M.R.O. 14—18,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue—**DEPARTMENT.**

G.O. No. 2147 Press ~~Mis.~~

374-375

Dated 27—11—19~~1~~863

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 27th November 1863.

No. 374. Read the following Petition from Rajah VENKATADRY APPAROW BAHADUR, Zemindar, third son of the late Rajah NURSIMAH APPAROW, who was a co-sharer in the Nuzid and Nedadavole Zemindary, appertaining to Mustfanager Circar, &c., &c., to His Excellency the Governor in Council, Fort Saint George, dated Masulipatam, 13th November 1863:—

MOST RESPECTFULLY SHEWETH,

1. That your Memorialist has in his Memorial to your Honorable Government, dated 20th July 1860, which gave cover to another addressed to the Honorable the Secretary of State for India (for which he was not granted redress) represented all the grievances of his family.

2. That while your Memorialist and his brother Rajah Simhadri Apparow were prosecuting the claims of their father before the authorities, his brother departed this life on the 10th November 1861, which event constituted your Memorialist sole claimant and heir.

3. Having not been favored with any redress as yet by the Honorable the Secretary of State for India, your Memorialist begs to enclose herein three Memorials for submission to His Excellency with some additional reasons, and solicits that after a perusal of them, your Excellency will be pleased to alleviate him from his present distressing circumstances.

4. Your Memorialist begs to add that as in paragraph 17 of his Memorial to the Secretary of State for India he has declared his liability to support his brother's widow who is left without any issue, he respectfully urges his right to enjoy the fruits of redress which the Honorable Government may be pleased to grant hereupon.

For which act of benevolence your Excellency's humble Memorialist, as in duty bound, will ever pray.

No. 375. ORDER THEREON, 27th November 1863, No. 2,147.

Resolved that one copy of the Memorial received with the forgoing letter be forwarded to the Board of Revenue, with reference to G. O. 20th July last, No. 1,344, and with a request that the further circumstances now brought to notice may be considered in preparing the report already called for.

(True Extract.)

(Signed) C. G. MASTER,

Deputy Secretary to Government.

To the Board of Revenue, with Memorial.

Exd. S. T. Augustin.

THE

HUMBLE MEMORIAL

OF

RAJAH VENKATADRI APPARAO BAHADUR ZEMINDAR,

THE

THIRD SON OF RAJAH NARSIMHA APPARAO BAHADUR

CIRCAR MUSTUFANNAGAR

IN THE

KISTNA DISTRICT

MADRAS GOVERNMENT

MASULIPATAM.

PRINTED AT THE KISTNA DISTRICT COLLECTORATE PRESS.

1863.

TO

THE RIGHT HONORABLE

THE SECRETARY OF STATE FOR INDIA,

&c. &c. &c.

The humble Memorial of RAJAH VENKATADRY APPARAO BAHADUR *Zamindar, the 3rd Son of* RAJAH NARASIMHA APPARAO BAHADUR, *Circar Mustuphanagger, in the Kistna District, under the Madras Government.*

MOST SUBMISSIVELY SHOWETH,

That your Memorialist's late father was a legal Co-heir to the two Zamindaries of Ellore and Nuziveed, but was unjustly deprived of his undisputed right of inheritance to those two Zemindaries by the interference of the local Authorities. In the humble hope of obtaining full redress, your Memorialist most respectfully ventures to lay open his case before your Excellency, who is well known to be the great Advocate of the distressed; and your Petitioner firmly believes that he will be fully heard and protected.

That your Memorialist's Grand father, Rajah Nariah Apparao, had two wives, by the first of whom, he had a son Venkata Narasimha Apparao and by the second, two sons named Ramachendra Apparao and Narasimha Apparao, your Memorialist's father. After his death in fasli 1211 his 3 sons, being minors, the Zemindary was taken under the immediate management of the Government and an allowance was fixed, for the time being, for the support of the minors. In fasly 1212 orders were received from the Supreme Authority, to put Venkata Narasimha Apparao in possession of the Ellore Taluq and both Ramachendra Apparao and Narasimha Apparao in that of Condapilly Taluq, furnishing them at the same time "with Sunnud-i-Milkeut Istimrar" or deeds of Permanent property. It must however be mentioned with regret, that your Memorialist's father still was a minor; so that in executing these orders, it was urged by the Collector, that the Condapilly Taluq should be still kept under Government management, until the minor Zamindar had attained his full age; but on promises having been made by the Co-heir Ramachendra Apparao, that he would divide the estate between himself and his minor younger brother, on the latter obtaining his majority, the Collector Mr. Brandfold ordered the Condapilly Taluq to be made over to Ramachendra Apparao, taking from him a written Kararnamah binding him to fulfil his contract respecting the minor Zamindar. A report was forwarded by the Collector of these circumstances, together with a copy of the Kararnamah, to the special Commission and to the Board of Revenue.

