M.R.O. 14-5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

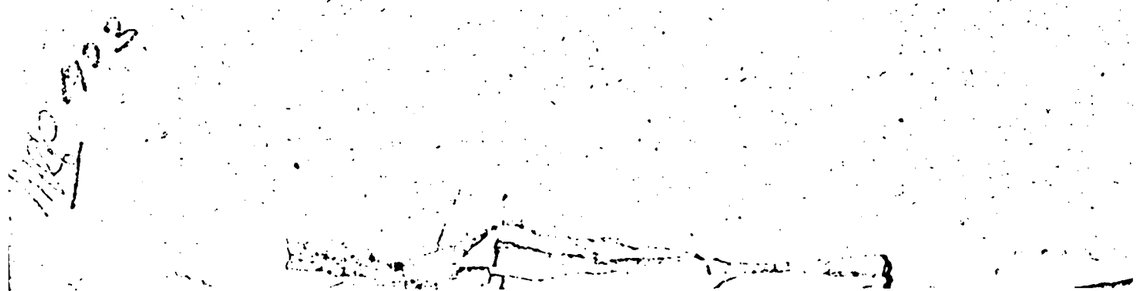
Revenue **DEPARTMENT.**

G.O. No. 1963 Press ~~Mis.~~

586. 589

Dated 31-7-1866.

Not to be folded or roughly handled



Proceedings of the Madras Government, Revenue Department, 31st July 1866.

Read the following papers :—

No. 586. Read the following Proceedings of the Board of Revenue, dated 4th July 1866, No. 4,529.

Read the following letter from the Collector of Coimbatore, to the Acting Secretary to the Board of Revenue, dated Ootacamund, 4th June 1866, No. 147 :—

1. I have the honor to inform you that Subbaraya Vanavaroya Gounden, late Poligar of Samatoor and Kotamputty, in the Polachy Talook, died on the 25th ultimo. He has left a daughter named Annapoorana Ammal, (7) seven years old, and on the day preceding his death, he adopted Kolunda Sawmi Vanavaroya Gounden his uncle's grandson, a boy of (9) nine years of age.

2. Being unable to go to Polachy to inquire into the circumstances attending the Poligar's death, and his adoption of his uncle's grandson, I requested Mr. McQuhae, the Acting Sub-Collector, who was then in the adjoining Talook of Oodumullapettah, to do so. Mr. McQuhae's report, with enclosures, is forwarded for the information of the Board. In the view expressed by him regarding the validity of the adoption, I coincide. It seems to have been carried out in the most public manner, and in the presence of respectable witnesses.

3. Nunjapa Vanavaroya Gounden, uncle of the deceased Poligar, claims the estate on the grounds :—

First.—That he is heir-at-law.

Second.—That no adoption took place.

Third.—That the adoption of an only son is contrary to Hindu law.

There is no reason to think that the adoption did not take place, or is not valid ; and even were there reasons to believe the contrary, the widow, and not the uncle, would be the heir. I recommend that the adoption of Kolunda Sawmi Vanavaroya Gounden, grandson of the uncle of the late Poligar, be acknowledged, and that he be declared by Government to be the successor to the property of the deceased Poligar. The widow, a woman of thirty-three years of age, is anxious to manage the estate during the minority of the adopted boy ; but this step I cannot recommend. If taken under the charge of the Court of Wards, the estates can easily be managed by the Polachy Tahsildar, with the assistance of a Gumastah : a course which will, I believe, tend to the economical and beneficial administration of the estate. The appointment of Ponmalayandy Vanavaroya Gounden as guardian of his grandson, the minor, is recommended.

4. The debts of the late Poligar amount to Rupees 7,932-10-0 ; whereas the money due to him comes to Rupees 3,689.

5. The adopted son, Kolunda Sawmi Vanavaroya Gounden, was born on 17th September 1857, and will come of age on 17th September 1875.

6. With reference to the Notification,* dated 16th March 1846, I would simply remark that the deceased Poligar died at the age of twenty-nine in the prime of life, when he had every reason

* Published in the "Fort Saint George Gazette" of the 5th June 1846, page 545.

to believe that he had many years to live, and a fair prospect of having both sons and daughters. These circumstances deserve the favorable consideration of Government, and justify, I think, the deceased in the course pursued by him in making the adoption.

Enclosure No. 1.

From W. McQUHAE, Esq., Acting Sub-Collector of Coimbatore, to the Collector of Coimbatore, dated Camp Polachy, 23rd May 1866, No. 79.

