M.R.O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1418 Press Mis.

Dated 12 12 1929

Not to be folded or roughly handled

No. 141. Read the following Proceedings of the Court of Wards, dated 12th November 1868, No. 7,994.

Read the following letters:—

From the Acting Collector of North Arcot, to the Acting Secretary to the Court of Wards, dated Chittoor, 22nd October 1868, No. 352.

Adverting to the Proceedings of the Court of Wards, dated 13th June 1868, No. 4,397, I have the honor to submit copy, on plain paper, of the Judge's Order on the subject.

2. As the Court of Wards will, doubtless, instruct the Government Solicitor to prefer an appeal therefrom, it would be superfluous on my part to enter into any criticism of the grounds whereon this order is based.

3. In the meantime I am obtaining a copy on stamp-paper.

Enclosure No. 1.

Abstract.—Copy of Judge's Order on plain paper.

From the same Officer, dated 28th October 1868, No. 365.

I have the honor, herewith, to forward copy on stamp-paper of the Judge's Order, alluded to in paragraph 3 of my letter, No. 352, dated 22nd instant.

Enclosure No. 1.

Abstract.—Copy of Judge's Order on stamp-paper.

The Court of Wards resolve to submit this case for the opinion of the Government Pleader, for the purpose of appealing against the Orders of the Civil Court of Chittoor, dated 23rd April 1868, and 5th October 1868, and served upon the Collector as the representative of Government, and as their Agent on behalf of the Minor under the protection of the Court of Wards.

2. For the information of the Government Pleader it may be as well for the Court to give a brief account of the facts of the case, and to state some of the grounds on which they are of opinion that the appeal should be based.

3. Pullicherla is an "*unsettled*" Pollem in the North Arcot District. The late Polligar Venkata Chendrappa Naidu died on the 9th June 1867, and the succession to the estate was claimed by Venkata Ramappa Naidu, the son of Venkata Narsimma Naidu, son of the deceased by his third wife, and by Venkata Timmappa Naidu, son of the deceased by his fifth wife.

4. It has been repeatedly ruled,* and is, the Court believe, beyond dispute, that the succession to a Pollem, or an settled estate not held on permanent Sunnud, is regulated solely according to the pleasure of Government, and the Government in the exercise of their prerogative were pleased, on the 16th June 1808, to recognise Venkata Ramappa Naidu, grandson of the last Polligar, now a minor of six years of age, as the successor to the Pollem, and to direct the Board of Revenue in their capacity of Court of Wards to take charge of the estate during the minority of the present Polligar.

* Vide 1st Vol. Select Decrees in Appeal Suits determined in Court of Sudder Adawlut, pages 73, 141, 175.

5. It appears that the suit (Original Suit on the file of the Civil Court of Chittoor No. 13 of 1866) out of which the Orders to be appealed against arose, was brought by one Rangammagaru, a relative of the late Polligar for maintenance; and the application No. 6 of 1868, presented on her behalf, in which she appears as plaintiff, and Venkata Timmappa Naidu as first defendant, two other members of the family as second and third defendants, and the mother of the minor Venkata Ramappa as fourth defendant, contained a request that no proceedings having been taken under the Decree passed on the 20th March 1867, in Original Suit No. 6 of 1866, the Court would direct that the amount due under the Decree, amounting to Rupees 1,138-2-0, should be recovered from the defendants under Section 237, Civil Procedure Code by attachment of the money belonging to the Pullicherla Estate then in charge of the Collector on behalf of Government.

The Court in compliance with that application, on the 16th May 1868, served a notice on the Collector, directing him to hold the amount (Rupees 1,138-2-0) subject to the further order of the Civil Court, "with reference to a dispute existing between the first and fourth defendants regarding the succession to the Polliem."

6. Against that order the Collector, instructed* by the Court of Wards, presented a Miscellaneous Petition No. 200 of 1868, requesting the Court to cancel its former order on the ground of no jurisdiction.

