice:—

1st.—To restore permanently to Memorialists the village Streeramaveram with the half Beriz as was originally conferred on them, or to favor another village in its stead.

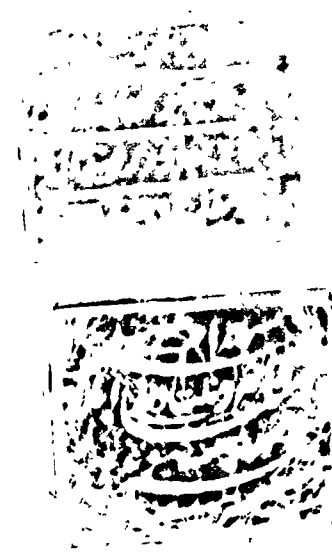
2nd.—To levy the same amount of Peishcush as was stipulated by the Collector on Thungullamoody and Cheyvendra Mootahs, i. e., Rupees 5,228 on the former, and Rupees 4,738 on the latter, and to give credit or repay such amount as was collected in excess from Memorialists; and

3rdly.—To favor them the 3rd village as was promised originally.

20. For which act of grace and justice, your Memorialists will ever remain as in duty bound.

Ever pray.

*Planned by the Collector in Gollapudi
To look of the District
20th July 1850*



*దస్తరించినది. పేషిషుకు
చేసి రికార్డు చేయించు
మీ సేవకు*

*దస్తరించినది. పేషిషుకు
చేసి రికార్డు చేయించు*

A

Read the Proceedings in the Appeal of Rajah Ramachendra Appa Row, versus Rajah Narasimha Appa Row, 20th April 1815.

No. 1167 of 1805 in the Zillah Court of Masulipatam.

No. 37 of 1809 in the Provincial Court for the Northern Division.

No. 40 of 1812 in the Court of Sudr Udalut.

Here enter No.

With the whole record of the case, Narasimha Appa Row by Petition, dated the 27th July 1805, sued his brother Rajah Ramachendra Appa Row in the Zillah Court of Masulipatam, for the recovery of a moiety of the Zamindary of Noozed, together with the sum of Rupees 1,48,196, being the amount of arrears from Kisty 1212, and the amount value of a moiety of the real and personal property left by their father and alleged to be in the possession of the defendant. The Zillah Court by a Decree dated the 24th January 1809, disallowed the Plaintiff's claim to a moiety of the Zemindary of Noozed, as also to the amount value of a moiety of the real and personal property of the family alleged to be in the possession of the defendant; but awarded to him that a pension be paid by the defendant at the rate of 300 Star Pagodas per mensem, to commence from the 12th day of July 1802, the date from which the Sunnudi-Milkiet Istimrar granted to the said defendant began to take effect. The Zillah Court further decreed that the defendant should pay all costs of suit amounting to Rupees 2,29,220.

Rajah Ramachendra Appa Row dissatisfied with the decree of the Zillah Court, appealed therefrom to the Provincial Court for the Northern Division by Petition, dated the 16th March 1809, and that Court by a Decree, dated the 29th June 1811 confirmed the decision of the Zillah Judge. As it related to the claim for a moiety of the Zemindary and of the paternal property alleged to be in the possession of Ramachendra Appa Row; but with respect to the pension to be allowed to Narasimha Appa Row, the Provincial Court, with reference to an allowance granted by Government for the joint maintenance of the parties while living together, fixed the amount at Madras Pagodas 280 per mensem, to commence from the 1st February 1805; when Narasimha Appa Row left his brother's house. The Provincial Court further adjudged that the Appellant should pay all costs of the suit.

Rajah Ramachendra Appa Row appealed from this decision to the Court of Sudr Udalut by Petition, dated the 19th August 1811; the Vakeels Narraina Sastry and Ghootur Roossool appeared for the said Appellant, and the Vakeel Shaik-Kecum-Ood-deen for the Respondent Narasimha Appa Row, and the pleadings of the parties have been heard and filed on Record.

The Court having maturely considered the whole of the Proceedings in this case, deemed it proper to make the following reference to their Hindoo Law Officers, viz;—A had two wives, the first of whom had one Son; B, the second two Sons, C and D; A died, and B the son by the first wife was put in possession of the property; but on his failing to pay the Revenue assigned on it, the Government assumed possession of the Zemindary and passed a pension for the maintenance of B and C.

The brothers B and C, afterwards disagreeing, C left B's residence, and D who was but a child accompanied him. Subsequently to this disagreement, the Government was pleased to bestow the Zemindaree in an equal portions on B and C, granting to B two-thirds, and to C about one-third without any thing to D. Nothing is produced to shew that it was the intention of Government to disallow the claim of D as a branch of the family. Now D claims a portion of the property granted by Government to C according to law; D is entitled to prefer such claim against C. Has D any claim upon B? Can D prefer his claim against C, without also preferring his claim against B? What is the extent of D's claim upon C? Your answer is required to each of these questions separately.

To the foregoing reference the Hindoo Law officers mentioned the following answer, viz:— Upon consideration of all the circumstances stated in the question, it appears to us that B, C and D, the children of A, by two wives, never divided their paternal property, that the paternal inheritance, the Zemindary which was bestowed by the Government in an equal portions upon B, the son of A by the 1st wife and upon C, one of the two sons (C and D) by the second wife having at that time with him his younger brother, D, then a child was so bestowed as a means of subsistence to them and not as a division according to law, and that the Government did not set aside the right of D in his paternal inheritance.

We must therefore declare that both according to the intentions of Government and according to Law, the three persons B, C and D having right in their paternal Estate.

Since according to which is laid down in Jaganeethee and other Law Books. D is entitled to a third share of the paternal property, and since it does not appear which of the two, B or C is possessed of the share of D, we must declare it to him possessed both by B and C. Therefore, 1st D must institute his Suit on account of his share against both B and C. He cannot sue C alone.

