M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	1681	Press Mis.
364-66. Dated	16-6-	19 1868.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
16th June 1868.

Read the following :—

No. 364. Proceedings of the Board of Revenue, dated 6th July 1867, No. 4,230.

Read the following letter from the Acting Sub-Collector in charge of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 18th June 1867, No. 163.

1. I regret to have to report the death, on the 9th instant, of Venkata Chendrappa Nainivaru, Polligar of Pullacherla Polliem. The intelligence was communicated to me by Venkatatherumassu Nainivaru, the son of the deceased.

2. The correspondence which passed on the occasion of the installation of the deceased Polligar, is being traced among the records, and a detailed report will be submitted, as soon as possible, regarding the appointment of a successor.

The Board await the report of the Sub-Collector in charge, which should be submitted with the least practicable delay.

No. 365. Proceedings of the Board of Revenue, dated 2nd April 1868, No. 2,449.

Read the following letter from the Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 25th November 1867, No. 327.

1. I have the honor, with reference to the Proceedings of the Board, dated 6th July last, No. 4,230, to submit my report respecting the appointment of a successor to the late Polligar of the Pullacherla Polliem.

2. The late Polligar, Venkata Chendrappa Naidoo, held the estate from the time it was restored in 1826 up to the 9th June 1867, the date of his demise. The correspondence which took place on the occasion of the restoration of this and other Polliems in the district is cited in the margin.

From Board, 1st August 1825.
To Board, 6th April 1826.

3. The deceased Polligar married five times. In 1820, he married Kaderamma and Chinna Kaderamma on one and the same day. The former was recognized as the "Pattaba Bharya" or senior wife, and the latter as the second or junior wife. The latter died in 1825, leaving an only son named Thimmappa Naidoo who died at the age of 6. Kaderamma, the senior wife, died in 1833, after having given birth to a child which did not long survive its mother.

4. The Polligar then married for the third time Papamma in 1826. Papamma is still living, but is reported to be imbecile. By her the Polligar had a son named Venkata Narasimma Naidoo, who died about 18 months ago at the age of 30, leaving a son named Venkata Ramappa Naidoo, now 6 years old, and a daughter of 3, named Venkata Luchmamal, by his second wife Chendrasekaramma; and by his first wife Rungamma, a daughter named Sitamma 4 years of age. This Rungamma filed a suit in the Civil Court at Chittoor against the late Polligar for maintenance, and obtained a decree in her favor.

5. In 1834, the Polligar for the fourth time married Mungamma who died in 1844, leaving a daughter Suramma aged 30.

6. The Polligar's fifth and last marriage was with Kaderamma, and was celebrated in the month of August 1845. Kaderamma died on the 1st November 1862

leaving three sons and one daughter. Their names and ages are as follow :—Venkata Thimmappa Naidoo aged 20, Venkata Rammappa Naidoo aged 10, Chinna Narasimma Naidoo aged 8, and a daughter named Narasimma now 16 years old.

7. Thus, the male issue of all five marriages now surviving is Venkata Rammappa Naidoo, the son (a minor) of the Polligar's then eldest surviving son by the third wife, and Venkata Thimmappa Naidoo and his two younger brothers, Venkata Ramappa Naidoo and Chinna Narasimma Naidoo, his sons by the fifth and last wife in the order of the dates of marriage.

8. The succession to the Polliem is now contested by Venkata Thimmappa Naidoo, the eldest of the three sons by the fifth wife, and by Chendrasekaramma on behalf of her minor son, Venkata Ramappa Naidoo, the only son of the late Polligar's son by his second wife. Venkata Thimmappa Naidoo bases his claim on the following grounds :—First, that on the demise of the first wife, his father married Mungamma *in her stead*, and that on her (Mungamma's) death, he again married Kaderamma his (Venkata Thimmappa Naidoo's) mother to take her (Mungamma's) place ; that his mother thus continued to occupy the position of senior wife ; and that he, by title of being her eldest son, is the representative of the elder branch of the family ; second, that being the eldest surviving son of his father, he is entitled by law to inherit his indivisible property ; third, that having performed the funeral ceremonies of the late Polligar, he thereby establishes a title to succeed to his estate ; fourthly, that the minor Venkata Ramappa Naidoo is only the son of the late Polligar's son by Papamma who was married to replace the second or junior wife on her decease.

9. Chendrasekaramma, on the other hand, claims the Polliem for her minor son Venkata Ramappa Naidoo on the ground that her husband and his father was the Polligar's son by the third wife, and that he (her minor son) is thereby the representative of the elder branch of the family.

10. A day was fixed for the hearing, and most of the principal witnesses named by both parties having attended in obedience to notices previously issued to them, their statements were taken down before me, the case for each side being conducted by duly authorized Vakeels. The names of the witnesses thus examined on either side are given in the margin. These witnesses, it will be seen from enclosures marked 1 to 10 which accompany this report, give their testimony in favor of the particular party by whom they have been produced.

Witnesses on behalf of Venkata Thimmappa Naidoo.
1st. Muncappa Naidoo.
2nd Verrinayani Venkatappa Naidoo.
3rd. Aloor Narasia.
4th. Pacham Chenga Reddy.
5th. Venkata Reddy.

Witnesses on behalf of Venkata Ramappa Naidoo.
1st. Subba Ramappa Nainivaru.
2nd. Veri Ragoonatha Nainivaru.
3rd. Ramappa Naidoo.
4th. P. Narasimha Naidoo.
5th. Baichani Rungappa Naidoo.