Subsequently on attaining his majority, your Memorialist's father demanded his portion of the Condapilly Zamindary of his elder brother, when the latter flatly refused to keep his promise. His failing to obtain justice from the Local Authorities; their advice to your Memorialist's father to resort to the Judicial Courts; his implicit obedience in following that course and repeatedly seeking justice from the lower Tribunals to the higher Appellate Courts; the diversity of their decisions; the enactment of Regulation IV of 1829, for annulling the original Sunnuds and for issuing in their place new Sunnuds in order to divide the two Zemindaries of Ellore and Condapilly between the three sons of the old Zamindar Narriah Apparao; the subsequent cancelling of the said Regulation by Act II of 1835, are all fully detailed from paras 2 to 14 in his humble Memorial dispatched to your Excellency thro' the Madras Government under date the 20th July 1860; and to avoid the repetition of the same here, your Memorialist begs to submit for your Excellency's kind perusal and indulgent consideration, *another copy of the same.

* *Vide enclosure A.*

3. The most philanthropic and sublime sentiments which Her Majesty the Queen's Royal Proclamation gave expression to on the 1st November 1858, on the auspicious occasion of Her Assuming the direct sovereignty of India, viz.

"We desire no extension of our present territorial possessions and while we permit "no aggression upon our Dominions or Our rights to be attempted with impunity, we "shall sanction no encroachment on those of others. We shall respect the rights and "dignity and honor of Native Princes as our own; and we desire that they, as well "as our own subjects, should enjoy that prosperity and social advancement which can "only be secured by internal peace and good Government;"— have produced in Her Indian subjects, inexpressible joy and the hope of obtaining impartial justice and protection in the enjoyment of their rights under Her prosperous reign. Overjoyed and encouraged

by the said express declaration of Her Majesty's Pleasure and the more so by finding your Excellency to be the grand medium of meeting out equal handed justice to Her Majesty's Indian subjects, your memorialist has laid his case before your Excellency, and prays you will have pity on his degraded position and to kindly recommend him for the consideration of Her Majesty in Council and obtain for him the restoration of his lawful patrimonial possessions. It is now about 50 years since your Memorialist's father and himself have been in vain seeking justice; they have never given any offence to the Authorities in any manner, so as to afford them the smallest plea for the rigorous course that has been adopted with respect to them; it is most lamentable, that upon very insufficient grounds and unsound principles, they should be deprived of their Zamindary rights and thereby subjected to privations and themselves and their children thrown into a most humiliating position wholly incompatible with their dignity and standing in society. And as there are several points in favor of your Memorialist to procure him a review and amendment of his deplorable case, he implores your Excellency will condescend to hear his prayers and afford him justice.

4. The British Government with a view of ensuring free administration of justice to their subjects and to provide against unjust and erroneous decisions, have established Civil Courts, throughout their Territory; these Courts are one higher than the other with powers to hear appeals. Regulations and Acts have been enacted for their guidance; but it is surprising that your Memorialist's father, though he had gone thrice with his claims, regularly from the lower Court up to the Suder Adalat Court, yet could not obtain the smallest Justice. Not one of the Tribunals earnestly took up the question. The Sudar Adalat Court, passed two glaringly contradictory decisions, ignoring the fact of your Memorialist's father being the true and lawful third son of the Rajah Narriah Apparaô and entitled to a share in the whole Zamindary, and in so doing they did not shew sufficient cause, for invalidating Petitioner's claim, to the injury of his and his lineal descendant in their hereditary right to the Zamandary. Particulars will be seen in the following paras.