2d. D has a right of action against B on account of his share.

3d. D must not bring his action against C, without bringing it also against B.

4th. D has a right of action for one-third of the whole paternal property, which is in the possession of B and C.

This is what is to be collected from Jaganeethee and other Law books.

From the opinion of the Hindoo Law Officers of the Court of Sudr Udalut recorded above, it appears that according to Law, Narasimha Appa Row, the original Plaintiff in this case was not entitled to Sue Rajah Ramachendra Appa Row for his share of the paternal property, without bringing also the eldest brother Vencatanarasimah Appa Row, and the Court in consideration of the said opinion do order and adjudge that the decrees of the lower Courts be annulled, and that the Respondent Narasimha Appa Row do pay all costs of the Suit in the Zillah and Provincial Courts as well as in this Court.

Ordered that a decree founded on these Proceedings be preferred for the signature of this Court.

The Court before concluding their Proceedings in this case, deem it incumbent upon them to notice the principle upon which the Decree of the Zillah Court is founded. The Zillah Judge disallow all the claims set up by the Plaintiff, and decrees that which the Plaintiff has not, but ought to have sued for, and his avowed object in giving this judgment is to spare the Plaintiff the mortification of appealing in Paupers, as also to save him from prison to which he would probably be sent at the instance of the Pleaders of the Zillah Court. The Judge had doubtless did this himself, that his object was humane at least; but he must have forgotten that feelings of humanity cannot be indulged in a Court of Judicature without a departure from the Judicial character. The Court are willing to believe that the slightest reflection will be sufficient to convince the Zillah Judge, that the principal upon which he proceeded in this instance is utterly erroneous, and that a judgement founded not on the simple merits of the case; but upon personal responsibility as affecting either of the parties in a Suit, must be altogether dispensed with, instead of pointing out and meeting the error of the Zillah Judge—the Provincial Court followed that error to the extent of granting to Narasimha Appa Row a pension which he did not claim, and with which on the contrary he declared himself to be dissatisfied; the irregularity of awarding that which is not claimed is obvious, and therefore ordered that Extract from these Proceedings be sent to the Provincial Court being willing to hope that the main notice of an error of this nature is sufficient to prevent its recurrence will explain from making any further observations on the subject. Precept commanding them to communicate the same for the information of the Judge in the Zillah of Masulipatam.

B

Read the Proceedings in the Appeal of Rajah Vencata Narasimha Appa Row Bahadoor, and Rajah Sobhanadry Appah Row Bahadoor, minor, by Seetumma Row, his mother, and Guardian.

Versus.

Rajah Narasimha Appah Row Bahadoor.

Vakeels of the Appellants.... { Streenavassacherry for the 1st Appellant.
Vencatasem Sastry for the 2d Appellant.

Vakeel of the Respondent..... Appalacherry.

No. 47 of 1816. Original Suit in the Provincial Court for the Northern Division.

No. 4 of 1818 in the Court of Sudr Udalut

Here enter No.

With the whole record of the case of Rajah Narasimha Appah Row, sued Rajah Vencata Narasimha Appah Row and Rajah Sobhanadry Appah Row, minor, by his mother and guardian Seetumma Row for the recovery of one-third of the Noozed Zemindaree held in an equal proportions by the said defendants, together with the net profits thereof for fourteen years, viz;—from Fusly 1212 to Fusly 1225, amounting in the aggregate to Rupees 8,42,636-10-8. He also said to recover the sum of Rupees 7,169-1-0, being the amount of costs decreed against him by this Court in Appeal No. 4 of 1812, wherein the late Rajah Ramachendra Appah Row, father of Rajah Sobhanadry Appah Row was Appellant, and the said Rajah Narasimha Appah Row was Respondent.

The Suit was instituted in the Provincial Court for the Northern Division on the 25th September 1816, and that Court by decree dated the 30th June 1817 adjudged to the Plaintiff one-third of the several Purgunnahs, and Talooks of the Noozed Zemindary held by the two defendants respectively, together with the net profits thereof for fourteen years, viz;—Rupees 4,10,620 from the first defendant, and Rupees 4,32,016½ from the second defendant, amounting to Rupees 8,42,636½, the total sum claimed on this account; but they rejected the claim for reimbursement of costs incurred in the former Appeal to this Court.

From this decision Rajah Vencatanarasimha Appah Row and Rajah Sobhanadry Appah Row, minor, by Seetammah Row, his mother and guardian appealed to the Court of Sudr Udalut by separate petitions, and the Pleadings of the parties have been heard and filed of Record.

Rajah Narasimha Appah Row originally sued his brother by the same mother, the late Rajah Ramachendra Appah Row, father of Rajah Sobhanadry Appah Row for the recovery of a moiety of that portion of the Noozed Zemindary which was held by him, together with the half of the real and personal property left by their father. The Zillah Court of Masulipatam, in which the Suit was instituted, rejected all his claims; but adjudged to him an allowance at the rate of Pagodas 300 per mensem payable by Rajah Ramachendra Appa Row. On an Appeal to the Provincial Court for the Northern Division by the said Rajah Ramachendra Appa Row, the decree of the Zillah Court was confirmed so far as it rejected the Plaintiff's claims upon the Noozed Zemindary; and that part of it which regarded the payment of an allowance by Rajah Ramachendra Appa Row was modified. Rajah Ramachendra Appa Row appealed from this decision to the Court of Sudr Udalut, strictly speaking the only point for the Court's determination in that Appeal was the Right of Rajah Narasimha Appa Row to the allowance which the Provincial Court had adjudged to be payable to him by Rajah Ramachendra Appa Row, and their decree might have been limited to setting aside the Decree of the Lower Courts; which in rejecting the original claims of the Plaintiff, had adjudged to him that which he did not claim. The Plaintiff was obviously dissatisfied with the decision of the Lower Courts, and his regular course was to appeal from those decisions; that he did not pursue this course, is to be attributable perhaps partly to his poverty and partly to his ignorance of the correct mode of proceeding, while it was evident from the whole tenor of his pleadings that he believed his original claims

would form the subject of consideration in the Appeal preferred by the opposite party although the very experience of the action had been charged.

