

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	461	Press ~~Mis.~~
	197-198	
Dated	17 - 3 - 1918	1864

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
17th March 1864.*

No. 197. Read the following Proceedings of the Board of Revenue, dated 1st March 1864,
No. 1,293:—

Read the following letter from the Acting Collector of Madura, dated 22nd February 1864,
No. 42.

1. I do myself the honor to submit for the information of the Board, translate of a Deed of Rent executed to Mr. G. F. Fischer of Salem, by Rani Kattama Nachiar, under date the 22nd January last, and ratified and registered in the Principal Sudder Ameen's Court on the 9th February; from which the Board will perceive that she has rented the permanently settled Zemindary of Shevagunga for ten years, on the understanding of Mr. Fischer paying her 1,00,000 of Rupees per annum, and on other conditions. The Estate pays a Peishcush of Rupees 2,58,640 per annum.

2. I beg further to enclose copy of Extract from the Proceedings of the Civil Court of Madura, under date the 8th February 1864, making over the Estate to Kattama Nachiar under the Decree of the Privy Council.

• Translation enclosed.

3. Kattama Nachiar, through an authorized Vakeel and Mr. Fischer, made an application* to me to recognize Mr. Fischer as the lessee of her Estate, to receive Peishcush from him during the ten years aforesaid, and to carry on correspondence with him in all matters connected with the Zemindary.

4. I therefore beg the instructions of the Board on the subject. I conclude that the only course for me to pursue is to recognize Mr. Fischer as the renter of the Zemindary.

5. I thought it advisable to ascertain in person the correctness of the application, and therefore visited the lady in her house. She acknowledged the signatures in the Deed of Lease and in her application to me; and stated that it was with her free will and consent, she has leased the Estate to Mr. Fischer under the conditions set forth in the lease, in consideration of the service rendered her by him, in having brought the Suit regarding the Estate to a successful issue.

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ENCLOSURE No. 1.

Translation.

Deed of Lease executed on the 22nd of January 1864, by Coolandapoori Nachiar *alias* Kattama Nachiar, the Zemindarnee of Shivagunga in Madura District, to George Frederick Fischer, Esquire, the Mittah Zemindar of Salem.

Whereas a Suit, on account of the Zemindary of Shivagunga, was originally instituted by my step-mother Angamootoo Nachiar, afterwards jointly by my elder sisters Boodaka Nachiar and Kotai Nachiar and myself, and subsequently, for a long time, the same was conducted

individually by myself; and whereas finally a Decree* has been passed in my favor by Her Majesty the Queen in Council; whereas also the success

I have met with has been chiefly owing to the extraordinary endeavors you had made in the conduct of the Suit in question; I do hereby, therefore, by virtue of the full right and title conferred on me by said Decree, grant to you with my entire pleasure and free will, the Zemindary of Shivagunga aforementioned, on rental tenure, for the annual sum of a lac of Rupees, for the period of ten years, beginning from 1st January 1864 to the 31st December 1873, subject to the conditions hereunder mentioned.

You will pay the aforesaid annual amount of a lac of Rupees in such sums as may from time to time be required for my expenses, and further pay to Government its Peishkist amount according to the instalments laid down in the Kistbundy. The debts due by me to you according to accounts and other documents, the one lac of Rupees which I promised to present you with on account of your exertions, and the sum promised to Messrs. Ritchie and Ouchterlony, for their trouble at twenty thousand Rupees each; all these you will liquidate from the revenues derivable from the Zemindary. You are to make all the necessary Maramut works required and defray the expenditure thereof from the revenues of the Zemindary. You will also redeem for

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me the village of Sambanoor that has been mortgaged to one Alagappa Chetty, and clear up my sundry debts amounting to within fifty thousand Rupees. You will likewise appoint your own Officers to transact the business of the Zemindary. You will issue the Puttahs, &c., in your own name. I do hereby further vest you with authority to conduct all matters connected with the rent. Neither I nor you can have cause to complain in the event of any increase in the revenues of the Zemindary over the amount of rent, &c., or of any deficit below it. On the expiration of the term of the rent, viz., ten years, you will return this Deed to me, and deliver back the said Zemindary. All receipts which may on account of the Zemindary be due and all incomes connected therewith, shall be paid only to me who am the Zemindarnee. In pursuance of the tenor of the power which I had before executed to you, you shall endeavor to obtain possession of the Zemindary, and as soon as you take charge of the Estate, you will under the authority of this Deed, enjoy the Zemindary on lease. On my part I and my heirs, and on your part yourself and your heirs as per your Will, do mutually bind ourselves to abide by the conditions of this Deed of Lease. I execute this Deed at Salem with my free will and consent, in presence of the undermentioned witnesses.

WITNESSES.

Soondrasawmy Taver.
Thomas M. Scott.
James Fischer.

This Deed was written by Sreenivasa Iyengar of Madura.
Approved and confirmed by me this 9th day of February 1864.

The Seal and Signature of Rani Kattama Nachiar.

(Signed) RANI KATTAMA NACHIAR.

WITNESSES.

Soondrasawmy Taver.
Thomas M. Scott.
James Fischer.

