M.R.O. 14—18,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No: 2272 — Press Mis.

786-787

Dated 29-8- 1866.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 29th August 1866.

No. 786. Read the following Proceedings of the Board of Revenue, dated 7th August 1866, No. 5,441.

Read the following letter from the Collector of South Canara, to the Acting Secretary to the Board of Revenue, dated Mangalore, 21st June 1866, No. 111:—

1. I have the honor to report on Board Petitions, No. 34 of 1866, presented by one Seshgiri Row, on behalf of Jivu Bayi, daughter of the late Namkal Kristna Row, Head Serishtadar of Canara, and Nos. 911 and 41 of 1866 presented by herself.

2. From the correspondence noted in the margin, it will be seen that, in 1848, the Honorable the Court of Directors were pleased to bestow on Kristna Row, on his retirement from the service, a money pension of Rupees 4,500 per annum, to be continued to three lives, including that of the grantee, and subject to the deduction of one-third and two-thirds on the second and third lives respectively.

To Board of Revenue, 2nd December 1846, No. 109.
From Board to Government, 8th April 1847, No. 179.
Extract Minutes Cons. 20th May 1847, No. 601.
Do. Proceedings Board of Revenue, 27th May 1847.
Extract from a General Letter from the Honorable Court of Directors, 19th May 1847, No. 32, paragraph 20.
Extract Proceedings Board of Revenue, 30th March 1848.

3. Kristna Row died on the 15th April 1848, when a reduced pension of Rupees 3,000 per annum was continued to his grandson, Narasinga Row, under the following circumstances.

4. Kristna Row had left no direct heirs at his death, but had adopted his grandson, the above-named Narasinga Row, son of his only daughter Jivu Bayi, the present Petitioner to the Board. The adoption was disputed by the natural father of the boy, and formed the subject of a civil suit between the parties. The Court before which the suit was filed at first dismissed the claim,* declaring the adoption invalid; but subsequently, on a review of the Judgment ordered† by the Civil Court on appeal, the Subordinate Court, leaving aside the question of the adoption, ordered the child to be restored to the adoptive parents. From this fact, and the peculiar wording of the Decree,‡ and also the failure of the parties dissatisfied with this decision to prefer an appeal therefrom, the then Collector appears to have been led to consider that the adoption of the child had been recognised as valid by the Courts, and accordingly, in reporting the demise of Kristna Row, and the arrangements he proposed for the future payment of the pension, he represented§ to the Board that the adoption of the child was confirmed by the Court, and that, therefore, Narasinga Row could be considered as

* *Vide* Enclosure No. I., (Decree in O. S. No. 18 of 1846.)

† Enclosure No. II., (Proceedings of the Civil Court of Mangalore, 4th October 1847, in A. S. No. 53 of 1847.)

‡ Enclosure III., (Revised Judgment in O. S., No. 18 of 1846.)

§ To Board, 6th July 1848, No. 52.

Kristna Row's legal heir. Guided by this report, both the Board of Revenue* and Government† sanctioned the continuance of the allowance to Narasinga Row, to the exclusion of the other members of Kristna Row's family, viz., his widow and daughter.

* From Board to Government, 7th August 1848, No. 469.

† Extract Minutes Cons., 4th September 1848, No. 955, Revenue Department.

5. In February 1854, Narasinga Row died, leaving as his heir, a widow by name Jivini Bayi. At this time the third life-pension was claimed by the said Jivini Bayi on the one hand, and by Baghirati Bayi, the widow of Kristna Row, on the other; the latter however praying that it might be divided in equal shares between herself and her daughter and daughter-in-law. On a reference‡ then made to the Board, as to who among these heirs should be considered to be entitled to the allowance, the Board appear to have recommended§ to Government, that the allowance should be paid to the deceased Narasinga Row's widow, Jivini Bayi, she being considered the "heir-at-law" of her deceased husband. This recommendation was approved‖ by Government, and the third life-pension has ever since been disbursed to the said Jivini Bayi, and latterly on her attaining her age, the portion of her pension, which was held in deposit and invested in Government Securities, has also been made over to her under the orders¶ of the Board noted in the margin.

‡ To Board, 3rd July 1854, No. 60.

§ Extract from Proceedings of the Board of Revenue, dated 18th September 1854.

‖ Extract from Minutes of Consultation, 1st September 1854, No. 1,036.

¶ 13th January 1863, No. 157.

6. It will be observed from the above correspondence and orders quoted, that the whole of the arrangement under which Narasinga Row and his widow, Jivini Bayi, were recognised by Government as the "two next heirs" of the late Kristna Row, to whom the continuance of the pension was sanctioned in the Honorable Court's letter, was based upon the alleged fact of Narasinga Row's adoption having been represented to them as having been recognised by a competent tribunal, a conclusion which however would appear to have been altogether incorrect.

7. From the decisions now produced, and especially from the Judgment** of the High Court of Judicature, passed on the 18th November last, it is clear that this adoption was *ab initio* invalid under Hindu Law, although the Court has awarded to the widow of Narasinga Row the whole of the property devised to him under the will of his reputed adoptive father Kristna Row.

** Enclosure IV.

8. Such, therefore, are the facts of the case as now brought to light; and it is, therefore, for the Government to determine whether, in the exercise of their bounty, the life-pension enjoyed by Jivini Bayi under their orders, since the 1st September 1854, is to be continued to her, or whether, in consideration of the fact that Jivini Bayi is now declared to be the possessor of all the property left by Kristna Row,

Proceedings of the Madras Government, Revenue Department,
29*th August* 1866.

the pension should be made over to Jivini Bayi as the nearest surviving relative of the person on whose account the pension was originally granted.

9. The petitions received from the Board and their enclosures are herewith returned.

Enclosure No. 1.

Abstract.—Copy of an Original Suit, No. 18 of 1846, on the file of the Sub-Court of Mangalore.

Enclosure No. 2.

Abstract.—Copy of an Extract from the Proceedings Civil Court of Mangalore, under date the 4th October 1847.

Enclosure No. 3.

Abstract.—Copy of a revised Judgment in Original Suit No. 18 of 1846, on the file of the Subordinate Court of Mangalore.

Enclosure No. 4.

Abstract.—Judgment of the High Court of Judicature in Appeal Suit No. 35 of 1866.

Enclosures Nos. 5 to 7.—Petitions.

Ordered that the foregoing letter with its enclosures be submitted to Government, with reference to the Government endorsements on Petitions Nos. 356 and 467 of 1866.

No. 787. Order thereon, 29th August 1866, No. 2,272.

Miscellaneous.

The Governor in Council directs that the life-pension which has hitherto been paid to Jivini Bayi shall henceforward be paid to Jivu Bayi, as nearest surviving relative of the original grantee, N. Kistna Row.

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

Nr. 2272.

The Governor in Council directs that the Ijaregeem which has hitherto been paid to Imam Bagi shall hence forward be paid to Imam Bagi, as nearest surviving relative of the original grantee N. Kuchna Roo.

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Actg Secy to Govt
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