1. With reference to your letter of the 8th May, No. 130, I have the honor to inform you that I have made an inquiry regarding the succession to the estates of Subbaraya Vanavaroya Gounden, late Poligar of Samatoor and Kotamputty, in the Polachy Talook.

2. On Tuesday the 24th April, the deceased Poligar being dangerously ill, and having no male issue, determined to adopt his uncle's grandson, Kolunda Swami Vanavaroya Gounden, a boy of nine years of age. This boy was given away by his mother and grandfather, and accepted by the Poligar in presence of the Poligars of Tondamootoor, Ootcooly, Myvadi, and Poravipolliam, together with several Ryots, and the family and servants of the deceased. A writing was then prepared by the Poligar's direction in which he acknowledges the boy as his adopted son, and heir, and directs that he shall perform the funeral ceremonies. This writing was signed by the Poligar, and attested by the Poligars and Ryots who were present, ten in number. After this, the Poligar handed over to his wife the boy and the writing, desiring her to protect the boy as his adopted son. On the evening of the following day, the 25th April, the Poligar died.

3. Kolunda Swami Vanavaroya Gounden is an only son. He was born after the death of his father, and consequently did not perform his funeral ceremonies. I have not the reported case here, but I believe it has been settled by the High Court that the adoption of an only son is not invalid. If so, I conceive that this adoption is good, and that Kolunda Sawmi Vanavaroya Gounden is heir to the Poliput estates of Samatoor and Kotamputty.

Special Appeal 412 of 1862.

4. Nunjapa Vanavaroya Gounden, uncle to the deceased Poligar, claims the estate on the grounds—

1*st*.—That he is heir to the deceased Poligar.

2*nd*.—That the alleged adoption did not take place.

3*rd*.—That the adoption of an only son is contrary to Hindu law. He produces no evidence to show that the adoption did not take place, and he can know nothing about it of his own knowledge, because he was absent in Tanjore when the Poligar died. I believe that the adoption is valid, and that if it were not valid, the widow would be the heir.

5. The family left by the deceased Poligar consists of the following persons :—

1. Subammal, widow.
2. Annapoorana Ammal daughter (7) seven years old.
3. Agatur Ammal, mother of deceased.
4. Adopted son.

6. It is the desire of the widow Subammal, who is now in possession of the property, that she should be permi tted to manage it herself during the minority, and that the Court of Wards should not take charge of it. She is about thirty-three years of age, and can read and write a little.

Proceedings of the Madras Government, Revenue Department,
31*st July* 1866.

7. In the event of the Court of Wards taking charge of the estate, there is nothing to prevent the Tahsildar of Polachy managing the property with the assistance of a Gumastah. The Andipatti Estate in Caroor is managed in this way. This course would save expense and prevent disputes. Ponmalayandy Vanavaroya Gounden is a proper person to be guardian to his grandson, the minor.

8. The debts due by the late Poligar amount to Rupees 7,932-10-0. The greater part of this is money borrowed in mortgage of jewels and other valuables.

Debts due to the Poligar amount to Rupees 3,689.

9. I enclose three Statements :—

1. Showing Ayacut and Beriz of the villages of Samatoor and Kotamputty.
2. Showing Puttah lands possessed by late Poligar.
3. Genealogical Table of Poligar's family.

Eight Depositions regarding the adoption are also enclosed.

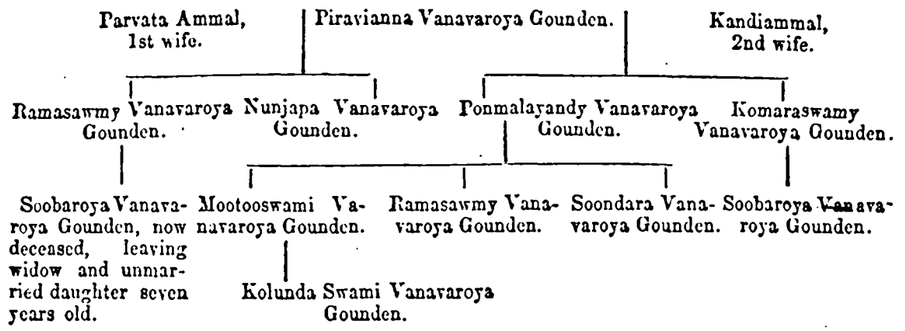
The boy Kolunda Swami Vanavaroya Gounden was born in September 17th, 1857, and he will come of age on 17th September 1875.