5. Your Memorialist's father, at first appeared before the Zillah Court of the late Masulipatam District, claiming from his Elder brother Ramachendra Apparaô half of the Condapilly Zamindary comprising the six Paraganahs of Weeyoor Madur &c. The Court decided that a monthly allowance of 300 Pagodas should be granted to him in lieu of the half of the Zamindary demanded. But being dissatisfied therewith, an appeal was laid before the Suder Udalut, who after taking the opinion of the Law Officers of their Court, adjudged that your Petitioner's father should bring a fresh complaint against both his Elder brothers, for one third of the two Zamindaries in their enjoyment and to that a decree under date the 20th April 1815 was the result, but they did not pronounce that your Memorialist's father had no right in any way to a participation in the patrimonial Zamindary. Being thus instructed he commenced suing his two brothers in the late Northern Provincial Court, and obtained a decree in his favour for $\frac{1}{3}$ of the Zamindary. The Defendants, on their appealing from it, the Suder Court, against their own decision passed in 1815, held proceedings to the effect that they could neither take cognizance of the suit nor enforce their former orders on the subject, and at once dismissed the suit with costs on the 20th May 1819 to the serious detriment of your Memorialist's father's interests; such a strange departure from justice, is worthy of your Excellency's notice and remarks. The Records of the Suder Court, teem with precedents and instances of similar cases of litigation brought before them and decided by them according to the principles of justice and equity; especially the case of the two brothers of the Mylavaram Zamindary in this District regarding the portion of their ancestorial Zamindary when the Suder Court decided that the two brothers, Venkatapatiraó and Ramachendraraô should equally divide between themselves, their father's Zamindary and accordingly enforced that decree. It is only in the instance of your humble Petitioner, they fell into a grievous mistake; but it is a mistake which entirely ruined your Petitioner. Had the Sudar Court not instructed your Memorialist's father to renew his suit against his two brothers, he would have kept quiet and contented himself with the decree of his own fate. It was only by their advice, that he again sued his brothers at an enormous expense and it was also by their final orders, declaring his suit untenable under the provisions of Regulation XXV of 1802 to the effect that they were unable to cancel the permanent Sunnuds they had already given, that he fell a victim to a large debt and much misery. Your Excellency will view the part played by the Sudar Court, and remark whether it is consistent with the principles of justice that such an Appellate Court, as that of Sudar Court, to whom the Legislature has given full power over a Country of vast magnitude and placed the people and their rights under its protection and justice, should advise a client to adopt a certain course, and after he had blindly followed it up, to knock him down with a load of costs to his irreparable ruin. Your Memorialist's case, your Excellency will peruse, presents no features difficult to surmount. In one view it will be plainly seen that on the death of your Memorialist's Grand father, the whole Zamindary was held under Circar management and very shortly after, by the express orders of Government, it was made over to the three

surviving sons of the deceased Rajah allowing the Ellore Zamindary to Venkata Narasimha Apparaô and the Condapilly now called the Nuzeed Zamindary to both Ramachendra Apparaô and Narasimha Apparaô, but those orders did not exclude the latter. It was only upon consideration of the latter being then a minor, that his portion of half of the Zamindary was left with the Co-heir Ramachendra Apparaô as a trustee for a time, on condition of restoring it back to the minor, after his obtaining his proper age. Now to get back the portion of the Zamindary so entrusted, your Memorialist's father was compelled to go through a tedious and protracted litigation for about 2½ scores of years, and tried the patience of the authorities, but obtained no justice.

6. On appealing to the Madras Government against the said decision of the Suder Adalut which ousted your Memorialist's father from his hereditary right to the Zamindary, the then Presiding Governor Sir Thomas Munro touched with the tale of your Memorialist's father, and struck with the fact that those grievances proceeded from a defective judgement on the part of the Judicial Authorities, ordered a sum of 800 Rupees to be paid monthly from the Circar Treasury, as an advance to meet the immediate wants of your Memorialist's father, and proposed at the same time the enactment of Regulation IV of 1829 for annulling the Sunnuds issued to the Ellore and Nuzeed Zamindaries and for providing new Sunnuds to invest the 3 sons of your Memorialist's Grand father with claims to equal shares in the said two Zamindaries. But before these arrangements could be reduced to practice His Lordship was obliged to quit the Indian shores for Europe, and subsequently the said enactment was rescinded by Regulation IV of 1830, by the Supreme Government.

7. From the above detailed account your Excellency can plainly discern the amount of injustice sustained by your Memorialist and *that* the simple solution of the question is the enforcement of the surrender of the half portion of Zamindary from Ramachendra Apparaô who held it as a trust for his minor brother according to the terms of his Kararnamah, but this seemed impracticable to the Authorities under the Madras Government. It is much to be regretted that the Suder Adalut Court, should have advised your Memorialist's father to bring a suit de novo against his two Elder brothers, and to have dismissed the first one, a valid one in point of Law, and ultimately to have said, that the first Sunnuds were a bar to your Memorialist's claims. An instance of such flagrant partiality and injustice can never have fallen to the lot of any, except to your Memorialist in the Presidencies of your Government or even to any individual under the Home Government. How strange, that among the 3 sons of one father, with the same rights, that two of them, should inherit their estates and the third be excluded and left to poverty? Can that British Government assisted by such learned and judicious Council as that of your Excellency, and conferring vast benefits upon the people of India and securing their loyality, be so regardless of its glory as to have it said that under its rule, your Memorialist and his lineal descendants belonging as they do to an illustrious family endowed with certain privileges and rights, are ruined from perversion of justice?