On the other hand, the Sudr Court on perusing the records were impressed with the belief that Rajah Narasimha Appa Row had been excluded from a share of the Noozed Zemindary contrary to the intentions of the Government, and that the peculiar circumstances of the case were such as to warrant the Courts in exercising a jurisdiction in it. They shew reason however to doubt the correctness of the mode in which the Plaintiff had laid his action; and hence originated their reference to their Law officers, from whose answers it appeared that according to the Rules of the Hindoo Law, Rajah Narasimha Appa Row was not entitled to sue one brother without suing the other, the property of which he claimed a share being partly in possession of one, and partly in possession of the other brother. This claim too was for half of the portion held by the brother, to whom only about a third of the whole Zemindary appears to have been allotted; and it was therefore obvious that if his claim was tenable in other respects, it would not be admitted in its full extent against the then defendant.

A further consideration of the question with the information which has subsequently come before the Court with respect to the nature and extent of the powers exercised by the Government in the disposal of Zemindary, and with respect to the nature and extent of the rights formerly rested on the holders of their tenures, has satisfied the Court that they cannot interfere to modify the partition of the Noozed Zemindary made by the act of permanent settlement; but that the decision on the claim of Rajah Narasimha Appah Row, like that upon other claims of the same description must be governed by the law contained in Regulation XXV of 1802. In the preamble of that Regulation is described the uncertainty of the tenure by which Zemindaries had previously been held, an uncertainty which is obviously incompatible with the recognition of an hereditary right of succession. It is declared for the reasons stated, that an assessment shall be fixed on all land liable to the payment of public revenue; and it is then enacted that such assessment shall be fixed, the proprietary right to Estate of this description shall become rested in the Zemindars and on their heirs and lawful successors for ever.

It is plainly declineable from this Regulation that previously to the fixing of the permanent assessment, succession to Zemindaree tenures was not governed exclusively by the laws of inheritance; but that the ruling power tolerated, abolished or dismissed of those tenures as might be considered most expedient for the purpose of realizing the public revenue due from the lands. It is clear therefore that in granting the Zemindary of Noozed in an equal proportions to the two original defendants, the British Government exercised a right which according to the declared usages of the country was vested in the ruling power, and as by the exclusion of the original Plaintiff, whether intentional or otherwise, no known Law was infringed,—the Courts are precluded from all jurisdiction in the case.

In the pleadings filed in this case, allusion is made to an opinion expressed in a letter of the Court of Sudr Udalut to the Judge of Vizagapatam, dated the 12th September 1804. It is sufficient on the present occasion to observe, that the opinion in question was given on an ex parte reference, and has been overruled by subsequent decisions in this Court. Allusion is also made to the decree of this Court in Appeal No. 9 of 1813, which adjudged to the Respondent in that Appeal, a right to hold as a dependant Talookdar of a portion of the Nundigamah Zemindary. But the question then at issue was essentially different from that which is now under consideration. In the latter case, a right to a portion of the Zemindary is claimed to the total exclusion of the present possessors from all right or title to that portion. In the former case, a claim was set up to hold a tenure dependent upon and subject to the Zemindar, and the decision of the Court in that case rested exclusively upon the distinct recognition by the Zemindar himself of the right which was claimed.

The Court having maturely considered the whole of the Proceedings in this case are decidedly of opinion, that the original Plaintiff's claim to a portion of the Noozed Zemindary is inadmissible under the Regulations enacted by the Government. The Court do therefore order and adjudge, that such part of the decree of the Provincial Court, as awarded to Rajah Nara-

simha Appah Row, one-third of the several Purgunnahs and Talooks of the Noozed Zemindary, held by Rajah Vencata Narasimha Appah Row, and Rajah Sobhanadry Appah Row respectively, together with the net profits thereof for fourteen years be set aside.

The Court see no ground for awarding to Rajah Narasimha Appah Row the imbursement of costs in Appeal No. 4 of 1812, and they accordingly confirm that part of the Provincial Court's decree by which this claim is rejected.

The Court do further order and adjudge, that the Appellant Rajah Narasimha Appah Row do pay all costs in the Provincial Court and in this Court.

C

A. D. 1829.—REGULATION IV.

A Regulation for annulling the Sunnuds-i-Milkiet Istimrar issued for the Zemindaries of Noozed and Ellore in the Zillah of Masulipatam, and for empowering the Government to issue new Sunnuds for the same.—Passed by the Governor-in-Council of Fort St. George on the 23rd June 1829, corresponding with the 12th of Aunoy of the year Virody, 1751st year of Saliwahn, and with the 20th of Zelhudge, 1244 Hijree.

Preamble.