Written by Sreenivasa Iyengar of Madura.

(True Copy.)

(Signed) A. R. McDONELL, Acting Collector.

(True Translation.)

(Signed) A. R. McDONELL, Acting Collector.

This Deed of Lease is registered in the Madura Zillah Principal Sudder Ameen's Court Register Book, Volume 13, pages 312, 313 and 314 in No. 4,733 on the 9th day of February 1864, at 4 o'clock P. M.

(Signed) M. SADASIVA PILLAY, Principal Sudder Ameen.
(Signed) A. R. McDONELL, Acting Collector.

ENCLOSURE No. 2.

Extract from the Proceedings of the Civil Court of Madura under date the 8th February 1864.
Here enter Proceedings Civil Court, dated 4th instant.

In pursuance of the above, the Court on the 6th instant proceeded to examine the evidence brought forward by Mr. Ritchie, as noted in the margin; and it is of opinion that by it the following facts have been established:—

Four Witnesses,
Three Exhibits.

- 1st. That Bodaga Nachiar died on the 16th April 1862.
 - 2nd: That Kota Nachiar demised several years before in 1852; and
 - 3rd: That Petitioner is the Appellant Kattama Nachiar, daughter of Gavirivullaba Taver and sole surviving one of those in whose favor the Decree of Her Majesty in Council is given.
- The Court being further of opinion that the Decree of Her Majesty in Council, which it has, by order of the High Court, been directed to execute, has adjudged the absolute right of the

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Shivagunga Zemindary to be vested in the three daughters, though without prejudice to their rights inter se; the Court declines in the absence of all allusion to their heirs in the Decree to acknowledge the claims of parties alleging themselves to be such, to be put in possession of the Zemindary so long as one of the daughters survives, as it has been established she does, in the person of the Petitioner Kattama Nachiar.

It may be pleaded, that by the Decree in question, the Court is merely directed to take an account of the rents and profits of the Zemindary, received by the respondent or by his order, or for his use, since the death of Ungamootoo, and to pay the parties entitled what may be found due to them; and that no authority is given to make over the Estate at once to Petitioner; which is directed to be put into the hands of the Collector or a receiver of the Court; but the Court is unable to admit the plea as valid, it appearing that the latter directions were given solely with a view to protect the Estate from spoliation, pending the investigation that it might be necessary to make before the Court could determine the rights of the said daughters inter se; and it can see no cause for delaying to put Petitioner into immediate possession, to which she has proved her title.

It would appear that the Privy Council, when they pronounced their judgment, were not aware that two of the three daughters had demised; and that therefore, they left it to the Court appointed to carry it out, to determine how far the agreement, said to have been executed between them, was binding and valid; but it having been proved to the Court, that two of the executing parties are dead, it is immaterial in determining the question, *who is to be put into possession of the Estate*, whether the agreement is good or bad; because, either way the Petitioner, as sole survivor of the three daughters must, under the Decree, be entitled to recover the Estate.

The Court therefore for the above reasons considering it unnecessary to make over the Estate either to the Collector, an interested party, as Agent for the Court of Wards, and a Defendant in Original Suit No. 10 of 1856, or to a receiver of the Court, resolves to direct and hereby directs in execution of the said Decree, that the entire Shivagunga Estate with every thing appertaining thereto, be made over to the Petitioner Kattama Nachiar or her duly appointed agent by Court Process; that further that the respondent do give the entire moveable property consisting of cash, jewels, bonds, and such like valuables in his possession to a duly authorized receiver, who will be authorized to execute so much of the Decree as refers to such moveable property and to produce the same before the Court in satisfaction of the claims under the said Decree; Appellant's claim for costs in this suit being hereby declared to have the precedence next to those that may be advanced by Government for Kist. Warrants for execution of the above Decree as asked for will be granted so soon as Petitioner shall have made his application in the form laid down by Sections 212 and 214. The Court further resolves under Sections 180 and 181 to appoint a Commissioner to call for the accounts of the rents and profits of the Zemindary since the death of Angamootoo with directions to report thereon to the Court, and to submit his opinion regarding the amount of mesne profits found to be due from the death of Angamootoo to the 16th April 1862, and from the latter date to the present.

(True Extract.)

(Signed) R. R. COTTON, Civil Judge.

(True Copy.)

(Signed) J. D. GOLDINGHAM, Acting Civil Judge.

(True Copy.)

(Signed) A. R. McDONELL, Acting Collector.

ENCLOSURE No. 3.

From RANI KATTAMA NACHIAR, to A. R. McDONELL, Esq., Acting Collector of Madura, dated—February 1864.

On the 30th November 1863, the Judicial Committee of the Privy Council reported on my Appeal to the Queen in Council and on the 8th December 1863, Her most Gracious Majesty in Council passed Decree in my favor.

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On the 19th January 1864, I applied to the High Court for execution of said Decree and put in an authenticated copy of it.

On the 23rd idem, the High Court passed orders to the Civil Judge of Madura to execute the Decree in compliance with my request.

On the 2nd instant I prepared, and on the 4th put in an application to the Civil Court to carry out the orders of the High Court.