Vide the General Reports of the Collectors for years 1800-1801 *and* 1802 *about this Kararnamah.*

8. Your Memorialist's father after a fruitless attempt at obtaining redress, departed this life, in January 1832 and your Memorialist and his brothers being then minors, the Government paid them at the rate of 400 Rupees a month for their maintenance.

9. Your Memorialist and his brothers on their attaining their proper age, had used their feeble endeavours to obtain justice, on the occasion of His Lordship Sir Patric Adam the Governor of Madra's visit to this part of the Country. Your Petitioners had an opportunity of personally detailing their grievances and His Lordship without granting them redress was pleased to order a sum of 400 Rupees from the Ellore Zamindar and 200 Rupees from the Nuzeed Zamindar to be paid monthly for the maintenance of your Memorialists, and a further sum of Rupees 600 to be paid by them both, for the purpose of celebrating their Marriages and to that effect your Memorialists were called upon to consent, and that if they did not consent, the Government would discontinue the monthly allowance then paid from the Circar Treasury. Helpless and apprehending lest they might lose the good will of the Government by any refusal on their part, your Memorialits humbly submitted to the arrangement which was proposed to them containing several liberal promisses, thro' the then Collector Mr. J. C. Wroughton; and firmly believed that they could gradually secure the favor of the Government. Accordingly a Kararnamah was taken from your Memorialists, embracing the undermentioned conditions.

1. That a monthly allowance of Rs. 600, besides the 600 Rupees provided for the marriages expenses, be paid to the Memorialists from the Circar Treasury without the interference of the Zamindaries and the amount to be refunded to the Government from the Zamindaries.

2. That three villages yielding an annual income of 1000 Pagodas each, be granted as Jagheers, free of all assessment.

3. That your Memorialist be absolved from all liabilities contracted therewith.
4. That the Honorable Government should always continue their protection towards the Memorialists and their family and promote their well being.

A report was submitted by the Collector together with the Kararnamah to the Government through the Revenue Board, requesting authority to fulfil the promises held out in the Kararnamah.

10. The Honorable Government not giving due consideration to the recommendation of the Collector, were pleased to pass quite different orders to the following effect viz.

1. That the stipulated monthly allowance of 600 Rupees should be paid by the Zamindars themselves and not from the Circar Treasury. Thus the first condition was violated.
2. That in lieu of the 3 promised jagheer villages, only one village named Ravicherla should be favored free of assessment. Another Streeramavaram a ruined village under the Circar management, was allowed on condition of paying, for the first five years, half sist, and from the sixth year full Peishcush Rs. 1061. It was not even let on terms yielding at least a benefit equal to ⅓ of the gross revenue realized from that village at that period. Thus the 2nd condition was set at nought.
3. The third condition, a nominal favor, was however granted, in consideration of your Memorialists not inheriting any patrimony.
4. The different orders passed immediately after the promises made by Government, produced in your Memorialist bitter disappointment.

11. Your Memorialist nevertheless agreed to relinquish his claims to the valuable Zamindary and to abide by the terms of the Kararnamah in question. But the Honorable Government did not deign to confer on your Memorialist the trifling consideration which was in its gift. Your Memorialist seeing no alternative quiently submitted to those rigorous orders. Subsequently Mr. Porter was appointed as Collector to this District, who learning with pain the bitter grievances of your Memorialist, kindly made a reference on the subject to Government through the Board, strongly recommending that the allowance fixed on your Memorialist should pe paid directly from the Circar Treasury, leaving it to be refunded afterwards from the Zamindars, but the Government declined to comply with that request. Thereupon the Collector proposed that in lieu of the said allowance which was not regularly paid by the two Zamindaries, 8 villages out of the Ellore now called Nidadavole Zamindary and 6 villages forming Chevendra Mootah, out of the Nuzeed Zamindary, should be subdivided and alloted to your Memorialist with proportionate Peishcush, but the Commissioner for the Northern Circars fixing a Peishcush of Rupees 1326, ordered the said subdivided portions to be made over to them. This burthensome Peishcush has since been another source of trouble to your Memorialist.

12. Your Memorialist having been thus kept out of his Zamindary and reduced to poverty, it now rests with your Excellency to extricate your Memorialist, from his present embarrassment and to afford him that relief, which the Local Government had failed to give. With this hope he proceeds to detail the remaining particulars connected with his case.