Enclosure No. 2.

Abstract.—Copy of depositions recorded regarding adoption of Kolunda Swami Vanavaroya Gounden, by Soobaroya Vanavaroya Gounden.

Enclosure No. 3.

Genealogical Table of Poligar's family.



(Signed) W. McQUHAE,
Acting Sub-Collector.

Enclosure No. 4.

Abstract.—Statement showing the Ayacut and Beriz of the Samatoor and Kotamputty Poliputs, for Fusly 1275.

Enclosure No. 5.

Abstract.—Memorandum showing the lands possessed by the Zemindar of Samatoor.

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1. The foregoing letter will be submitted to Government, with the Board's recommendation that the youth referred to as having been adopted by the late

owner of Samatoor, be declared Poligar of that Estate, and that a permanent Sunnud be granted to him under the conditions of the Government Order, under date 10th November 1865, No. 2,730.

2. The Board have some doubts as to the expediency of their assuming charge of the property as Court of Wards, as the Estate is a small one, and the interests of Government are not largely interested in its management. At the same time, as the youthful proprietor will doubtless benefit by being placed under wardship, the Board support the Collector's recommendation that the management of the estate be vested in the Court of Wards.

3. Should the Government concur in this view, it will be necessary for the Collector to nominate a competent Manager under Sections 8, 10, 11, and 12 of Regulation V. of 1804. The management of the Estate by the Tahsildar of Polachy would be irregular, and might interfere with his proper duties.

No. 587. From NUNJIAH VANAROYA GOUNDEN of the Samathoor and Kotamputty Zemindary in the District of Coimbatore.

Preferring his claims to succeed to the Zemindary, and disputing the alleged Will of the late Zemindar as well as the adoption of Kolundasawmy. } (Here enter 10th July 1866.)

No. 588. From NUNJIAH VANAVA ROYA GOUNDEN, son of the original grantee PERUMIAH VANAVAROYA GOUNDEN, late Poligar of Samathoor, &c., Coimbatore District.

Submits a Petition to the Right Honorable the Governor, and solicits that orders be issued confirming him in his hereditary right as the Poligar of Samathoor and Kotamputty in Coimbatore District. } (Here enter 19th July 1866.)

No. 589. ORDER THEREON, 31st July 1866, No. 1,903.

Miscellaneous.

The Government resolve to forward the papers to the Advocate General (through the Government Solicitor,) and to request that he will at an early date submit his opinion as to the validity of the adoption in this case. It is observed that the son adopted by the widow of the deceased Poligar was a posthumous, first born, and only son.

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

To

THE RIGHT HONORABLE
LORD FRANCIS NAPIER, BARON NAPIER, K.T.,
GOVERNOR IN COUNCIL,
FORT ST. GEORGE.

The humble Memorial of NUNJIAH VANAROYA GOUNDEN, *of the Samathoor Cotamputi Zemindary in the Talook of Polatchi, in the District of Coimbatore.*

SHEWETH,

1. That Peroomaya Vanaroya Gounden was the father of your Memorialist.

2. That the said P. Vanaroya Gounden had two sons by his first wife, namely,

Ramasami Vanaroya Gounden, who had a son named Soobbaroya Vanaroya Gounden, the late Zemindar of Samathoor Cotamputi.

And your Petitioner, who was undivided from his brother Ramasami Vanaroya Gounden, and his nephew, the late Zemindar.

3. That on the death of P. Vanaroya Gounden, his eldest son, Ramasami Vanaroya Gounden, according to the custom of the family, succeeded to the Zemindary and lived in association agreeably to Hindoo Law with your Memorialist.

4. On the death of Ramasami Vanaroya Gounden, his son, the late Zemindar, succeeded and continued to live in association under Hindoo Law with his uncle, your Memorialist.

5. That Soobbaroya Vanaroya Gounden, the late Zemindar, died without male issue on the 25th April 1866, at which date your Memorialist was absent at Combaconum, having proceeded thither on a pilgrimage.

6. That on his return, your Memorialist was opposed in his claims to take possession of the Zemindary by the claim of one Colandai Swami, who was alleged to have been adopted by the late Zemindar.

7. That the alleged adoption is false, and your Memorialist has every reason to believe that it is false from the following circumstances:—

1*st*.—Because the late Zemindar never reported his intention to adopt to the Revenue Authorities.