I. Whereas the ancient lands of Noozed now known by the appellation of the Zemindaries of Noozed and Ellore respectively, situated in the Zillah of Masulipatam were formerly held by the Appah Row family; and whereas, previously to the permanent settlement of the Land Revenue the said lands, though never forfeited, had been requested by the Government from the last incumbent, who died leaving three sons,—the eldest son named Vencata Narasimha Appah Row by his 1st wife, the 2nd named Ramachendra Appah Row, and the 3d named Narasimha Appa Row, respectively by his 2d wife; and whereas at the period of the permanent settlement of the Revenue payable from the said lands, the Government of Fort St. George resolved to restore them to the said family, without excluding any of its members therefrom; but the said third brother, though mentioned by name in letters of the Collector then laid before the Government, was not explicitly alluded to by the Board of Revenue or the special Commission who transmitted the same, nor his existence otherwise brought in a distinct and intelligible manner to the notice of the Government; on the contrary, the said eldest and youngest brothers, from similarity of name, were, on that occasion confounded together by the authorities at the Presidency, as one and the same person; and whereas from this mistake, Sunnuds-i-Milkiet Istimrar were issued, under Regulation XXV, 1802, granting that portion of the said lands now denominated the Ellore Zemindary to the said eldest brother Vencata Nursimha Appa Row, and that portion of the said lands now denominated the Noozed Zemindary to the said 2nd brother Ramachendra Appa Row, leaving the said 3rd brother Narasimha Appa Row totally unprovided for, and excluded from the said lands contrary to the express intention of the Government to restore them to the family; and whereas the said 3rd brother Nursimha Appa Row was then a minor, entirely dependent on his two elder brothers, who thus obtained the whole of the said family property; and whereas the said Narasimha Appa Row subsequently filed a Suit against the said Ramachendra Appa Row, his full brother by the same mother, for the recovery of a moiety of that portion of the said lands held by him, which came to a final decision before the Court of Sudder Udalt in Appeal No 4 of 1812; and whereas in the said Appeal as more fully explained in their subsequent decree in Appeal No 4 of 1818. "The Sudder Court, on perusing the record, were impressed with the belief that Rajah Narasimha Appa Row had been excluded from a share in the Noozed Zamindary, contrary to the intentions of the Government, and that the peculiar circumstances of the case were such as to justify the Courts in exercising jurisdiction in it. They saw reason however to doubt the correctness of the mode in which the Plaintiff had laid his action, and hence originated their reference to

"their Law officers, from whose answers it appeared, according to the rules of the Hindoo Law, Rajah Nursimha Appa Row was not entitled to sue one brother, without suing the other; the property of which he claimed a share being partly in the possession of one, and partly in the possession of the other brother." This Suit was, on these grounds, dismissed with costs; and whereas the said Narasimha Appa Row accordingly instituted a 2nd Suit in the Provincial Court for the Northern Division against his said eldest brother Vencata Narasimha Appa Row, and the minor son and heir of his said second brother Ramachendra Row, then deceased, for one-third of the entire lands granted, as aforesaid, to his said two brothers respectively, and obtained from them a Decree in his favor. But an Appeal therefrom having been preferred, the said cause came to a final decision before the Sudder Udalt in Appeal No. 4 of 1818, in which the said Court, on further consideration, decided that his claims "must be governed by the law contained in Regulation XXV, 1802;" and that as by his exclusion "whether intentional or otherwise, no known law was infringed, the Courts are precluded from all jurisdiction in the case;" this Suit was dismissed accordingly, and whereas the said Narasimha Appa Row thereupon brought his claims to the notice of the Government of Fort Saint George, and after the most full and deliberate inquiry, during two successive Governments, they have been found to be substantially well-founded, and the Sunnuds-i-Milkiet Istimrar issued to his two said elder brothers have been ascertained to have been issued under a careless mistake or misapprehension, contrary to the express intentions of the granters in favor of the family; and whereas it would be unbecoming the character of a just Government to defer longer the reparation of an injury which originated in the defective and erroneous information furnished by its subordinate officers, and which the Courts have been unable to remedy, because they have declared that it exceeds their jurisdiction to annul a grant issued by Government under Regulation XXV of 1802; the Right Honorable the Governor in Council has therefore been pleased to pass this Regulation to take effect from and after its promulgation.

II. The Sunnuds-i-Milkiet Istimrar issued for the ancient Zemindary of Noozed consisting of the Purgunnahs of the Ellore and Condapilly Circars, now constituting respectively the Zemindaries of Ellore and Noozed, situated in the Zillah of Masulipatam are hereby declared null and void.

III. The Government will issue new Sunnuds-i-Milkiet Istimrar for these lands, to the family of the Zemindar, from whom they were sequestered; granting a portion not less than two-thirds of the Ellore Zemindary, as now constituted, to the heir and representative of his eldest son, Vencata Narasimha Appa Row deceased, and a portion not less than two-thirds of the Noozed Zemindary as now constituted, to the heir and representative of his second son Ramachendra Appa Row deceased, and a portion not exceeding one-third of each of the Zemindaries of Ellore and Noozed respectively, as now constituted, whether it shall be competent for the Government to resume for this purpose from their present holders, to his third son Narasimha Appa Row.

IV. The Revenue fixed in permanency on the said Zemindaries respectively shall continue unaltered as hitherto; but shall be assessed upon each portion according to the rules now in force, for the distribution of the permanent Assessment on lands sub-divided.

V. This Regulation shall in one respect apply to, or effect any lands purchased, or otherwise obtained, and now held by the several branches of the Appa Row family, which did not form an integral part of the ancient family lands, Noozed, sequestered by Government from the head of that family, previously to the permanent settlement of the land revenue.

To

RAJAH SIMHADRY APPA ROW BAHADOOR.