11. Of the witnesses examined on behalf of Venkata Thimmappa Naidoo, three* support his statement that on the demise of the Polligar's first wife, he married Mungamma to take her place with all its accessories of precedence and position, and that on Mungamma's death the Polligar married Kaderamma his (Venkata Thimmappa Naidoo's) mother to take her (Mungamma's) place as repre-

* 1st. Muncappa Naidoo.
2nd. Verrinayani Vari Venkatappa Naidoo.
3rd. Aloor Narasappa.

sentative or substitute of the senior wife. Of these three witnesses, the first and second are Rajabandhu Inamdars, and are distantly related to the late Venkata Chendrappa Naidoo, and the third was the late Polligar's Vakeel. None of these witnesses was able to adduce any precedent which proves that it is the practice in the family to determine the relative seniority of the wives, not according to the order of the dates of marriage, but on the principle of one particular wife being replaced on her death by another. These witnesses' assertion that the fourth wife Mungamma was married on this principle is flatly contradicted by the Gudipati Polligar who was examined for the other side (*vide* enclosure marked 6), and is Mungamma's own nephew (brother's son).

12. Of the five witnesses examined on behalf of Venkata Ramappa Naidoo, the minor grandson, one is, as just stated, the present Polligar of Gudipati Estate, whose family has intermarried with that of Pullacherla for some six generations, and another is the pensioned Polligar of Pulloor, an old man of nearly 70, who is in receipt of a pension of Rupees 210 per mensem. These men, whose rank and means of information should give great weight to their testimony, state that the late Polligar married his several wives in the ordinary course, that he did not marry his third, fourth, and fifth wives to take the place of the first or senior wife, or of the second or junior wife, but that the wives take position in the order of the dates of their respective marriages, and that this is the practice of the caste to which they belong, and has always been observed in their own families, and in those of the Pullacherla and Bungari Polligars. The testimony of these two men would, in my opinion, be conclusive even if the Board were prepared to allow to this plea all the weight which the other party seek to attach to it.

13. I now come to the second issue on which Venkata Thimmappa Naidoo takes stand, namely, that being the eldest surviving son of the deceased Polligar, he is the legal heir, and should inherit his father's indivisible property. In regard to this point, the same two witnesses, the Gudipati Polligar and ex-Polligar of Pulloor, state that it is the usage in the families of Polligars of their caste to recognize the grandson by the eldest son as legal heir, even when such eldest son dies during the life-time of his father, and notwithstanding the father may have other sons surviving him.

14. If the Board will refer to the statements† put in by the respective Vakeels, they will find the question argued from its different bearings. These of course seek to make the law applicable to that view of the case in which they are respectively interested ; but so far as my means of forming an opinion go, the Hindu Law recognizes lineal descent and representation for the purpose of inheritance up to the great-grandson. Our English notions would decide without hesitation in favor of the grandson, and as the legal technicality concerns the succession to an *unsettled* Polliem, the Board will probably be of opinion that the precise bearing of the Hindu Law on this point need not have any material influence on heir conclusions.

† Marked A. and B.

15. In answer to the third issue on which Venkata Thimmappa Naidoo rests his claim, viz., that having performed the funeral ceremonies of the deceased Polligar, he thereby becomes entitled to succeed to his estate ; Chendrasekaramma's

Vakeel states that the minor Venkata Ramappa Naidoo having performed the obsequies of his own father was precluded from discharging similar rites in the case of his grandfather, while he had sons of his own surviving him, and that the mere fact of Venkata Thimmappa Naidoo having performed such ceremonies would not supersede his (the grandson's) title to succeed by virtue of his father being the elder son. I do not find anything in the pleadings on either side which shews that this consideration should affect the more obvious rights of the case, or invalidate the claim of the minor Venkata Ramappa Naidoo as representative of the elder branch of the family.

16. On the 10th June last, I received a khat purporting to have been addressed to me by the late Polligar on the 7th idem, just two days before his death. In this khat it is mentioned that according to ancestral usage, he (the Polligar) had married Kaderamma and Chinna Kaderamma as first and second wife, respectively, that on the death of the second wife he had married Papamma to take her place as second wife, that subsequently, on the death of the first wife, he had married Mungamma in her stead, and again on her (Mungamma's) demise had married Kaderamma to maintain the representation of the first wife. In this khat, the Polligar proceeds to request that as Kaderamma thus happens to be the wife in the senior line, her eldest son Venkata Thimmappa Naidoo, upon whom devolves the obligation to perform his funeral rites, may be permitted to manage the Polliem during his (the Polligar's) illness, and that in the event of his not recovering, he (Venkata Thimmappa Naidoo) may be recognized as Polligar. The khat further represents that he (the Polligar) had granted three villages, one to each of the two younger brothers of Venkata Thimmappa Naidoo, and one to his (Venkata Thimmappa Naidoo's) cousin the minor Venkata Ramappa Naidoo, and that it had been arranged that they were to receive Rupees 2,000 from Venkata Thimmappa Naidoo as a marriage portion on his decease. The third, fourth, and fifth witnesses examined on behalf of Venkata Thimmappa Naidoo state that the khat in question was written at the Polligar's dictation, and was read to and signed by him in their presence on the noon of the 7th June, two days before he died, and that after the khat was sealed he handed over his signet to Venkata Thimmappa Naidoo. These witnesses further state that the late Polligar enjoined them to pay hereafter the same respect to Venkata Thimmappa Naidoo which they had hitherto paid to himself.

17. Chendrasekaramma, the minor grandson's mother, represents in a petition which she addressed to me a few days after the death of the Polligar, that the khat which thus purports to emanate from the late Polligar, could not have been dictated or signed by him, as he was insensible for several days before he died. The evidence of the third, fourth, and fifth witnesses examined on behalf of Chendrasekaramma would show that the Polligar was, as represented in her petition, insensible and unable to hold a pen for some days before his death.

18. The statement contained in the Polligar's last khat, that three villages had been granted for the maintenance of Venkata Thimmappa Naidoo's two younger brothers, and that of his cousin (the minor grandson), has not been satisfactorily established by the evidence. The second witness for Chendrasekaramma, the old gentleman alluded to in paragraph 12, flatly contradicts it, and says that the late Venkata Chendrappa Naidoo had often told him during his life-time that he had

alienated three villages for the maintenance of Venkata Thimmappa Naidoo and his younger brothers with special reference to his minor grandson Venkata Ramappa Naidoo eventually succeeding to the Polliem.