2*nd*.—Because he was not more than 30 years of age, and was a strong, vigorous man, who had no reason to despair of male issue.

3*rd*.—Because the matter is unknown to the Maniager and principal inhabitants of the late Zemindar's resident village.

4*th*.—Because, after the alleged adoption is stated to have been made, the fact was not reported to the Collector or any other Revenue Authority.

5*th*.—Because every precaution necessary to ensure publicity appears to have been omitted.

8. As undivided uncle, your Memorialist is entitled to succeed according to Hindoo Law and the custom of the family, he is therefore undoubted heir, and his claims cannot be set aside by the alleged adoption, until the same be fully proved before a Court.

9. Your Memorialist has been given to understand that a Will is also alleged to have been executed in favor of this alleged adopted son; and for the reasons which cast suspicion on the adoption, your Memorialist likewise disputes the genuineness of the Will.

10. The *primâ facie* heir at law is your Memorialist; in any case, he is a sharer, and cannot be divested of his share without his consent, which has never been given. Under these circumstances, your Memorialist is entitled to possession till the claimant who seeks to divest him of all, or part, establishes his claim.

11. The estate has been placed by the Collector in the hands of the late Zemindar's widow, who, where a family is undivided, has no right under Hindoo Law; and your Memorialist understands that the Board of Revenue has recommended to your Lordship that the alleged adopted son should be recognized as heir.

12. Your Memorialist submits that, in the absence of due investigation into the alleged adoption, this measure is not justifiable—

1*st.*—Because the claim of the alleged adopted son is disputed by a person who has a right to compel him to prove his claim.

2*nd.*—Because, as *primâ facie* heir and surviving eldest head of the family, your Memorialist has a right to succeed.

3*rd.*—Because the custom of the family of your Memorialist recognizes no other than the eldest surviving member as entitled to succeed, and your Memorialist, as the eldest surviving descendant of the first wife of his father, the aforesaid Peroomaya Vanaroya Gounden, is clearly the successor.

13. Under these circumstances, your Memorialist entreats that your Lordship will be pleased to order, either—

1*st.*—That your Memorialist shall be placed in possession as *primâ facie* the individual best entitled to succeed, leaving the alleged adopted son to his remedy at Law; or

2*ndly.*—That the estate be placed under the management of the Collector, pending the decision of the Courts on any suit which either claimant may institute within a certain time.

For which, as in duty bound, your Memorialist shall ever pray.

MADRAS, 10*th July* 1866.

I am disinclined to approve of the adoption as stated in another paper. But I wish to know what are the precedents in similar cases.

a case must in point occurred some months ago in the Salem dist. in which one of the Poligars near Ossoor. There, the widow had not adopted, as I recollect, but Govt. exercised its prerogative of inducting the nearest male member of the family whom the deceased Poligar had deemed to appoint. Again, there was a rather recent N. arcot case — But in this Rebs case, I am not prepared, as I understand it, in any way to touch the point of adoption. The Govt. will simply make over the Zemindary - for as no summons has ever been issued to Rebs and Ramen he following the example of the deceased Zemindar die very early, there is no reason why, in his turn, the boy alleged to have been adopted should not get the Estate. WDM

The precedents & the papers relating to them can be put together in the record department.

WDM

Received 1866 Dep. Pr. Govt. for July No. 2072.

FROM

NUNJIAH VANAROYA GOUNDEN,
of the Samathoor Cotampati Zemindary, in the District of Coimbatore.

To

THE RIGHT HON'BLE
THE GOVERNOR IN COUNCIL,
Fort St. George.

Dated 10*th July* 1866.

Received 13 —

Enclosures.

Preferring his claims to succeed to the Zemindary and disputing the alleged Will of the late Zemindar, as well as the adoption of Colundai Swami.

No. 1903 - 31st July/66

No. 587.

2 C.D. July 66

5c

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1. Showing Ayacut and Beriz of the villages of Samatoor and Kotamputty.
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3. Genealogical Table of Poligar's family.