In consequence of yourself, your brother and your family having suffered a distressed circumstance, the Board of Revenue intimated their desire of redressing you as per order of the Honorable the Governor in Council, expressed in Extract Minutes of Consultation, dated 17th November 1837, to confer on you two Circar villages, one of them called Ravecherlah as Surva Mokhasah, and the other Streeramavaram, which is assessed at Rupees 1061-1-6 per annum, on half Beriz for the first five years, with a view of that latter mentioned village being brought into an improved state of its cultivation, and after which period, that the full amount of Beriz may be permanently continued to be paid; thus in making over to you the abovenamed two villages as per order of the Board of Revenue, dated 27th November, the village Streeramavaram is now made over to you with the half Beriz of 530-8-9 per annum, from Fusly 1247 to Fusly 1251 while subsequently, i. e., from Fusly 1252, the full amount of Beriz of 1061-1-6, should be paid annually by you to Circar according to the fixed instalments as per account herewith forwarded; therefore, the amount of Kists now due from October to January of the current Fusly being Rupees 165-12-10, and the amount of balance due out of the Tuccavee granted to the Ryots in the current Fusly for the improvement of the village in question, as well as the amounts of Maramut expences and the wages of Sibhundies, being Rupees 423-15-1; after deducting the amount already realized, of which deducting the sum of 250 Rupees due by the Ryots on account of Tuccavee, there remains 173-15-1, or in the whole Rupees 339-11-11 should be paid into the Hoozoor Treasury as soon as this Enayetnamah had reached you.

As orders have been this day forwarded to the Tahsildars of Yaloor and Gollapully Talooks, for the purpose of making over to you the above said Streeramavaram village, together with its produce of the current year, you should issue orders to the Ryots that they may deliver the balance of Tuccavee to the Tahsildar of Yaloor Talook, and take charge of the abovenamed two villages with all their titles, and grant a receipt of the same. After so doing, you should not only take every care to satisfy the Ryots in all reasonable ways; but also be careful to pay into the Hoozoor Treasury the amount of Peishcush annually, according to the fixed instalments, lest there fall any arrear, and so continue to enjoy both the said village and the other Ravacherla as Surva Mokhasah and live happily.

As the above said villages were bestowed on you by Government for maintenance, it should be clearly understood that they shall not be liable to any debt contracted up to this day either by yourself or by your ancestors.

The Cowle for Streeramavaram village will be obtained from Government.

As regard allowances payable by Rajah Narriah Appa Row Bahadoor, Zemindar of Nedadavole, Subhanadry Appa Row Bahadoor, Zemindar of Noozced, the former Rupees 400 and the latter Rupees 200 as per argeement executed by them under date the 4th February 1835, being not paid to you from the month of September 1837, Enayetnamahs were forwarded to those Zemindars that the standing balance may be now paid and continue henceforward to pay up monthly the reasonable allowance, further it should be understood that measures will be adopted for the due realization of the standing balance of the allowance according to the instalments as per order of the Board of Revenue. You should also file a Caboolyet in the Hoozoor on account of the village of Streeramavaram.

MASULIPATAM: } (Signed) J. C. WROUGHTON,
23rd January 1838. } Collector.

" RAMAKROOSTNA PUNTOOLOO,
Head Sheristadar.

" A. RAMA ROW,
Head Jawabdar.

Revenue Department

No. 1344.

Proceedings of the Madras Government
Under date the 20th ^{July} ~~March~~ 1863.

Read the following
Petition from Rajah Simha-
dri Appa Row Bahadur
and Rajah Venkatadri Appa
Row Bahadur, Gam-
indars and copartners of
Noozced and Nedadavole
Zamindaries, in the late
Masulipatam District.

Submit in Triplicate
a Memorial to the Home
Government, seeking the res-
toration of one-third share
in certain estate in Ma-
sulipatam.

(Here enter 20th July 1860)

1 With the foregoing
Petition the two individuals
named above forwarded.

for

for transmission to the Secretary of State, a Memorial setting forth certain claims which will be more fully noticed below. These papers have been, from one cause and another, overlooked until now, but the delay which has occurred will not seriously affect the Memorialists as the Government find that the principal prayer, put forward, for the bestowal of a share in the Noozed and Nedadavole Zamindaris, has been long ago negatived by the late Honorable Court of Directors.

2 The Memorialists Para 19 of the Memorial first request is that the

one

13 2
one-third share of the above mentioned Estates to which they are justly entitled may be bestowed upon them. If this is refused they pray that the three following boons may be granted.

(1) That the village of Streeramaveram may be permanently restored on half beriz as originally conferred upon them or another village granted instead.

(2) That the amount of Beshkush which they pay on the two Mootahs of Tangullamudi and Chevendra may be reduced to the sums originally stipulated by the Collector, viz Rupees 5228 in the former, and

B⁷/_n

Ruppes 4738 in the latter case; and that credit may be given for, or re: payment made of, such sums as may have been collected in excess from them.

(3) That a third village may be granted to them as originally promised.

3 The Government government the following particulars from their records relative to the circumstances alluded to in this Memorial.

4 The Zamindars of Koozeed originally comprehended the Burgannas of Ellore and Gondapalle.

It was held by Rajah Karaya Apparan; but owing

owing to his misconduct it was sequestered prior to 1802 and the Zamindar was pensioned. On the introduction of the Permanent Settlement it was, however, considered desirable to restore the estate; but as the Zamindar was then dead and his family consisted of two branches, viz Venkata Narasimha Apparan his son by the 1st wife, and Ramachandra Apparan and Karasimha Apparan, his sons by the 2^d wife, the Special Commissioner Northern Circars recommended that in order to prevent future disagreements between the half brothers, the estate should be divided into two portions.

* The present Memorialists' father.

* Report from Special Commissioner dated 27th September 1802 Paras 83 to 88.

portions, one being entrusted
ed to the management of
Venkata Karasimha Appa-
rao, and the other placed
in the possession of Rama-
chandra Apparao above
referred to. This arrange-
ment met with the appro-
val of Government; and
that Division of the Zam-
indari which comprized
the Pergunna of Ellore
was assigned accordingly
to Venkata Karasimha
Apparao, while the Bur-
gannas of the Condapalle,
Circar were made over
to Ramachandra Appa-
rao the elder son by the
2^d wife of the above named
Karasimha Apparao.