This account of the transaction receives strong corroboration from the fact that Venkata Thimmappa Naidoo is actually in possession of a village, although he seeks to explain away the matter by saying that the village was granted to his sister by the late Polligar, and that he only manages it for his sister, as she is a Gosha woman. The original khat* of which I have been speaking, and its enclosure, are submitted along with English translations for the consideration of the Board.

* Marked C.

19. It is possible that the Polligar may have wished and attempted to dictate a khat from his death bed, but considering the state in which he then was, as described by the third, fourth, and fifth witnesses, it is not at all probable that he could have been cognizant of its contents in all their detail. His wishes, as therein conveyed, are, moreover, in direct contradiction to the tenor of a letter which he wrote in 1862 to Mr. Fraser on this very subject.

In this, the Polligar requests that as he was no longer able himself, owing to the increasing infirmities of age, to look after his estate, he might be permitted to nominate his eldest son Venkata Narasimma Naidoo to manage the Polliem. Mr. Fraser informed him in reply that his eldest son might, if he wished it, have the management of the Polliem, but that all correspondence with the Collector should bear his (the Polligar's) own signature. The khat† then received from the Polligar, and Mr. Fraser's reply,‡ with translations, are among the papers which accompany this report.

† Marked D.

‡ Marked E.

20. From these it will be plain that whatever change may have come over his feelings after the death of his son by the third wife, the late Polligar did in 1862 recognize him as his eldest son and presumptive successor.

It is, I think, very likely that such a change of feeling did come over the old man, and that he, not unnaturally, would have preferred to have his grandson's claim set aside in favor of his own immediate offspring.

However this may be, the Polligar's former recognition of the father of the "minor" claimant as his eldest son, and his provision for the other claimant and his younger brothers as junior members of the family, are facts which cannot now be easily explained away. Whilst on this point, I may mention that the late Polligar visited me at Chittoor in 1864, accompanied by this very son (the minor claimant's father) and then introduced him to me and spoke of him throughout the conversation as his eldest son and heir apparent.

21. Having thus endeavoured to the best of my ability to lay a plain statement of the case in all its bearings before the Board, I beg to recommend that Venkata Ramappa Naidoo, the minor grandson of the late Polligar Venkata Chendrappa Naidoo, and representative of the elder branch of the family, may be recognized as Polligar of Pullacherla, and that the estate may, during his minority, be taken under the management of the Court of Wards. I would add, in conclusion, that,

pending the receipt of the Board's instructions, the Polliem has been placed under the management of the Tahsildar of the Chendragherry Talook in which the estate is situated.

Enclosure No. 1.

Abstract.—Statement of Muneappa Naidoo, an Inamdar of a village in Pullacherla Polliem.

Enclosure No. 2.

Abstract.—Statement of V. Venkatappa Naidoo, an Inamdar of Peshamvari Palli.

Enclosure No. 3.

Abstract.—Statement of Alloor Narasia, Vakeel to the late Polligar.

Enclosure No. 4.

Abstract.—Statement of P. Chenga Reddy, Monegar of Komovarum, in Pullacherla Polliem.

Enclosure No. 5.

Abstract.—Statement of Venkata Reddy of Valluvadu, in Pullacherla Polliem.

Enclosure No. 6.

Abstract.—Statement of Subba Ramappa Nainivaru, Polligar of Gudipati Polliem.

Enclosure No. 7.

Abstract.—Statement of Veri Ragoonatha Nainivaru, ex-Polligar of Pulloor Polliem.

Enclosure No. 8.

Abstract.—Statement of Ramappa Nainivaru, father of Chendrasekaramma Garu, daughter-in-law of the late Polligar.

Enclosure No. 9.

Abstract.—Statement of P. Narasimha Nainivaru, brother-in-law of the late Polligar of Bungary Polliem.

Enclosure No. 10.

Abstract.—Statement of B. Rungappa Naidoo, a resident of Veerakancllorvaripally, in Pullacherla Polliem.

Enclosure No. 11.—A.

Abstract.—Statement of Nagiah and Namiah, Vakeels on behalf of Venkata Thimmappa Naidoo, the son of the late Polligar.

Enclosure No. 12.—B.

Abstract.—Statement given by Lakshminaraniah and Venkiah, Vakeels for Chendrasekaramma Garu.

Enclosure No. 13.—C.

Abstract.—Family-tree of the Polligar of Pullacherla Polliem.

Enclosure No. 14.—D.

Abstract.—Translation of a letter addressed to the Collector by the late Polligar.

Enclosure No. 15.—E.

Abstract.—Translation of a khat addressed to the late Polligar of Pullacherla by the Collector of North Arcot.

Read also Petitions No. 819 of 1868, from Mr. Scharlieb, Vakeel to the minor Polligar, and No. 159 of 1868, from Venkata Thimmappa Naidoo, claiming succession to the Pullacherla Polliem.

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1. Pullacherla is an unsettled Polliem in the district of North Arcot paying a peshcush of Rupees 5,569 to Government. The late Polligar, Venkata Chendrappa Nainivaru, died on the 9th June 1867, and the succession is disputed by Venkata Ramappa Naidoo, son of Venkata Narasimma Naidoo, son of the deceased by his third wife Pappamma, and by Venkata Thimmappa Naidoo, son of the deceased by his fifth wife, Kaderamma.

2. The claim of Venkata Thimmappa Naidoo is based on the following assertions :—

First.—That his mother was married in substitution for Mungamma, who had been married in substitution for the first wife, and that she had the rank and precedence of first wife.

Second.—That he performed the funeral ceremonies of the deceased.

Third.—That the deceased named him as successor to the estate in a death-bed khat, or letter to the Collector.