13. The 2nd village Ravicherla granted upon half Beriz, was a waste reverted to Government from the former Proprietor on account of arrears. Previous to its being made over to your Petitioner in fasly 1247, it hardly produced half Beriz, and your Petitioner too after all the best improvement, could not realize more than ¼ of the Circar demand. The Revenue Authorities were pleased to remit the arrears and after ascertaining these facts as per margin, let the village for another 5 years on the same terms, but no good return was anticipated. In Faslies 1253 and 1254 arrears accrued up to 500 Rupees and upwards, and the village was Zufted for 30 months, during which period, the arrears swelled to Rupees 1771 - 11 - 0 this your Memorialist was called npon to satisfy, though the Circar knew it to have resulted from the failure of crops, and not from any mismanagement on his part. Still he promised to pay 850 Rupees by means of loans, leaving the rest to be paid by instalments To this the authorities did not yield and at once the vil-

Half Beriz. Rs. 530 8 0.			
Collections for 5 Faslies, from 1247 *to* 1251.	284	2	6
Paid from other sources and by loans.....	345	10	5
	629	12	11
Arrears remitted.....	2022	14	8
During the 2nd five years.			
Collection in Fasly 1252..... Rs.	302	3	0
Do do 1253.....	216	12	0
	518	15	0
Paid from other sourecs.....	600	0	0
Arrears in Petitioner's time.....	677	2	5
Do. During Circar Zaft.....	1034	11	3
	1771	13	8

lage was knocked down for Rupees. 800 to the Government even below the amount your Memorialist had offered in ready cash. From this, your Lordship can plainly see that the said village has been a burthensome appendage to your Petitioner, that he could not derive any benefit from it, though he laboured and sacrificed much for its improvement with the hope of perpetuating the grant in his family, was continually obliged to contract debts abroad to discharge the Circar demands. Had the Government given the village on favourable terms, it would not be difficult to your Memorialist to meet the sist, or subject himself to the loss of the village granted to him as a token of favor. The Government knew the village was in an impoverished state and yielded a scanty produce both under the Circar as well as his own management, still they wrested it from him in opposition to their original object, which was to enable him to derive benefit, for his well being. Under these circumstances he prays your Lordship will order the restoration of the said village on a sist equivalent to ⅓ of its average produce from 5 Faslies from 1247 or to favor him with any other Government village yielding an annual return of 1000 Pagodas, after deducting the Circar demand, and thereby help him to meliorate his poor condition.

14. Now regarding the two Mootahs conferred on him purely in lieu of the ready money allowance originally fixed, your Memorialist begs to observe here that, a temporary Peishcush of Rupees 6170 on the Mootah of Thungallamudy and of Rupees 5172 on that of Chevendra, was fixed on condition that, should on an examination of the subdivision accounts, it be found that the Peishcush was in excess, the surplus would be returned, but in case of a deficiency, the decrease should be made good by your Memorialist. Accordingly after a careful examination of the subdivision accounts and for several other reasons the Collector requested the Commissioner for the Northern Circars, that a permanent Peishcush of Rupees 4737 be fixed on Chevendra Mootah, but that Gentleman reducing the Peishcush on the Pargana of Pentapaud, increased it to Rupees 5218 on that small Moottah, by adding Rupees 480 or Rupees 46 above the temporary Peishcush, and the same was confirmed by the Government and the full amount was since collected without any consideration being allowed for the object of the grant of the mootah. Had the authorities had any regard for your injured Memorialist, the Peishcush on the Moottah ought to have been fixed on some equitable principles. viz. First, out of Rupees 4738 recommended by the Collector ⅔ amounting to Rupees 3158 - 10 - 8 should be deducted under Peishcush, leaving Rupees 1579 - 5 - 4 as a profit to your Memorialist, or 2ndly out of the same 4738, a sum of Rupees 2400 should be deducted to meet the annual allowance fixed at Rupees 200 a month, leaving the remainder Rupees 2338 as the Circar Peishcush. Instead of adopting either of the two calculations to regulate the Peishcush, certain average produce accounts were referred to. Your Memorialist prays that the present heavy Peishcush may be renewed according to either of the calculations alluded to, or be ever permanently fixed at Rupees 4737, as was ascertained by the Collector on an examination of the subdivision accounts, and the whole of the excess Peishcush collected from him from fasly 1255 to 1271 be refunded. To grant one of the three requests your Memorialist ventures to beg that an order may be issued by your Honor to the Local Government.

