M.R.O. 14—15,000—27-9-34.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 389 Press ~~Mis~~

52-53

Dated 4 — 3 — ~~19~~ 1864

Not to be folded or roughly handled

No. 52. Read the following Proceedings of the Board of Revenue, dated 5th November 1863, No. 7,047:—

Read the following letter from the Honorable D. ARBUTHNOTT, Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 2nd November 1863, No. 208.

SIR,

From Collector to Board, dated 19th August 1863, No. 150.
From do. to do. 3rd October 1863.

1. With reference to the correspondence noted in the margin, I have the honor to submit for the Board's information a copy of the Decree passed by the Civil Court of Salem in Original Suit No. 1 of 1862 (Unkusagherry Poliput Suit), rejecting the Plaintiff's claim so far as the Poliaput is concerned.

2. The Court's Judgment in respect to the private property is reserved till a Petition presented by Ukkachi Ummani applying for a certificate under Act XVII of 1862, on the strength of the alleged Will is disposed of. I request the Board will be good enough to let me know whether I should adopt any steps at the hearing of the Petition. It is the interest of the Poligar to disprove the genuineness of the Will if he can.

3. I take this opportunity to bring to the Board's notice that on the receipt of the Board's Proceedings under date the 3rd ultimo, No. 6,312, I sent an order to the Tahsildar of Ossoor to deliver over the Kamatum lands and the movable property to Appoo Row, the Poligar.

4. On the 12th ultimo, I received an order from the Court directing me to retain the property, on receipt of which I sent an order to the Tahsildar to retain the property if he had not already delivered over charge of it.

5. The Tahsildar reported in reply that my second order reached him when he was in the act of delivering over the property, and that he has retained what at the time remained to be delivered. The Kamatum lands and most of the property have been made over to the Poligar The property still retained consists of some grain, the produce of the Kamatum lands, some ready cash, and some personal effects locked up in one of the rooms of the late Veera Ummani's house

6. A copy of the Court's order and of the reply I made to it is enclosed for the Board's information.

ENCLOSURE.

Original Suit No. 1 of 1862.

In the Civil Court at Salem, Present J. W. Cherry, Esq.

JUDGMENT.

1. The main point for the consideration of the Court in this Suit is whether it has been established in evidence, that the Poliaput in question is one over which this Court has jurisdiction, because it is a permanently assessed Zemindary, and consequently hereditary property.

2. The Court is of opinion that the Sunnud put in by Plaintiff marked A, and dated 22nd December (Fusly 1209) or the year 1800, is not a Sunnud as described in Section 3, Regulation XXV of 1802, upon which document the Plaintiff's claim is based.

3. The Plaintiff has not produced a formal "Sunnud Milkeut Istimrar," nor is there any evidence of a corresponding "Caboolut" such as contemplated in the above enactment.

4. Though the annual assessment may have been the same ever since the date of the original grant, though the Kists may have been fixed and dates of payment determined, though attachments may have issued on failure of such payments, and though members of the same family may have been in possession in order of "successions," and every feature of this case may be similar to such as would be recognized in a permanently assessed Zemindary, yet the Court is without the important evidence of the Government having formally declared this Poliaput to come under the provisions of Regulation XXV of 1802.

5. The Governor in Council, as the Ruling Power in this Presidency, has a proprietary right to lands like those of this Poliaput, and the Court feels itself incompetent to investigate the right exercised by that authority on this occasion, of granting away to the 1st Defendant the said Poliaput.

6. It was contended on the part of the Plaintiff that in order to make this an act of State, this gift of the Governor in Council has never been ratified by the Secretary of State for India. The Court is of opinion that though such is wanting, yet to all intents and purposes the British Government, as represented by the Governor in Council, have all the right of disposing of this Poliput at their pleasure, and that in exercising that right without a question, there is no necessity for such a gift to be formally ratified and confirmed by another authority out of this country.

7. Under this view of the case, the Court considers it unnecessary to go into the question of whether the Poliput in dispute is governed by the rules of primogeniture or into the points raised in the other issues.