Fourth.—That as son, he has a preferential claim to a grandson, especially as the grandson's father pre-deceased the Polligar.

3. In order to make the first plea clear, it is necessary to give a brief account of the marriages of the late Polligar. In 1820 he married Kaderamma as his senior wife, and Chinna Kaderamma as his junior wife. In 1825, Chinna Kaderamma died, and the Polligar married his third wife Pappamma, the grandmother of Venkata Ramappa, in 1826. Kaderamma died in 1833, and the Polligar married his fourth wife, Mungamma, in 1834. Venkata Narasimma Naidoo, Venkata Ramappa's father, was born in 1836. Mungamma died in 1844, and the Polligar married his fifth and last wife Kaderamma, the mother of Venkata Thimmappa in 1845. She died in 1862. Papamma is still living, but is imbecile. Venkata Thimmappa argues that Papamma was married on the death of the junior wife and succeeded to her position, whilst Mungamma was married on the death of the senior wife and succeeded to her position, and that similarly on the death of Mungamma, his mother Kaderamma was placed in the vacant position of first wife.

4. This argument, not having the authority of Hindu law to support it, rests entirely on the alleged usage of the family. The evidence of two distant relatives and of the Vakeel of the deceased supports it, though they can quote no precedent; but it is utterly discredited by the testimony of the Polligars of Gudipati and Pulloor, who are both competent and reliable witnesses, and the former of whom belongs to a family which has inter-married with that of Pullacherla for many generations.

5. The Collector's arguments as to the inconclusiveness of the fact that Venkata Thimmappa performed the funeral ceremonies of the deceased, and as the incredibility of the story about the death-bed khat seem to the Board sound and convincing.

6. The only point left to be considered is whether a younger son has a preferential right to the son of his elder brother. According to Hindu Law, "if the son have died in the life-time of his father, leaving a son, and that son also die,

leaving one, and then the great-grandfather die, the great-grandson succeeds as his grandfather would have done if he had survived."* Hence, Venkata Ramappa has the same claim as his father would have had if he had been still living. The Privy Council have ruled† that a Madras Polliem is an ancestral estate of the nature of a Raj, and the usage, with respect to such property, has frequently been allowed to be the exclusive succession of the eldest son. In the present case, there is reliable evidence that the custom of this particular family coincides with the general usage. During the life-time of Venkata Narasimma the deceased Polligar publicly recognized him as the heir, and on his death the Polligar made no new arrangement, but appears, on the contrary, to have provided for Venkata Thimmappa and his brothers as younger members of the family, but not for Venkata Ramappa. The extraordinary pains taken to prove that Mungamma, and after her Kaderamma, assumed the position of first wife, shew that Venkata Thimmappa himself admits that the proper heir to the estate is the eldest son of the senior wife.

* Strange's Hindu Law, p. 124.

† Naragunti Lutchmeedavamah *versus* Vengamma Naidu. Privy Council Reports, Volume IX., Part I., p. 66.

7. The Board, therefore, resolve to submit this report and the petitions in which the arguments of the claimants are clearly stated, for the orders of Government, and to recommend that Venkata Rammappa Naidoo be declared successor to the Polliem. He is a minor six years old, and the Board are of opinion that his interests demand that the estate should be placed under the Court of Wards.

8. The First Member of the Board is not a party to these Proceedings, and has recorded a separate Minute on the subject.

No. 366. ORDER THEREON, 16th June 1868, No. 1,681.

Miscellaneous.

1. The Pullacherla Estate being an unsettled Polliem, the decision as to the succession rests with Government, and in the exercise of their prerogative, the Government resolve, in accordance with the recommendation of the Collector and the majority of the Board of Revenue, to recognize Venkata Ramappa Naidoo, the grandson of the deceased Polligar, as his successor in the estate, and direct the Board of Revenue, in their capacity of Court of Wards, to take charge of the estate during the minority of the Polligar, and to manage it on his behalf.

2. The Court's best attention will be given to the education of the Minor.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Accountant General.

Exd. F. R. Bantleman.

No. 2,449.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 2nd April 1868.

Read the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 25th November 1867, No. 327:—

1. I have the honour, with reference to the Proceedings of the Board, dated 6th July last, No. 4,230, to submit my report respecting the appointment of a successor to the late Polligar of the Pulicherla Polliem.

2. The late Polligar Venkata Chendrappa Naidoo held the estate from the time it was restored in 1826, up to the 9th June 1867, the date of his demise. The correspondence which took place on the occasion of the restoration of this and other Polliems in the district is cited in the margin.

From Board, 1st August 1825.
To Board, 6th April 1826.

3. The deceased Polligar married five times. In 1820, he married Kaderamma and Chinna Kaderamma on one and the same day. The former was recognized as the "Pattaba Bharya" or senior wife, and the latter as the second or junior wife. The latter died in 1825, leaving an only son named Thimmappa Naidoo who died at the age of 6. Kaderamma, the senior wife, died in 1833, after having given birth to a child which did not long survive its mother.

4. The Polligar then married for the third time Papamma in 1826. Papamma is still living, but is reported to be imbecile. By her the Polligar had a son named Venkata Narasimma Naidoo, who died about 18 months ago at the age of 30, leaving a son named Venkata Ramappa Naidoo, now 6 years old, and a daughter of 3 named Venkata Luchmamal by his second wife Chendrasekaramma; and by his first wife Rungamma, a daughter named Sitamma 4 years of age. This Rungamma filed a suit in the Civil Court at Chittoor against the late Polligar for maintenance, and obtained a decree in her favour.

5. In 1834, the Polligar for the fourth time married Mungamma who died in 1844, leaving a daughter Surammah aged 30.

6. The Polligar's fifth and last marriage was with Kaderamma, and was celebrated in the month of August 1845. Kaderamma died on the 1st November 1862, leaving three sons and one daughter. Their names and ages are as follows:—Venkata Thimmappa Naidoo aged 20, Venkata Ramappa Naidoo aged 10, Chinna Narasimma Naidoo aged 8, and a daughter named Narasimma now 16 years old.