With this arrangement
Karasimha

Para 3 of the Memorial

② E. M. C. 3^d Dec 4, 1802
Para 17

③ Now known as the hedd-
vole Zamindari.

+ Now known as the stoozed
estate.

Karasimha Apparao, the
younger son by the 2^d wife
was dissatisfied, as his
interests had not received
any attention from Gov^t.
He therefore sued in the
established Courts for a
share of the estate, but
failed to recover it, as the
Court of Sadr Udalt ob-
served in their Decree, da-
ted 2^d May 1819 that succe-
sion to Zamindari tenures
was not governed by the
Laws of inheritance, but
that the ruling Power,
created, tolerated, aboli-
shed or disposed of
those tenures as might be
considered most expedient
for the purpose of realizing
the public revenue, and that

in dividing the Zamindari in unequal portions between the two original Defendants (Venkata Rao, Narasimha Apparau and Ramachandra Apparau) the British Government exercised a right which according to the declared usages of the country was vested in the ruling power.

b. Having failed to obtain any redress from the Courts Narasimha Apparau next applied to Para 4 of the Memorial.

Government for relief. His Petition on the subject was referred to the Board of Revenue, who were called upon to report the best means of making a provision for him either in money.

* Letter to Gov^{ty} from the Board of Revenue 12th June/20 No 283 B. area 8.

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Money, or land, and also to explain whether the existence of the second brother had been brought to the notice of the Superior authorities when the arrangement in question was sanctioned by Government.

In reply the Board stated that the existence of this individual, and the propriety of granting some pension to him, were expressly mentioned in a letter from Mr. Col^l Branfell, which was duly laid before Government, who however took no notice of Narasimha Apparau's claims when they sanctioned the Division of the Zamindari. In regard to his right to

succeed

is succeed to any portion
of the estate they ^{Board} observed
that neither he nor any
of the family could claim
succession to it as a matter
of right, but that it rested
with the ruling power to
make such arrangements
as might in their opinion
be best calculated to fa-
cilitate the collection of
the Public Revenue; and
that the exclusion of Karas-
simha Apparau from the
arrangement did not ori-
ginate in ignorance of his
existence, but in the exer-
cise of the discretion
vested in the ruling
power by Law. In re-
gard to providing a
suitable

Board

Letter to B^d of Rev^s
13th Feb^y 1821.

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suitable maintenance for
him the Board expressed
it as their opinion that his
rights as an undivided
member of the family were
not affected by the settle-
ment in respect of the fa-
mily property, of which
he was at liberty to recover
his share.

8 The Government dis-
sented from these senti-
ments being of opinion
that the exclusion of Kara-
simha Apparau might
have arisen through mere
oversight or that it might
have been thought that
his claim to a suitable
maintenance from his bro-
ther would adequately
provide

provide for his wants. The Collector was there-fore instructed to use his influence to secure a suitable allowance for the support of the said individual from the revenues of the Zamindari. But should the Zamindar be advised to rest secure on the terms of the grant, Government added that it would then remain a matter for consideration what measures should be adopted to give effect to their intentions.

9. In consequence of the death of Ramachandra Apparam which occurred about the date of this order, and the minority of his son

* Letter to Gov^t 7th Feby. 1822
H^o 50.

⊕ Dated 19th July 1822
H^o 487.

son and successor, it was impossible to effect any immediate arrangements towards the relief of Karasimha Apparam agreeably to the wishes of Government. The Board therefore suggested that the Gov^t might, after a full consideration of the circumstances of the case, fix such amount as might be deemed sufficient for the maintenance of Karasimha Apparam, and then advance the required sums from the general funds to be reimbursed on the minor Zamindar coming of age. This suggestion was approved and an order issued by Government permitting Karasimha Apparam to

to receive a monthly allowance of 800 Rs from the Government to be recovered eventually from the estate of the minor, his nephew.

The Board were at the same time desired to give their best consideration to the means of securing an equitable settlement of Karasimha Apparau's claim for past maintenance.

10. The negotiations of the Collector with the Guardian and Manager of the minor Zamindar, undertaken with the object of adjusting the claim for past maintenance, did not however lead to any

satisfactory

* Letter to the Court of
Sudr Udabut No 250
Dated 10th April 1829.

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satisfactory. The Government therefore determined to refer the whole of the correspondence to the Court of Sudr in Udabut who were requested to suggest the most expedient means of carrying into effect the original intentions of Government, which intentions, it was stated, were beyond all doubt to divide the Zamindari of Nooged among the Apparau family in the manner best calculated to prevent disputes and preserve the peace of the family.

11. The Judges of the Sudr Court reported that the

* Letter to the Chief Secretary
to Government dated 30th April 1829 -
para 9. -

to the only course they
could recommend would
be to enact a new Law
declaring the grants
issued in 1802 void, as
having been given in
contrary to the intentions
of Government, and
empowering the execu-
tive govt. to redimise
of the said estate into 3
portions to be assigned
respectively to the three
members of the family
mentioned above in para 4.

12. The govt. concurred
with the Sudr Adalat and
a Regulation to this effect
(N^o IV of 1829) was accordingly
passed by the Madras govt.
in their Legislative capacity
on the 23rd June 1829.
The

* E.M.C. 23rd June 1829
N^o 261.

Letter from the Supreme
govt. Dated 30th July 1829
N^o 2120 recorded in E.M.C.
8th January 1830. N^o 209.

Letter to govt. of India
Dated 8th January 1830.

13. The Supreme govt.
however, questioned the justice
and expediency of the Legis-
lature interfering to disturb
the original disposition of
the Collore and Noorzed
Zamindari, as such inter-
ference would shake the
confidence of the people
in the stability of perma-
nent Sanads granted to
Zamindars: and they there-
fore directed that pending
the orders of the Home
govt. the operation of the
new Regulation should be
suspended.