15. Your Memorialist feels deep sorrow, that the Suder Adalut Court should be precluded from all jurisdiction in his case, and the Local Government also should not give ear to his claims, while in many instances they have treated other Zemindars more liberally. The said Suder Court has decreed equal rights of inheritance to sons born of the same parents; adjusted differences regarding shares between brothers; enforced several Judgments for disposing of portions of Zemindaries to satisfy private debts; restored rights to parties whose connections with Zemindaries had ceased; cancelled permanent Cowls under certain circumstances and created new Cowls in lieu of old ones. Again your Honorable Government has kindly remitted arrears due on certain Zemindaries; lent money to liquidate private debts, and refunded to others ready money to a large amount on account of excess collections of past fuslies, and also surrendered Estates to Zemindars, after those Estates had been once permanently annexed to Government. Only in your Memorialist's case, justice and indulgence have been denied. If the Local Authorities do not redress these grievances, to whom else but to your excellency, should they be represented?

16. As now the one third portion of the Zemindary which your Memorialist has lost from violation of justice, has been brought under the Government's own management, there is ample apportunity and facility for your Lordship to afford justice by conferring on him the annexed portion comprising the two Paraganahs of Pentapad and Goondoogolanoo on the former Peishcush and thereby relieving him from his present distress.

17. Your Memorialist's father had three sons, A. B. and C. of whom B is given in adoption to his grand Uncle Vencata Narasimha Apparaô and is now in possession and enjoyment of Nedathavolu Zamindary, the other A and C were forsaken and ultimately forced to content themselves with the two small Mootahs given them, namely the Moot-

tah of Tangullamoody consisting of eight villages which was given to A. Simhadry Apparao who has since died and the other a still smaller one, including six villages to C. Venkatadry Apparao your present Memorialist. Though A and C thus divided the 2 Moottahs between themselves yet it was agreed upon, that in the event of failure of issue to either of them, the one should have exclusive right of possessing the other's portion providing however for the family of the other so that, by this arrangement they might firmly secure the two Moottahs as a lasting provision for life. At present C, your Memorialist is left alone to his great sorrow to represent his father and elder brother A, and he humbly implores that your Lordship will have pity on his case from his having descended from high fortune to the lowest level of poverty and admit him to full support from your Lordship's Council, and recommend the subject of his prayer. The more so as he in consequence of his brother's death is the sole heir to his entire property.

18. In conclusion your Memorialist humbly requests, that your Lordship after giving full and deliberate consideration to this Memorial, will be graciously pleased to grant him the following requests so far as your Lordship's judgment may deem proper, in consideration of the great loss and trouble which your humble Memorialist has suffered by having been deprived of his hereditary Zamindary and to confer on him your Lordship's favor.

1st. To favor on him the two Paraganahs of Pentapad and Goondugolanoo with the former Peishcush being fixed upon them.

2nd. To restore permanently the village Striramavaram, after altering the original Beriz on it.

3rd. To issue orders to the Civil Courts for relieving your Memorialist from the responsibility of all liabilities.

4th. To favor him with the third village as was promised originally.

5th. To exempt the Jagheer village Ravecherla according to the original conditions, from all liability of tax, subject to the recent Legislative enactments, because the said village is situated in a jungly place and very unproductive, hardly yielding a bare subsistence to the Ryots or any benefit to the Memorialist.

For which act of justice, your Memorialist will, as in duty bound,

Ever pray.