7. Thus the male issue of all five marriages now surviving is Venkata Ramappa Naidoo the son (a minor) of the Polligar's then eldest surviving son by the third wife, and Venkata Thimmappa Naidoo, and his two younger brothers Venkata Ramappa Naidoo and Chinna Narasimma Naidoo, his sons by the fifth and last wife in the order of the dates of marriage.

8. The succession to the Polliem is now contested by Venkata Thimmappa, Naidoo, the eldest of the three sons by the fifth wife, and by Chendrasekaramma on behalf of her minor son Venkata Ramappa Naidoo, the only son of the late Polligar's son by his second wife. Venkata Thimmappa Naidoo bases his claim on the following grounds:—First, that on the demise of the first wife his father married Mangamma *in her stead*, and that on her (Mangammah's) death he again married Kaderamma his (Venkata Thimmappa Naidoo's) mother to take her (Mangammah's) place; that his mother thus continued to occupy position of senior wife; and that he by title of being her eldest son is the representative of the elder branch of the family. Second, that being the eldest surviving son of his father, he is entitled by law to inherit his indivisible property. Third, that having performed the funeral ceremonies of the late Polligar, he thereby establishes a title to succeed to his estate. Fourthly, that the minor Venkata Ramappa Naidoo is only the son of the late Polligar's son by Papammah who was married to replace the second or junior wife on her decease.

9. Chendrasekaramma on the other hand claims the Polliem for her minor son Venkata Ramappa Naidoo, on the ground that her husband and his father was the Polligar's son by the third wife, and that he (her minor son) is thereby the representative of the elder branch of the family.

10. A day was fixed for the hearing, and most of the principal witnesses named by both parties having attended in obedience to notices previously issued to them, their statements were taken down before me, the case for each side being conducted by duly authorized Vakeels. The names of the witnesses thus examined on either side are given in the margin. These witnesses, it will be seen from enclosures marked 1 to 10 which accompany this report, give their testimony in favour of the particular party by whom they have been produced.

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2nd. Verrinayani Venkatappa Naidoo.
3rd. Aloor Narasia
4th. Pachani Chenga Reddy.
5th. Venkata Reddy.

Witnesses on behalf of Venkata Ramappa Naidoo.
1st. Subba Ramappa Nayani Varu.
2nd. Veri Ragoonatha Nayani Varu.
3rd. Ramappa Naidoo.
4th P. Narasimha Naidoo.
5th. Baichani Rangappa Naidoo.

11. Of the witnesses examined on behalf of Venkata Thimmappa Naidoo, three* support his statement that on the demise of the Polligar's first wife, he married Mangammah to take her place with all its accessaries of precedence and position, and that on Mangamma's death the Polligar married Kadiramma his (Venkata Thimmappa Naidoo's) mother to take her (Mangamma's) place as representative or substitute of the senior wife. Of these three witnesses, the first and second are Rajabandhu Inamdars, and are distantly related to the late Venkata Chendrappa Naidoo, and the third was the late Polligar's Vakeel. None of these witnessess was able to adduce any precedent which proves that it is the practice in the family to determine the relative seniority of the wives, not according to the order of the dates of marriage, but on the principle of one particular wife being replaced on her death by another. These witnesses' assertion that the fourth wife Mangamma was married on this principle, is flatly contradicted by the Gudipati Polligar who was examined for the other side (*vide* enclosure marked 6) and is Mangamma's own nephew (brother's son).

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2nd. Verrinayani Vari Venkatappa Naidoo.
3rd. Aloor Narasappa.

12. Of the five witnesses examined on behalf of Venkata Ramappa Naidoo, the minor grandson, one is, as just stated, the present Polligar of Gudipati Estate, whose family has intermarried with that of Pulicherla for some six generations, and another is the pensioned Polligar of Pulloor, an old man of nearly 70, who is in receipt of a pension of Rupees 210 per mensem. These men, whose rank and means of information should give great weight to their testimony, state that the late Polligar married his several wives in the ordinary course, that he did not marry his third, fourth, and fifth wives to take the place of the first or senior wife, or of the second or junior wife, but that the wives take position in the order of the dates of their respective marriages, and that this is the practice of the caste to which they belong, and has always been observed in their own families, and in those of the Pulicherla and Bungari Polligars. The testimony of these two men would, in my opinion, be conclusive even if the Board were prepared to allow to this plea all the weight which the other party seek to attach to it.

13. I now come to the second issue on which Venkata Thimmappa Naidoo takes stand, namely, that being the eldest surviving son of the deceased Polligar, he is the legal heir and should inherit his father's indivisible property. In regard to this point, the same two witnesses, the Gudipati Polligar and Ex-Polligar of Pulloor state that it is the usage in the families of Polligars of their caste to recognize the grandson by the eldest son as legal heir, even when such eldest son dies during the life-time of his father, and notwithstanding the father may have other sons surviving him.

14. If the Board will refer to the statements† put in by the respective Vakeels, they will find the question argued from its different bearings. These of course seek to make the law applicable to that view of the case in which they are respectively interested; but so far as my means of forming an opinion go, the Hindu Law recognizes lineal descent and representation for the purpose of inheritance up to the great-grandson. Our English notions would decide without hesitation in favor of the grandson, and as the legal technicality concerns the succession to an *unsettled* Polliem, the Board will probably be of opinion that the precise bearing of the Hindu Law on this point need not have any material influence on their conclusions.

† Marked A. and B.