14. In reply this govt.
explained in full detail
the circumstances which
led to the enactment in
question, and adhering to
the remarks recorded by
Sir Thomas Munro in favor
of the course adopted by
them they requested the
concurrence

to
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p
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v
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y
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concurrency of the Supreme
government in the necessity
for the measure. — — —

At the same time the
whole of the circumstances
of the case were reported
to the Lake Court of Directors.

15. The Supreme Court ^{re-}
-hered to the views already
expressed by them, ^{and} reiterated
their orders that the new
Regulation should be held
in abeyance till the receipt
of final instructions from
the Home authorities. These
were contained in the des-
-patch from the Honorable
Court Dated 31st August 1831
No. 2, from which it appeared
that the course followed
by this government, was
disapproved in England.

The Court observed as follows.

"Narasimha Apparau had
no well founded claim to
a portion of the zamindari
but merely to maintenance.
Nevertheless he sued twice
for the former and not once
for

* General letter to England
Dated 9th November 1830.

* Letter from the Supreme
Court 4th May 1830 No. 1003.

"for the latter. It does not
however rest with us or
"with you to determine a
"case of disputed right
"between individuals. This
"is not a function of the
"govt, but of the judicial
"tribunals." Considering,
however, the peculiar hard-
-ship of Narasimha Appa-
-rau's case the Honorable
Court directed this Court
not to withhold the allow-
-ance of 800 Rs. which had
been hitherto ^{conceded} ~~allowed~~, pro-
-vided he gave his consent
to take the necessary steps
for bringing before the Courts
his claim for maintenance,
in which case they further
authorized the grant of such
funds as might be required to
enable him to carry on the
suit. —

16. In the mean time
Narasimha Apparau died,
in consequence of which the
Collector was instructed
to require the Head of the
family

* E. M. C. Dated
13th April 1834.

family of the deceased to
take the necessary steps
to commence a suit with-
out delay against both
the zamindars of Nedada-
mole and Noozed for past
and future maintenance,
and in order to stimulate
the Prosecution to exertion
it was ordered that the
monthly allowance granted
for the maintenance of the
family should be reduced
to 400 Rs.

17. In 1835 when the
then governor Sir F.
Adam passed through
the District of Masulipatam,
he took that opportunity
to exhort the contending
parties to forbear from
further litigation in the
Courts and to submit
their differences to their
mutual friends for ami-
cable adjustment. They
accordingly agreed to
enter

Vide Minutes of
Sir F. Adam, Dated
7th February 1835.

See para 9 of the
Memorial. —

enter into a negotiation.
The zamindars of Noozed
and Nedadamole offered, on
the condition of being re-
leased from all demands
on this account for the
past, to make a provision
for the future maintenance
of the late Narasimha in
Appa Rami's family by a
monthly allowance of 600
Rupees and to present them
with the sum of 6,000 Rs.
for their marriage expenses.
This was considered a very
satisfactory settlement
as the necessity of a suit
in Court was abated;
the amount of the allow-
ance was greater than
there was any reason
to expect would be ex-
ceeded eventually by
the Court; it was, in
besides, obtained at once
without any costs being
incurred. — As to what had
been

been already paid under
 the orders of government
 to Narasimha Apparam,
 the government observed
 that it was doubtful
 whether it could be re-
 covered from the family
 by a suit at law, and it
 was therefore considered
 advisable to submit to
 the loss of what had
 been already paid in
 order to secure im-
 munity from any future
 charge. The proposed
 arrangement was
 therefore sanctioned
 and Simhadry Apparam,
 the eldest son of Nara-
 simha Apparam, was
 informed that govt
 would

* Dated 19th July 1822.

* Letter to the Board of
Revenue No 178 - 20th Feb^{ry} 1835

* One of the present
Memorialists

* Letter from the Board
of Revenue No 143
Dated 16th April 1835.

would not interfere
 further in his behalf
 and that as the
 Zamindars above
 referred to were pre-
 pared to make a suit
 for provision for
 his family, the pen-
 sion of 400 Rupees
 allowed up to that
 period by government
 would be discontinued.
 Simhadry Apparam at
 first declined to
 agree to the course
 proposed, being im-
 pressed with a
 belief

be belief that, if he
 withheld his assent,
 the Zamindaris would
 be resettled according
 to the intention of
 Regulation IV of
 1829. Upon this,
 the Collector of
 Masulipatam was
 authorized to in-
 form Sirhadry
 that govern-
 ment had deter-
 mined absolutely,
 since the said
 Zamindars had
 consented

C. M. C. 28th April 1835,
 N^o 441.

consented to make a suitable
 provision for him, to with-
 draw the allowance hitherto
 granted, and that if he did
 not agree to the arrangement
 made with the sanction of
 Government, not only would
 the said allowance never be
 restored, but the countenance
 and support of Govt would
 be entirely withdrawn from
 him: that, further, the pro-
 posed settlement of the
 Zamindaries having been
 disapproved by the Board
 of Directors there was not
 the least ground for ex-
 pecting any more favorable
 arrangements and that, fi-
 nally, it was the intention
 of Govt, to rescind Reg. IV of
 1829.

18 Sirhadry was still
 held out for a time, but
 subsequently, in May 1836
 having

* From 13th of Decr. 30 July 1835.
 # Vide Letter from the Board of
 Rev. of 26 Octr/37 N^o 600.

Having addressed a Petition
to the Board of Revenue he
was informed, that the in-
dispensable preliminary
to any further interposition
of Govt in his behalf must
be his free, unreserved, and
unconditional assent
to the terms of the arrange-
ment agreed to by the go-
vernors of Nuzvid and
Nadadavole in which
his next undivided brother,
if of age, should join. This
produced the desired ef-
fect. Sindhadya Rao and
his brother immediately
expressed their full consent
to the stipulated conditions,
and the governors of No-
zvid and Nadadavole
further undertook to pay
arrears of maintenance
at the rate originally agreed
on from the date of the ar-
rangement.

in

the 2 present memorialists.