* Proceedings, Court of Wards, 15th June 1868.

7. The application which the Court refused to cancel its notice of the 23rd of April are a true copy of the Proceedings of the Civil Court above recorded.

8. Looking at the close relationship existing between the applicant for maintenance, Rangammagaru, and the minor whom the Government have recognised as the Polligar, the Court of Wards would have had no hesitation in assigning such due and suitable maintenance as might have been granted out of the revenues now in the hands of the Collector, which are the minor's personal property, and of which he can dispose absolutely; but as a matter of principle they consider it due to the minor to oppose an order of a Civil Court which they cannot but consider unwarrantable in law, and which if unopposed might seriously affect the interests of the minors and others similarly situated, in respect of other claims besides those preferred for maintenance.

9. As before stated, it has never, the Court believe, been hitherto disputed that the interest of a Polligar in a Polliem is a life-interest only; that on the death of a Polligar the estate lapses absolutely to Government, according to whose pleasure alone the succession is regulated, and the successor succeeds by virtue of appointment by Government as the Paramount Power, and not by inherent or hereditary right. This is admitted by the Civil Judge of Chittoor, but when he goes on to say that the tenure under which a Polliem is held is "of the nature of a permissive hereditary occupancy," the only meaning which the Court of Wards can attach to his words is that, although Government can appoint any one whom they may please, or may even refuse to appoint a successor, the Government does in fact always confirm the grant to the person who appears to have the prior claim according to the ordinary laws of inheritance and succession. That this is the case the Court of Wards do not for a moment deny, but the custom, accompanied as it invariably is by a distinct assertion of the power of Government to act otherwise if so disposed, cannot make the tenure hereditary in any degree, as a matter of right.

10. The Original Suit No. 6 of 1866 having been brought against the then Polligar, and the Decree having been passed during his life-time, the Order of the Court, dated 23rd April, but served on the Collector on the 16th June after the demise of the late Polligar, cannot, if the Court of Wards are correct in the premises laid down in the preceding paragraph, be binding on the Collector as the representative of Government holding certain property pending the decision of Government regarding the succession to the estate, nor can the final order of the 5th October last be binding on him as the representative of the Court of Wards. At the time when the notice was served on the Collector, the interest of the late Polligar against whom the Decree issued, had lapsed absolutely, and all interest in the estate was then vested in Government, who were no party to the suit, and therefore, not in any way liable: at the date of the confirmation of the Order, the Decree was defunct, and the plaintiff could only have established her claim to maintenance by a fresh Suit against the present proprietor.

11. Considerable stress is laid by the Civil Judge on a dictum enunciated by the Lords of the Privy Council in the Narguntty Polliem case, (Moore's Indian Appeals, Volume IX.,) where it is stated that "a Polliem is an ancestral estate in "the nature of a Raj; * * * it can be held by only one member at a time, the "*other members of the family being entitled to a maintenance or allowance out of the estate.*" The Court of Wards observe that this was only an "*obiter dictum*," and that the principle involved was not definitely treated of in that case.

No. 142. ORDER THEREON, 11th January 1869, No. 68.

Miscellaneous.

The Proceedings of the Court of Wards are approved. The result of the appeal should be reported to Government.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Court of Wards.

Rd. G. A. Turton.

Revenue Department

№68

Proceedings of the Madras Government

Under date the 11 ~~December~~ January 1869.

Read the following Report of the Board of Revenue.

Appeal – from order of Chittoor Civil Court in North Arcot District requiring Collector to hold in deposit Rupees 1,138-2-0. out of revenues of Pulliacherla Poliem, with reference to a dispute regarding succession to Polliam. – Opinion of Govt Pleader requested as to admissibility of preferring. – (Recd under 12th Novr/68 No. 7994

The Proceedings of the Court of Wards are approved. The result of the appeal should be reported to Government.

To Copies to the Court of Wards Decr 12th