13th November 1863.
Masulipatam
Kristna District

TO

THE RIGHT HONORABLE

THE SECRETARY OF STATE FOR INDIA,

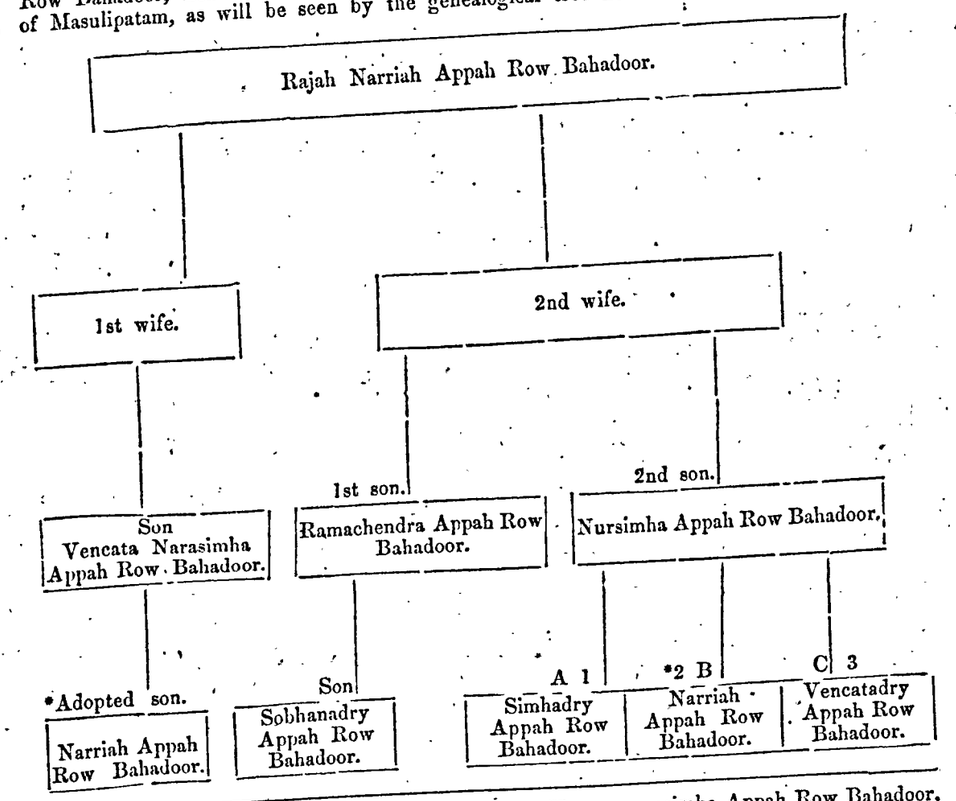
&c. &c. &c.

The humble Memorial of RAJAH SIMHADRY APPAH ROW BAHADOOR, *and* RAJAH VENCATADRY APPAH ROW BAHADOOR, *Zamindars Moostaphanagur, partners of the Noozeed Zamindaree in the Talook of Yaloor of Masulipatam District, under the Governmeut of Fort St. George.*

HUMBLY SHEWETH,

1. That with profound respect, your Memorialists beg leave to lay iu the following few lines a succint 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 Noozeed and Nedadavole in the District of Masulipatam, as will be seen by the genealogical 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 840

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 Noozeed Zamindaree 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 Noozeed 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 Special 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 Noozeed and Nedadavole: the Decree of the Provincial Court was thereupon set a side

Vide Enclosure A. 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

Vide Enclosure B. 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 excercise 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

Vide Enclosure C. 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 Milikiet 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 moottahs 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 is 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

**In A. D.* 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 Nothern 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 Appah Row Bahadoor, Zemindar of Noozeed, and Rupees four hundred from Narriah Appah 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 Memorialits, 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

**Dated 22nd May 1835. (Not forthcoming.)* issued to your Memorialists through the Collector of the District—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.

lector an excess of Rs. 13,647 or Rs. 7,510 have been collected on the Mootah of Thungullamoody, and Rs. 6,146 on that of Chevendra 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 circumstance which was the cause of your Memorialists not obtaining their one-third share in the Zemindaries of Noozeed and Nedadavole to which they are justly entitled, according to Rules and Dhurmasastrahs; 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.

Vide p. 9 of this Memorial.

17. Mr. Brandfold, 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 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 Estates. 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 Chevendra, 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 Memo-

rialists 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 were 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 Chevendra 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.

A

Read the proceedings in the Appeal of Rajah Ramachendra Appa Row versus *Rajah Narasimha Appa Row, 20th April* 1825.

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 Zemindary of Noozeed, 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 Noozeed, 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-Istimirar 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 Vakeel Narraina Sastry and Ghootur Roossool appeared for the said Appellant, and the Vakeel Shaik-Keeam-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 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 sharing also the eldest brother Venkatanarasimah 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 judgement is to spare the Plaintiff the notification 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 reflectiou 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 af 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 Venkata Narasimha Appa Row Bahadoor, and Rajah Sobhanadry Appah Row Bahadoor, minor, by Seetummah Row, his mother and Guardian.

Versus.

Rajah Narasimha Appah Row Bahadoor.