15. In answer to the third issue, on which Venkata Thimmappa Naidoo rests his claim, viz., that having performed the funeral ceromonies of the deceased Polligar, he thereby becomes entitled to succeed to his Estate, Chedrasekaramma's Vakeel states that the minor Venkata Ramappa Naidoo having performed the obsequies of his own father, was precluded from discharging similar rites in the case of his grandfather, while he had sons of his own surviving him, and that the mere fact of Venkata Thimmappa Naidoo having performed such ceremonies would not supersede his (the grandson's) title to succeed by virtue of his father being the elder son. I do not find anything in the pleadings on either side which shows that this consideration should affect the more obvious rights of the case, or invalidate the claim of the minor Venkata Ramappa Naidoo as representative of the elder branch of the family.

16. On the 13th June last, I received a khat purporting to have been addressed to me by the late Polligar on the 7th idem, just two days before his death. In this khat it is mentioned that according to ancestral usage, he (the Poligar) had married Kadramma and Chinna Kaderamma as first and second wife respectively, that on the death of the second wife he had married Papamma to take her place as second wife, that subsequently on the death of the first wife, he had married Mungamma in her stead, and again on her (Mungamma's) demise had married Kadramma to maintain the representation of the first wife. In this khat, the Polligar proceeds to request that as Kaderamma thus happens to be the wife in the senior line, her eldest son Venkata Thimmappa Naidoo, upon whom devolves the obligation to perform his funeral rites, may be permitted to manage the Polliem during his (the Polligar's) illness, and that in the event of his not recovering, he (Venkata Thimmappa Naidoo) may be recognized as Polligar. The khat further represents that he (the Polligar) had granted three villages one to each of the two younger brothers of Venkata Thimmappa Naidoo, and one to his (Venkata Thimmappa Naidoo's) cousin the minor Venkata Ramappa Naidoo, and that it had been arranged that they were to receive Rupees 2,000 from Venkata Thimmappa Naidoo as a marriage portion on his decease. The third, fourth, and fifth witnesses examined on behalf of Venkata Thimmappa Naidoo state, that the khat in question was written at the Polligar's dictation, and was read to and signed by him in their presence on the noon of the 7th June, two days before he died, and that after the khat was sealed he handed over his signet to Venkata Thimmappa Naidoo. These witnesses further state that the late Polligar enjoined them to pay hereafter the same respect to Venkata Thimmappa Naidoo which they had hitherto paid to himself.

17. Chendrasekaramma, the minor grandson's mother, represents, in a petition which she addressed to me a few days after the death of the Polligar, that the khat which thus purports to emanate from the late Polligar could not have been dictated or signed by him, as he was insensible for several days before he died. The evidence of the third, fourth, and fifth witnesses examined on behalf of Chendrasekaramma would show that the Polligar was, as represented in her petition, insensible and unable to hold a pen for some days before his death.

18. The statement contained in the Polligar's last khat that three villages had been granted for the maintenance of Venkata Thimmappa Naidoo's two younger brothers, and that of his cousin (the minor grandson), has not been satisfactorily established by the evidence. The second witness for Chendrasekaramma, the old gentleman alluded to in paragraph 12, flatly contradicts it, and says that the late Venkata Chendrappa Naidoo had often told him during his life-time that he had alienated three villages for the maintenance of Venkata Thimmappa Naidoo and his younger brothers with special reference to his minor grandson Venkata Ramappa Naidoo eventually succeeding to the Polliem.

This account of the transaction receives strong corroboration from the fact that Venkata Thimmappa Naidoo is actually in possession of a village, although he seeks to explain away the matter by saying that the village was granted to his sister by the late Polligar, and that he only manages it for his sister as she is a Gosha woman. The orignal khat* of which I have been speaking, and its enclosure, are submitted along with English translations* for the consideration of the Board.

* Marked C.

19. It is possible that the Polligar may have wished and attempted to dictate a khat from his death bed, but considering the state in which he then was, as described by the third, fourth, and fifth witnesses, it is not at all probable that he could have been cognizant of its contents in all their detail. His wishes as therein conveyed are, moreover, in direct contradiction to the tenor of a letter which he wrote in 1862 to Mr. Fraser on this very subject.

In this the Polligar requests that as he was no longer able himself, owing to the increasing infirmities of age, to look after his estate, he might be permitted to nominate his eldest son Venkata Narasimma Naidoo to manage the Polliem. Mr. Fraser informed him in reply that his eldest son might, if he wished it, have the management of the Polliem, but that all correspondence with the Collector should bear his (the Polligar's) own signature. The khat* then received from the Polligar, and Mr. Fraser's reply† with translations are among the papers which accompany this report.

* Marked D

† Marked E

20. From these it will be plain that whatever change may have come over his feelings after the death of his son by the third wife, the late Polligar did in 1862 recognize him as his eldest son and presumptive successor.

It is, I think, very likely that such a change of feeling did come over the old man, and that he, not unnaturally, would have preferred to have his grandson's claim set aside in favor of his own immediate offspring.

However this may be, the Polligar's former recognition of the father of the "minor" claimant as his eldest son, and his provision for the other claimant and his younger brothers as junior members of the family, are facts which cannot now be easily explained away. Whilst on this point, I may mention that the late Polligar visited me at Chittoor in 1864, accompanied by this very son (the minor claimant's father) and then introduced him to me and spoke of him throughout the conversation as his eldest son and heir apparent.

21. Having thus endeavoured to the best of my ability to lay a plain statement of the case in all its bearings before the Board, I beg to recommend that Venkata Ramappa Naidoo, the minor grandson of the late Polligar Venkata Chendrappa Naidoo, and representative of the elder branch of the family, may be recognized as Polligar of Pulecherla and that the Estate may, during his minority, be taken under the management of the Court of Wards. I would add, in conclusion, that, pending the receipt of the Board's instructions, the Polliem has been placed under the management of the Tahsildar of the Chendragherry Talook in which the Estate is situated.

ENCLOSURE No. 1.

ABSTRACT.—Statement of Muncappa Naidoo, an Inamdar of a village in Poolecherla Polliem.