25
19 In reporting on the
arrangements for carrying
out the compact, the Board
*Letter of 28 Oct 37 Noo- observed that it was advi-
sable for Govt to give some
assistance to Sindhadya
Rao and his family,
and that it would be a
fit way of disposing of
the village of Pandicherla
(which formerly appertained
to the Apparau family
and had some time before
reverted to Govt.) by besto-
wing it as a Surva
Moksha on Sindhadya
Apparau. They further
supported the collector's
recommendation, that the
village of Streeramanavaram
which had been previously
purchased on account of
Govt satisfaction of an
arrear of Revenue, should
be granted to the same
individual.

Despatch from the Court of Directors 19 Aug 1740 N12.

the notice of the Court of Directors and finally sanctioned by that authority.

21. The family of Simhadry raw having subsequently experienced difficulty in recovering, without the intervention of Government officers, the allowance which the Zamindars of Neddavole and Noozed had agreed to give, the Collector of Masulipatam

Ex. Min. Com. 2^d May 1638-44, was authorized to collect and pay the same. Notwithstanding this it fell into arrear, the balance due by the Zamindar of Noozed (at 200 Rupees a month) having in 1846 reached the amount of Rupees 18,470, in payment of which and of all future demands on this account the

Zamindar

individuals subject to the permanent assessment and to the terms and conditions of the permanent settlements and in order to give Simhadry raw the means of bringing the Village into flourishing condition, the Board further proposed that half of the permanent panna should be abated for five years. These recommendations were acceded to by Govt. who directed that the usual Sanad granting the Villages in question to Simhadry raw and his family should be prepared.

* 17 Nov 37. S. 1616.

See para 10 of the Memorial.

20. After some correspondence the Supreme Govt. approved generally of the above mentioned arrangements which were also brought to the

* Govt. of India 18 Dec 37
To do do 19 Jan 38
S. 154

* Govt. S. 1837 of 18 Jan 1838

Zamindar agreed to as-
 sign to Simhadrypau
 permanently the mottab
 of Chevandra forming
 a portion of the Noozed
 Zamindari and to pay
 in addition thereto a sum
 of 4000 Rupees. This ar-
 rangement to which Sim-
 hadry Apparau assented,
 was finally sanctioned
 by Government on the 17
 June 1846 (1867) the
 Pishchik on the mottab
 being fixed at Rupees
 572.

Vide para 10 & 11 of the
 Memorial.

* From 132 to Govt 18 May 1846
 No 250.

22. The portion of
 the allowance due by the
 Niddavole Zamindar
 was as appears from
 the present Memorial
 subsequently

vide para 15 of the Memorial. subsequently commented

for an assignment of land,
 the correspondence relating
 to this exchange cannot
 however be traced on the
 records of Government.

23. The Pishchik
 due on the Village of
 Streemavaram was

not punctually paid and
 the arrear against it
 amounted to Rs 20 23 4-1

in March 1843. The

Board of Revenue observed
 that the annual collection

of the village, had fallen
 much short of the reduced

Jamma, at which it was al-
 lowed to be held during the

first five years of the grant,
 and therefore recommended

that the whole of the arrear
 should be remitted and the

village continued on the

same

Vide Memorial
 para 11, 12 & 13

the same terms for a further
period of 5 years - in
order to enable the grantee
to improve it.

24. These recommendations
of the Board met with the ap-
proval of Govt. who however
directed that Simhadry, Appa-
rao should be informed
that any further failure to
discharge the Govt. demand
would entail the sale of
their property. Accordingly
when Simhadry rao again
fell into arrears in 1847
the Village was put to sale
and purchased in behalf
of Government for 800 Rupees.

This circumstance was
reported to the late Court
of Directors in Despatches
dated 14 January 1848.

From

25. From the foregoing
resumé it will be observed
that the Memorialists' to
claim to a share in the
original Noozed estate
cannot now be re-entertained.

26. As to the other
requests the Government find
that the village of
Strimamaram, which
was granted on lease
terms for a period of
10 years, fell in thro' the
Memorialists' failure to
pay the peshkash. In
para 13 of the Memorial
it is alleged, that even
under the Collector's
management the actual
produce was insufficient
to meet the government
demand. The Board
of Revenue will now
be called upon to report
whether there is reason

to suppose that the
Peshenah was originally
fixed at too high a rate
and whether the Memo-
rialists are on this
account entitled to any
consideration. —

27. The statements
made in para 15 of the
Memorial regarding the
alleged high Peshenah
assigned to the Thungola-
mudi and Chennendru
Mootahs should also be
enquired into.

See para
2 above

28. The last prayer
of the Memorialists
for the grant of the third
village originally pro-
mised to them. No
mention of any such
promise is found in
the papers on record
in the Government

A letter will be re-
quested to investigate
the claim.

On receipt of
the Board's reply it
will be decided what
steps shall be taken
regard to the trans-
mission of the Memo-
rial under review to
Secretary of State.

cgw

To

14- The Hon.

With

Revenue 1863 Sept.
Pro. of Govt for July
No 1344.

Pro: of the Madras Govt.
22nd July 1863.

From Nagah Venkataswamy Appaiah Bahadur
 2/13 Novr/63 Cr 2793m 27 Novr-374/S
 Ro. B. of Rev. of 27 April 1864
 C No. 1162 in Ro. 29 July
 476/77

Memorial to Home
Govt. presented by Princes
and nobles and
 zamindars of the Krishna
District, forwarded to the
Board of Revenue for
report on certain points.