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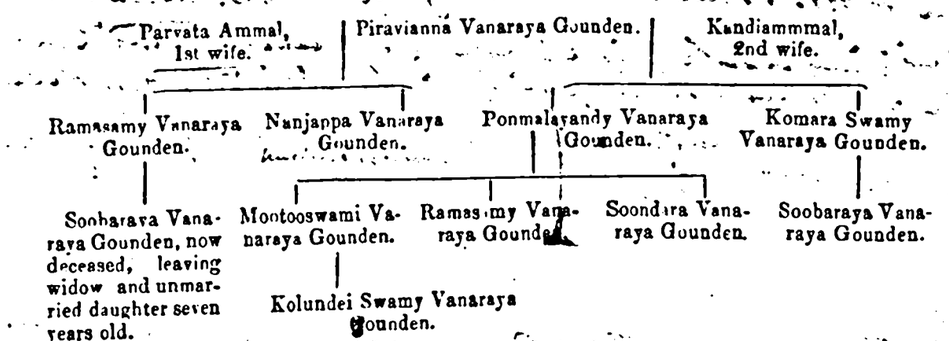
The boy Kolunday Swamy Vana Raya Gounden was born in September 17th, 1857, and he will come of age on 17th September 1875.

ENCLOSURE No. 2.

ABSTRACT.—Copy of depositions recorded regarding adoption of Kolundy Swamy Vana Raya Gounden, by Soobaraya Vanaraya Gounden.

ENCLOSURE No. 3.

Genealogical Table of Poligar's Family.



(Signed) W. McQUHAE,
Acting Sub-Collector.

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2. The Board have some doubts as to the expediency of their assuming charge of the property as Court of Wards, as the Estate is a small one, and the interests of Government are not largely interested in its management. At the same time, as the youthful proprietor will doubtless benefit by being placed under wardship, the Board support the Collector's recommendation that the management of Estate be vested in the Court of Wards.

3. Should the Government concur in this view, it will be necessary for the Collector to nominate a competent Manager under Sections 8, 10, 11, and 12 of Regulation V. of 1804. The management of the Estate by the Tahsildar of Polachy would be irregular, and might interfere with his proper duties.

(True Copies and Extract.)

[signature]

Acting Secretary.

To the Acting Secretary to Government, Revenue Department,
with three enclosures.

Copy to the Collector of Coimbatore,
with original letter returned.

Memo: for Order.

I question the propriety of the Bd. recommendation. The succession to these unsettled Polliems depends on the will of Govt. There is no claim of right. The uncle of deceased who claims the Estate is apparently the representative now of the eldest branch of the family. The adopted son of deceased is from the younger branch. I doubt the equity of allowing this adoption to exclude the elder branch. [initials] 6.7.66.

Exd. J. Wright.

The course proposed in the above memo is, I think, the proper one — [initials] 9.8.66

I don't like to give an opinion in this matter being but little acquainted with the law or practice in such matters. I am, however, inclined to support the adoption. The right of adoption is an undeniable one and has peculiar motives in religious relief. If the individual adopted had been an entire stranger to the family the injustice of such a course might have outweighed the claim of the deceased to concur his right. But he adopted a child, his near relation, his first cousin once removed. [illegible] a degree of selection in the circle of the family seems [illegible]

[illegible]

Recommending that Kolundasawmy Vanava Raya Gounden be declared Poligar of Somatoor and Kotamputty in Coimbatore and the estate be taken under the Court of Wards.

Dated 4th July 1866.

No. 4,529.

Rev. 1866.

No. 1971

Department.

PROCEEDINGS OF THE BOARD OF REVENUE.

Memo:

I have no recollection of — & cannot find any precedent to guide the decision in this case. and I have accordingly drafted in accordance with the expressed wish of H.E. the Govr.

[initials]

Read the following

Rev. Bd. dy 4 July/66

No. 4529.

Memorial from Mungiah Vanaroya Gounden

The Govt. observes that the Estate in question being an unsettled Polliem, the succession is entirely dependent on the will of Govt. & no claim as of right can be sustained. Consequently the argument adduced by the uncle of the deceased on the one side & by the lad offered on behalf of the alleged adopted [illegible] appears to be fully established — I would recognize as Poligar

There is no doubt that as the Polliem is an unsettled one the right of nomination to it vests in fact. But it has of late been deemed advisable that these Polliems (which I believe were not originally settled upon from accident than any other cause) should be settled permanently — Follows that in [illegible] I would deal with the succession to this Polliem as to it [illegible] a settled one. In such case as the adoption appears to be fully established — I would recognize as Poligar

son on the other. are
beside the marks.

The Govt. have however
lately notified this intention
of placing all unsettled
Poligeris in the footing of
permanently settled Estates
and altho' it is not stated
as it should have been
whether the late Poligar had
applied for a Summed - the
Govt. determined to dispose of the
question of succession by
following the analogy of succession
to a Jumindary.