ENCLOSURE No. 2.

ABSTRACT.—Statement of V. Vencatappa Naidoo, an Inamdar of Peshamvari Palli.

ENCLOSURE No. 3.

ABSTRACT.—Statement of Alloor Narasiah, Vakeel to the late Polligar.

ENCLOSURE No. 4.

ABSTRACT.—Statement of P. Chenga Reddy, Monegar of Komovarum, in Poolecherla Polliem.

ENCLOSURE No. 5.

ABSTRACT.—Statement of Venkata Reddy of Valluvadu, in Poolecherla Polliem.

ENCLOSURE No. 6.

ABSTRACT.—Statement of Subba Ramappa Nayani Varu, Polligar of Gudipati Polliem.

ENCLOSURE No. 7.

ABSTRACT.—Statement of Veri Ragoonatha Nayani Varu Ex-Poligar of Pulloor Polliem.

ENCLOSURE No. 8.

ABSTRACT.—Statement of Ramappa Nayani Varu father of Chendrasekaramma Gam daughter-in-law of the late Polligar.

ENCLOSURE No. 9.

ABSTRACT.—Statement of P. Narasimha Nayani Varu, brother-in-law of the late Polligar of Bungary Polliem.

ENCLOSURE No. 10.

ABSTRACT.—Statement of B. Rungappa Naidoo, a resident of Veerakanellorvaripallay, in Poolacherla Polliem.

ENCLOSURE No. 11.—A.

ABSTRACT.—Statement of Nagiah and Namiah, Vakeels on behalf of Venkata Thimmappa Naidoo, the son of the late Polligar.

ENCLOSURE No. 12.—B.

ABSTRACT.—Statement given by Lakshminaraniah and Venkiah, Vakeels for Chendrasekaramma Garu.

ENCLOSURE No. 13.—C.

ABSTRACT.—Family tree of the Polligar of Poolecherla Polliem.

ENCLOSURE No. 14.—D.

ABSTRACT—Translation of a letter addressed to the Collector by the late Polligar.

ENCLOSURE No. 15.—E.

ABSTRACT.—Translation of a khat addressed to the late Polligar of Poolecherla by the Collector of North Arcot.

Read also Petitions No. 819 of 1868, from Mr. Scharlieb, Vakeel to the Minor Poligar, and No. 159 of 1868, from Venkata Thimmappa Naidoo, claiming succession to the Pulicherla Polliem.

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1. Poolicherla is an unsettled Polliem in the District of North Arcot paying a peshcush of Rupees 5,569 to Government. The late Polligar Venkatachendrappa Namenaru died on the 9th June 1867, and the succession is disputed by Venkata Ramappa Naidoo, son of Venkata Narasimma Naidoo, son of the deceased by his third wife Papamma, and by Venkata Thimmappa Naidoo, son of the deceased by his fifth wife, Kadiramma.

2. The claim of Venkata Thimmappa Naidoo is based on the following assertions:—

First.—That his mother was married in substitution for Mangamma who had been married in substitution for the first wife, and that she had the rank and precedence of first wife.

Second.—That he performed the funeral ceremonies of the deceased.

Third.—That the deceased named him as successor to the estate in a death-bed khat or letter to the Collector.

Fourth.—That as son he has a preferential claim to a grandson, especially as the grandson's father predeceased the Polligar.

3. In order to make the first plea clear, it is necessary to give a brief account of the marriages of the late Polligar. In 1820 he married Kadiramma as his senior wife, and Chinna Kadiramma as his junior wife. In 1825, Chinna Kadiramma died and the Polligar married his third wife Papamma, the grandmother of Venkata Ramappa in 1826. Kadiramma died in 1833, and the Polligar

in the case of ancient Zemindaris

married his fourth wife, Mangamma in 1831. Venkata Narasimma Naidoo, Venkataramappa's father, was born in 1833. Mangamma died in 1841, and the Polligar married his fifth and last wife Kadiramma the mother of Venkata Thimmappa in 1845. She died in 1862. Papamma is still living, but is imbecile. Venkata Thimmappa argues that Papamma was married on the death of the junior wife and succeeded to her position, whilst Mangamma was married on the death of the senior wife and succeeded to her position, and that similarly on the death of Mangamma, his mother Kadiramma was placed in the vacant position of first wife.

4. This argument, not having the authority of Hindoo law to support it, rests entirely on the alleged usage of the family. The evidence of two distant relatives and of the Vakeel of the deceased supports it, though they can quote no precedent; but it is utterly discredited by the testimony of the Polligars of Gudiputi and Pulloor, who are both competent and reliable witnesses, and the former of whom belongs to a family which has inter-married with that of Poolicherla for many generations.

5. The Collector's arguments as to the inconclusiveness of the fact that Venkata Thimmappa performed the funeral ceremonies of the deceased, and as the incredibility of the story about the death-bed khat seem to the Board sound and convincing.

6. The only point left to be considered is whether a younger son has a preferential right to the son of his elder brother. According to Hindu Law "if the son have died in the life time of his father leaving a son, and that son also die leaving one, and then the great-grandfather die, the great-grandson succeeds as his grandfather would have done if he had survived." Hence Venkata Ramappa has the same claim as his father would have had if he had been still living. The Priv. Council have ruled that a Madras Polliem is an ancestral estate of the nature of a Raj, and the usage with respect to such property has frequently been allowed to be the exclusive succession of the eldest son. In the present case there is reliable evidence that the custom of this particular family coincides with the general usage. During the life time of Venkata Narasimma the deceased Polligar publicly recognized him as the heir, and on his death the Polligar made no new arrangement, but appears, on the contrary, to have provided for Venkata Thimmappa and his brothers as younger members of the family, but not for Venkata Ramappa. The extraordinary pains taken to prove that Mangamma, and after her Kadiramma assumed the position of first wife, show that Venkata Thimmappa himself admits that the proper heir to the estate is the eldest son of the senior wife.