Vakeels of the Appellants.... { Streenevassacherry 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 Venkata Narasimha Appah Row and Rajah Sobhanadry Appah Row, minor, by his mother and guardian Seetummah Row for the recovery of one-third of the Noozeed 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 Narsimha 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 Noozeed Zemindary held by the two defendants respectively, together with the net profits thereof for fourteen years, viz;—Rupees 4,10,620 from the 1st 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 Vencatanarsimha Appah Row and Rajah Sobhanadry Appah Row, minor, by Seetummah 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 Narsimha 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 moity of that portion of the Noozeed 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 Appah Row. On an appeal to the Provincial Court for the Northern Division by the said Raja Ramachendra Appah Row, the decree of the Zillah Court was confirmed so far as it rejected the plaintiff's claims upon the Noozeed Zemindary; and that part of it which regarded the payment of an allowance by Rajah Ramachendra Appah Row was modified. Rajah Ramachendra Appah 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 Narsimha Appah Row to the allowance which the Provincial Court had adjudged to the payable to him by Rajah Ramachendra Appah Row, and their decree might have been limitted to setting a side 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 decision; that he did not pursue this course, is to be attributable perhaps partly to his poverty aud partly to his ignorance of the correct mode of procceding, while it was evident from the whole tenor of his pleadings that he believed his original claims would from 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 Noozeed 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 Narasimah 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 Noozeed Zemindary made by the act of permanent settlement; but that the decision on the claim of Rajah Narasimha Appa 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 Noo-

zeed 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 rested in the uniting power, and as by the exclusion of the original Plaintiff, whether intentional or otherwise so 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 exparte 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 Nandigamah 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 possessions 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 Noozeed Zemindary is inadmissable 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 Narasimha Appah Row, one-third of the several Purgunnahs and Talooks of the Noozeed 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 Appa 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 Noozeed 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 Auny of the year Virody, 1751st year of Salliwahn, and with the 20th of Zelhudge, 1244 Hijree.

Preamble.

I. Whereas the ancient lands of Noozeed now known by the appellation of the Zemindaries of Noozeed 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 Appa 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 Saint 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 Narasimha Appa Row, and that portion of the said lands now denominated the Noozeed 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 Narasimha 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 Sudr Udalut 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 Suddr Court, on perusing the record, were impressed with the belief that Ra- "jah Narasimha Appa Row had been excluded from a share in the Noozeed Zemin- "dary, contrary to the intention of the Government, and that the peculiar circum- "stances 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 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 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 Suddr Udalut 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 own 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 Noozeed consisting of the Purgunnahs of the Ellore and Condapilly Circars, now constituting respectively the Zemindaries of Ellore and Noozeed, situated in the Zillah of Masulipatam are hereby declared null and void.

The Sunnuds-i-Milkiet Istimrar of Noozeed and Ellore, are annulled.

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 Noozeed Zemindary as now constituted, to the heir and representative of his second son Ramachendra Appa Row deceased, a portion not exceeding one-third of each of the Zemindaries of Ellore and Noozeed 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.

New unnuds to be issued in certain proportion for these lands to the family of the Zemindar from whom they were sequestered.

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.

But the permanent Assessment to remain unaltered.

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, Noozeed, sequestered by Government from the head of that family, previously to the permanent settlement of the land revenue.

This Regulation not to affect any, but the ancient family lands.

No. 1.

To

RAJAH SIMHADRY APPA ROW BAHADOOR.

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

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

As the above said villages were bestowed on you by Government for mainten
it should be clearly understood that they shall not be liable to any debt contracted
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, Zemin
Nedadavole, Sobhanadry Appa Row Bahadoor, Zemindar of Noozeed, the former R
400 and the latter Rupees 200 as per agreement executed by them under date th
February 1835, being not paid to you from the month of September 1837, Enayetn
were forwarded to those Zemindars that the standing balance may be now paid an
tinue henceforward to pay up monthly the reasonable allowance, further it should
derstood that measures will be adopted for the due realization of the standing bala
the allowance according to the instalments as per order of the Board of Revenue.
should also file a Caboolyet in the Hoozoor on account of the village of Streerama

MASULIPATAM:
23rd *January* 1838.

(Signed) J. C. WROUGHTON,
Collector.
„ RAMAKROOSTNA PUNTOOLO
Head Sheris.
„ A. RAMA ROW,
Head Jawabnevis.

20 Oct 1863 No. 81
57

No. 1863 Dept.
of Govt for year
No. 27

From
Rajah Venkatadry
Appa Rao Bahadur
Zamindar in the
Kistna Dist.

Dated 13th November 1863.
Recd 18th " "

Rec. B. of Rev. 0/27 Aff 16
C No 1162 in Ro. 22 Dec
47/17

Forwarding a
Memorial in triplicate
to Honorable the Secretary
of State for India.

No 2147. 26 Nov
Fort St George

No 374 dated 27 Oct

C 25 Nov 63

No. 2147.

Resolved that one copy of the Memorial received with the foregoing letter be forwarded to the Board of Revenue with reference to G. O. 20th July last No. 1344, and with a request that the further circumstances now brought to notice may be considered in preparing the report already called for.

JP

From St. George
27th November 1863

CJ 10

14 Copies to the Bd of Rev
with Memorial
Dept 27 Nov