8. The Court therefore rejects the claim of the Plaintiff to the Poliput of Ankoosagherry.

9. In regard to the movable property sued for by the Plaintiff, there is a Petition pending before this Court put in by the 4th Defendant claiming the same by virtue of a Will. The Court is unable to pronounce any opinion at present, as to the Plaintiff's right to it. This will be determined on the disposal of the above Petition, which she is at liberty to oppose.

10. The Court is of opinion that the 5th Defendant, the Collector of Salem, was perfectly justified in taking charge of the private property of this Estate on the death of the late Poligar, and that he so acted in good faith.

11. The Court decrees that all costs of this suit should be borne by the Plaintiff.

Salem, October 2nd, 1863.

(Signed) J. W. CHERRY, *Civil Judge.*

ENCLOSURE No. 2.

Extract from the Proceedings of the Civil Court of Salem, under date the 12th October 1863.

1. Read again Miscellaneous Petition, No. 77, presented by Narasiah, Government Vakeel, in Original Suit No. 1 of 1861, requesting that the movable property in attachment may be released by the Court:

2. In consequence of the representations made by the majority of the Counsel on the hearing of the original Suit this day, the Court directs the Collector to retain charge of the movable property, Putcut land, &c., until the decision is passed.

3. Ordered that an Extract from the Proceedings be sent to the Collector for his information and guidance.

(True Extract.)

(Signed) J. W. CHERRY, *Civil Judge.*

ENCLOSURE No. 3.

From the Honorable D. ARBUTHNOTT, Collector of Salem, to J. W. CHERRY, Esq., Civil Judge of Salem, dated 26th October 1863.

1. I have the honor to acknowledge the receipt of your Court's Proceedings, dated the 12th instant, directing me to retain charge of the movable property, Putcut lands, &c., belonging to Veera Ummanee, the deceased Poligar of Unkoosagherry.

2. In reply, I beg to state that previous to the receipt of the Court's Proceedings I received order from the Board of Revenue, under date the 3rd instant, directing the delivery of the property to Appoo Row, the present Poligar. A copy* of this order is enclosed for the Court's information. On the receipt of the Board's order I sent a Takeed, dated the 6th instant, to the Tahsildar of Ossoor to deliver the property to Appoo Row and to obtain his receipt, but on the receipt of

* Printed copy to be returned.

Proceedings of the Madras Government, Revenue Department, 4th March 1864.

your Court's Proceedings of the 12th instant, I sent an order on the same date to the Tahsildar to retain the property if not already delivered according to my first order.

3. The Tahsildar reports that my Takeed reached him at Unkoosagherry on the evening of the 14th, by which time he had made over to Appoo Row the whole of the Kamatum lands and most of the personal property. He further reports that he has retained the property which still remained. This consists of some grain, the produce of the Kamatum lands, cattle, some ready money, being the sale proceeds of the produce and some personal effects locked up in one of the rooms of late Veera Ummani's house. The Tahsildar's original Urzee with its enclosures are herewith sent for your information, and I request you will be good enough to return them to me after perusal.

(True Copies.)

(Signed) D. ARBUTHNOTT, *Collector.*

1. Ordered to be submitted for the information of Government.

2. The Board see no reason for the Collector to move in the matter of the Petition to be served heir to the personal Estate of deceased.

3. They approve of the Collector's proceedings in regard to the property which was retained in his charge for safe custody. The order of Court for the further retention of so much as has not yet been delivered to the Poligar, is of course sufficient to remove all objections to such retention.

No. 53. ORDER THEREON, 4th March 1864, No. 389.

Ordered to be recorded.

(True Extract.)

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

To the Board of Revenue.

Exd. S. T. Augustin.

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(True Copies.)

(Signed) D. ARBUTHNOTT, Collector.

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(True Copies and Extract.)

Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.

Copy to C. Dale, Esq., Government Pleader.

" to Honorable D. Arbuthnott, Collector of Salem.

Exd. J. Wright.

60 Mad. Gazette Vol. 103 - 108
30 Jubbulpore " 449 -
8 Oct. " " 48 - 52
Copy and Letter to Govt
of 5th March 1864 No 46

1864.
Rev: 1863. Department.
Rec'd from Govt for March/64

No. 2716.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 5th November 1863.
Despd -
Rec'd -

No. 7,047.

Submitting letter from the Collector of Salem giving certain information regarding the Unkusaghery Poliput Suit.

Vol. No. 389.