Strange's Hindu Law, p. 124.

Naragunti Lutchmeedavamah *versus* Vengamma Naidu. Privy Council Reports Volume IX. Part I. p. 66.

7. The Board, therefore, resolve to submit this report, and the petitions in which the arguments of the claimants are clearly stated, for the orders of Government, and to recommend that Venkata Rammappa Naidoo be declared successor to the Polliem. He is a minor 6 years old, and the Board are of opinion that his interests demand that the Estate should be placed under the Court of Wards.

8. The First Member of the Board is not a party to these Proceedings, and has recorded a separate Minute on the subject.

(A true Copy and Extract.)

P Grose
Sub-Secretary.

To the Secretary to Government, Revenue Department,
with two petitions.

Copy to the Collector of North Arcot.

Exd. T. Cartledge.

Dated 2nd April 1868.

No. 2,449.

Submitting letter from Collector of North Arcot, on the succession to the Pulicherla Polliem, with the Board's recommendation that Venkata Ramappa Naidu the grandson of the late Poligar be declared successor.

Proceedings of the Board of Revenue.

Rec'd 1868. Department.

No. 1264

Rev'n Depart't

Memo for orders.
on Current No. 1264.

The decision as to the succession to these unsettled Poliems rests with Government. The rival claimants are the minor son of the eldest son of the late Poligar's 3rd wife and the son of the late Poligar's 5th wife.

The Collector and Board both recommend that the former be recognized as heir-but from this recommendation the Senior Member of the Board dissents, and his minutes is among the papers.

The rule of primogeniture is always observed in the case of ancient Zemindaris

Zemindaris - and I think the same principle should guide the decision in that of Polieme -

The necessity of placing the estate under the Court of Wards, if the minor grandson is selected as Poligar which Mr Clarke thinks to be objectionable, is to my mind the very best thing that could happen to the family and for the estate - great care is bestowed in these Trust estates now adays, and the result of management by the Court of Wards is generally eminently satisfactory -

The evidence adduced in the case appears to me not to uphold the claim of the son by the 5th wife to be preferred to the Grandson by the 3rd wife of the late Poligar -

Mr Clarke designates the witnesses who oppose his claim "interested parties" There is nothing to show that they are so - They are two old Poligars - one being the nephew of the late Poligar's 4th wife by whom he had no son - and the other apparently no connection of the family -

I think their evidence as to family and caste custom is entitled to much weight - and it is decidedly opposed to the claim of the son of the 5th wife, which as pointed out by the Board strives to establish a right of seniority as the legitimate ground of succession - and does not assume the line of

of argument adopted by Mr. Clarke that irrespective of seniority the claim of a son is preferable to that of a grandson.

I think the son has failed to make out his claim on the platform selected by himself and that the son of his elder half-brother has the preferable claim.

I request the orders of Government.

G. Jany/68.

I agree in the opinion held by the majority of the Board & by the Hon'ble Mr. Nepier.

The Proceedings of this Bd of Revenue fully in my opinion, any load and sufficient reasons for the course which they recommend for adoption. I would accordingly have this Petition brought under consideration by the Board for and on behalf of the minor Venkata Ramappa Naidoo, son of Undale-Venkata-Narasimma, Dhoon (V. R. N.) deceased

recognize as successor to the late Polijar Venkata Chundrappa Naidoo.

Venkata Narasimma, the minor's father had died recently, was once recognized by the deceased Polijar as his eldest son & presumptive successor. - and provision otherwise became made for the son in whose the minor's claim are now opposed. -

The death bed letter to the Govt: put-forward by the minor's Vakeel; & the old story. a Polijar seldom or ever dies without declaring & some one interested that however trifling in the last hours & attempts a good excuse to his principal revenue officer of the district - I have always been disinclined them & I am inclined the one put forward in this case.

I also mistrust the story of new wife having been married by the Polijar in order to their taking the place & social position of the deceased "Puttaby" wives - as regards the steps said by the minor's opponent - on the fact of his having performed the funeral ceremony of the deceased Polijar; I cannot say that I see much weight - where there is an opening for conflicting claims, there is always a host assemble who shall light the funeral pile and a young chief of six with his mother as his principal aid & support would have but a poor chance against an uncle of advanced years

Turn over N.

I agree with my Colleagues
and the Majority of the
Board.

Memo: for P. Secy.

Succession to the Pulicherla Poleim - Sir N. Brook

1264

Cir

Revenue Department

№ 1681.

Proceedings of the Madras Government
Under date the 16th June 1868.—

Read the following
Proceedings of the Board of
Revenue.—

Submitting letter from Collector of North Arcot, on the succession to the Pulicherla Poleim with the Board's recommendation that Venkatta Ramappa Naidu the grandson of the late Poligar be declared successor.— (Here enter 2d Apl 1868 No. 2449)

The Pulicherla Estate being an unsettled Poleim, the decision as to the succession rests with Government, and in the exercise of their prerogative, the Government resolve in accordance with the recommendation of the Collector

(D)

Collector and the majority of the Board of Revenue to recognise Venkata Ramappa Naidoo, the grandson of the deceased Poligar, as his successor in the Estate and direct the Board of Revenue in their capacity of Court of Wards to take charge of the Estate during the minority of the Poligar and to manage it on his behalf.

The ~~Collector's~~ Govt's best attention will be given to the education of the minor.

Ex. 4/4

14 Copies Letter Bd of Revenue & Secretary Despatch 16
6 — Advocate General

8/4/99 ✓

Revenue 1868 Deptt
Pro of Govt for June

No. 1687.

Pro of the Madras Govt
dt 16 June 1868.

Read
Disdon

Rect. No. 7160 of 99
Ret Ex 17-9-1830
13-14

Pro. of the Board of Revenue dt
12 November 1868 No 3681

11 January Dept 68

No. 364 @ 366