They have the
less hesitation in adopting this
course as the child said
to have been adopted by the
deceased was his near
relatives & is the next senior
heir representative of the family
after Mungiah Vanaraya Sounder
the other claimant.
they being in fact the representatives
of the common ancestor by his first

the adopted son - provided
that he as an only son could
legally be adopted - on wh. point
we might take - the opinion
of the Law officers of Govt.
Or we might recognize the
adoption prima facie &
leave it to the uncle
to upset the adoption
as not made or illegal
by a suit and if
he will

JP

and second wives
respectively.

The Govt. see no reason
whatever to question
the fact of the adoption.

The validity of the
adoption of an only
son has been
recognised by the
Sudr Ct. of this Presy
and it is to be
observed that by
the analogy of the
case of Jumindaris
a Jumindar could
dispose by gift
or sale of his Estate
without refce to the
claims of his legal
bros. & there can
be no question of
the intention of the
Poligar in making

the adoption now under consideration.

- Under these circumstances in view of the importance attached to the act of adoption, the Govt. incline to recognise Kotunda Cami Vanava Raya Goundu as successor to the Polliem of Samalcoor & Kotampatty - and authorise the Board of Revenue to take charge of the Estate during the Childs minority.

L.D.

2d July 66

I should be disposed to comply with the application of the deceased's uncle and place him in possession of the Pollium - If so doing, we shall only be asserting a right the Govt have generally claimed in respect of Poligars of this kind, and the Cattabomman must have been removed for the public weal by the Govt as preceded ours. Palliums of this Class & Polliputi were, I believe, generally held on the understanding that the holders of them dependants were to act as border police, the duties of which were usually to be efficiently discharged if the ruling power allowed the Estate to fall into the hands of a widow or other female or of a body of relatives mainly occupied in keeping this place ready for a minor of any age whatever.

C 2d July 66

a determination on the part of Government will be no more effectual than the exercise of the discretion by the deceased's widow in favour of the adoption. If we are not now called on to affirm or disallow the adoption as submitted by the native parties, we shall be in all respects as unfettered by the native law as we should be if the case had never arisen. I cannot help thinking that the adoption may be upheld, if on the whole it is for the interests of the estate that it should be recognized as the heir of the deceased. Cattimuttoo Naicken, the adopted son, is a minor, and it will be for the interests of the estate that he should be brought up in the family of the deceased. I am therefore disposed to recommend that the adoption be recognized as valid.

W.M.

25 July.

b

Revenue Department

No 1903.

Proceedings of the Madras Government

Under date the 31st July 1866.

Read the following Papers.-

Proceedings of the Board of Revenue ... Recommending that Ricklundasawmy Vanava Raya Goundon be declared Poligar of Samalcoor and Kotampully in Coimbatore, and the estate be taken under the Court of Wards. — Here enter 4th July 1866 No 4529

From Nunjiah Vanaroya Goundon of the Samalcoor Colampatti Zamindary in the District of Coimbatore - Preferring his claims to succeed to the Zamindary and disputing the alleged Will of the late Zemindar as well as the adoption of Colundi Swami - Here enter 10th July 1866.

From Nunjiah Vanaroya Goundon, son of the Original Grantee Ramen Nunjiah Vanaroya Goundon late Poligar of Samalcoor & Kotampatty in Coimbatore Dist.

Submits a Petition to the Right Honble the Govr & solicits that orders be issued confirming him in his hereditary Right as the Poligar of Samalcoor & Kotampatty in Coimbatore Dist. — Here enter 19th July 1866.

The Govt resolve to forward the papers to the Government Pleader and to request that he will at an early date submit his opinion

opinion as to the validity of the adoption in this case. It is observed that the son adopted by the widow of the deceased Poligar was a posthumous, first born and only son.

JC

14- To the Post Solicitor with 7 enclosures (to be returned)
Dec 7 August 1866

X

Copy sent to England
with the letter of 12th Aug 1/67
No 45 of 1867 [illegible]

Revenue 1866 Depr.
Pro of Govt. for July

No. 1903

Pro of the Madras
Government dy
31st July 1866.

From Govt. Solicitor of
9th August 1/66 No 2517.
Further No 17819/67

Advocate General
to report on the validity
of the adoption of Kolun-
dasawmy by the widow
of the deceased Polish
of Samathoor Pollium

A 586 to 589

L