On the 6th instant, the Civil Court received evidence to prove that I was the sole survivor of the three daughters of the Istimerar Zemindar that jointly sued for the Zemindary, on the death of his last widow Angamootoo Nachiar. I immediately applied to the Court thereon to put the Zemindary in possession of my Agent Mr. G. F. Fischer.

And on the 8th instant, the Civil Court passed orders giving the right and title to the Zemindary to me, and directing it to be delivered over to my said Agent Mr. G. F. Fischer.

On the 22nd January I gave a lease of my said Zemindary for ten years to Mr. G. F. Fischer, for a good and valuable consideration and upon the conditions, contained in the said lease.

And on the 9th instant, I ratified and confirmed the same and had the Lease Deed registered in the Principal Sudder Ameen's Court.

I now beg to notify the said lease to you, and to request that you will regard Mr. G. F. Fischer as the lessee of my said Zemindary for the said period, and receive from him the Peischush thereof as it falls due granting him receipts for the same, and further that you will communicate with him on all matters relating to the said Zemindary for the said period.

I herewith submit for your information printed copies of the report of Judgment of the Privy Council of the 30th November 1863, and of the Decree of Her Most Gracious Majesty in Council of the 8th December 1863 above alluded to, also an authenticated copy of the orders of the Civil Court of the 8th instant, and my Vakeel who present this and Mr. G. F. Fischer will submit conjointly for your inspection the Lease Deed duly registered as mentioned above. With salams.

(True Copy)

(Signed) Æ. R. McDONELL, *Acting Collector.*

1. The Board see no reason for the Collector to hesitate in dealing with Mr. Fischer as Agent and Lessee of the Zemindar. His doing so will not of course prejudice the legal interests of any other parties.
2. Receipts for Peishcush must of course be given in the name of the Zemindar, for payment made through her Agent.
3. If the Collector has copy of the Decree of the Privy Council, he is requested to forward it for the perusal of the Board.

No. 198.

ORDER THEREON, 17th March 1864, No. 461.

1. The Government approve of so much of the Board's Proceedings as authorizes the Collector, in accordance with the Zemindarnee's wish, to receive the Peashush of the Estate from Mr. Fischer on her behalf, granting receipts for the same in her name.
2. If the Zemindarnee wishes Government to recognize Mr. Fischer as her Agent in other respects, she must furnish him with a regular Power of Attorney.
3. The "lease" of the Estate is a private arrangement between the Zemindarnee and Mr. Fischer, with which the Government have no concern, and they consider it inexpedient for the Collector in any way to recognize a transaction the validity of which may be open to question.

(Signed) J. D. SIM.

D. SIM,
Secretary to Government.

Revenue Department

И. Г. Г.

W. 461.
Proceedings of the Madras Government
18th Dec 1861.

Under date the 17th March 1864

Read the following

Pro: of the Board of Revenue.

Stating that there can be no objection to Mr. Fischer being dealt with as Agent and Deputee of the Zemindar of Shevagunga, and requesting to forward, if available, copy of the Decree of the Privy Council.

(Here enter 1st. March 1864)
No. 1293

The Government.

Having doubtless equally approve of so much of the
 recognition of the Board's proceedings as autho-
 rizes the Collector to deal
 lease I consulted Mr. with Mr. Fischer
 Dale & drafted this as the Zemindar's Agent
 in communication in accordance with her
 with him. The Zemindar's death would
 avoid the lease - & it request, ~~and~~ ^{and} ~~unintended~~ ^{unintended} her
 is otherwise questionable wise desired by her, and
 so far I should avoid in accordance with the Zemindar's wish
 any thing like recog. to receive the Peshkash of
 -nition. The Court has Mr. Fischer ^{the}
 placed the lady in pos. the estate from ~~him~~ ^{her}
 session & declared her ~~Zemindar~~
 competent to manage her behalf, granting the receipts
 own affairs. 10 7 for

for the same in her name.

The "lease" of the Estate is a private arrangement between the Zemindar and Mr. Fischer, with which the Government have no concern, and they consider it inexpedient for the Collector in any way to recognize a transaction the validity of which may be open to question.

L. D. S.

* If, the Zemindar wishes to recognize Mr. Fischer as her Agent in other respects, she must furnish him with a regular ~~Kabulata~~ Power of Attorney, as otherwise his acts may at any time be disavowed and he placed in an undesirable position.

16 Copies to the B. O. Office
Sept 19 March

Think you should be a power of Attorney of Mr. Fischer in back in any other way or agent for the Proprietor - but not needed in a power of Attorney as far as the Govt is concerned. Available to receive money from Arab -

Go - but I fancy Mr. F into has to do other things connected with the management of the estate besides paying the Proprietor.

Received 1861 Sept 10th
No: of Gov for March.

No 461.

Also: of the March 10th 1861
of 17 March 1861.

From 1861 July 1861 No 2105.

No 461
Sept 10th 1861

No. of the Board of Health
No. 2000/1861 No 112

No 197 498

Containing the
Collector of the March 10th
received the March 10th
of the March 10th 1861
containing the March 10th
to be on behalf of the
March 10th 1861
orders thereon.