

1103

*Proceedings of the Madras Government, Revenue Department,
23rd June 1871.*

Read again Proceedings of Government, No. 886, dated 20th May 1871:—

No. 275. Read also memorandum by the Acting Secretary to Government, Revenue Department, dated 16th June 1871.

This Government has lately gone up to the Government of India for a loan of 14 lacs to pay off the debts of the G. O., June 13th, 1871, No. 1,042, which embodies the report of the law officers. Ramnad Zemindar, on terms which certainly involve some risk of loss: in the possible event of his early death and of his son coming of age before the whole of the loan is paid back.

2. The larger his income can be made, the less the risk to Government, because the sooner they will be reimbursed. Now there are two talooks (Polliamputty and Pandelgudy) in the possession of his brother Ponnusamy Tever's heirs under his own Deed of Gift to Ponnusamy, the history of whose alienation is as follows; and the question submitted to the Advocate-General is, what course the Zemindar should be advised to take, whether (1) to sue for the recovery of the talooks, or (2) to complete the transaction in the most formal manner possible by registration, with the usual sub-assessment in the Collector's Office, as he at one time authorized the Collector to do, though he now draws back from it.

3. If the first course is likely to be successful it will of course be the best, as in that case the Zemindar would get back some Rs. 90,000 rental. Not only is he losing this every year, but he continues to pay the entire peishcush of the Ramnad estate, of which these two alienated talooks are still, so far as the Government demand is concerned, a part.

4. But even the second course would procure a sensible relief. It appears that the Ramnad permanent jumma was fixed in 1802 at two-thirds of the gross receipts; and these two talooks, when assessed to the public revenue on that principle, would bear a peishcush of Rs. 60,000, a corresponding deduction being made from the Ramnad peishcush, which, after that, would stand at Rs. 2,64,440 in lieu of Rs. 3,24,440.

5. One of the talooks (Polliamputty) was granted to Ponnusamy Tever by the Zemindar's adoptive mother in 1858. She at the same time prayed the Collector for registration and sub-assessment. He refused on the ground that she had only a life-interest. The Civil Judge thought the Collector's refusal barred the

A., Proceedings of Government, 7th September 1863, embodying High Court Regular Appeal No. 53 of 1861, dated 13th June 1863. grantee's right of action against him! This was reversed by the High Court, who decided that the Collector was bound to comply with the plaintiff's requisition, unless it could be shown that the alienation was contrary to Hindu Law.

6. However, the plaintiff very shortly withdrew the Suit; immediately after which the Zemindar adopts and ratifies his mother's grant of Polliamputty, and makes a fresh grant of three more villages, comprising the Pandelgudy division. The Zemindar, it may be remarked, was now of full age. He came of age indeed in 1860.

B., dated respectively 10th and 13th November 1863, both duly registered in the Principal Sadr Amin's Court.

*Proceedings of the Madras Government, Revenue Department,
23rd June 1871.*

7. In 1868 Ponnusamy applied for registration, etc., in the Collector's Office. The Zemindar objected, and the Collector refused.

8. A year afterwards (24th September 1869) the Zemindar addressed the Collector, formally withdrawing all objection; shortly after which, and before the thing was carried out, Ponnusamy Tever dies, 18th December 1869.

9. Subsequently, last year, when the question of taking Ponnusamy's estates under the Court of Wards was before the Board of Revenue, the Zemindar was asked by the Collector about the registering. He replied in an English letter that, for reasons given, he "did not like" to have it done.

(Signed) D. F. CARMICHAEL,
Acting Secretary to Government.

To the Honourable J. D. Mayne, Advocate-General.

No. 276.

OPINION.

In this case the Ramnad Zemindar has made two distinct grants to his brother, Ponnusamy Tever, of the divisions of Polliamputty and Pandelgudy, each of which requires separate consideration.

2. The division of Polliamputty was originally given by the Ramnad Rani, the adoptive mother and natural guardian of the present Ramnad Zemindar, in 1858. This grant he expressly confirmed in 1863, not by way of original grant from himself, but by way of ratification of the previous grant in 1858. The question I am asked is, whether he can be advised to attempt to set aside this grant now. I am of opinion he cannot.

3. The grant has never been registered under the provisions of Regulation XXV. of 1802, Section 8. The question, therefore, at once arises, which was discussed before a full bench of the High Court (3, High Court 5), as to the effect of such unregistered grant against the Zemindar. As the case is certain to go to the Privy Council, that decision cannot be calculated upon as a final settlement of the law. Supposing Mr. Justice Holloway's opinion to be upheld, as I am disposed to think it would be, a suit by the Zemindar to set aside the grant would necessarily fail, as, in the view entertained by that Judge, the grant and confirmation of it are binding upon him. But supposing the opinion of the majority to prevail, then it follows that the Statute of Limitations runs from the date of the grant (3, High Court 67). If it were not for the confirmation, a doubt might still remain whether, as against the Zemindar, the Statute did not begin to run from the time he got possession of the Zemindary. But his confirmation clearly relates back to the date of the original grant in 1858, making the possession as against him adverse from that date. The result, therefore, is, in my opinion, that if Mr. Justice Holloway is right, the Zemindar could never have sued to set aside the grant; and if the majority of the Judges are right, his suit is barred by lapse of time.

4. As regards the grant of Pandelgudy the case is free from any question of the Statute of Limitations. It therefore becomes a simple matter for consideration, whether the Government, as mortgagee, should embark in a law suit to

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23rd June 1871.*

recover the village by which they would have the chance of increasing the assets pledged to them, with the corresponding risk of being defeated in a long and expensive litigation. My opinion, as I have already intimated, is, that the grant would be upheld by the Privy Council, and my advice, therefore, is, that the Government should accept this gift also as binding upon the Zemindar for life. I am advisedly that the question is, whether the Government should embark in a law suit; for it is quite plain that if any suit is intended to be a source of profit to the Zemindary, it must be conducted by the Government. The whole history of this Zemindary shows that every law suit is made the pretext for a system of universal spoliation, which renders success only one degree less ruinous than failure.

5. If Government accept these views, then I am of opinion that they should insist on the Zemindar registering the grants, so that these divisions, which have ceased to be a benefit, may also cease to be a burthen to the estate. No doubt the Government cannot directly compel a registration and apportionment. But they can make such registration a condition without which they will refuse to render any assistance, or to grant any indulgence to the Zemindar.

(Signed) JOHN D. MAYNE,
Acting Advocate-General.

19th June 1871.

No. 277.

ORDER THEREON, 23rd June 1871, No. 1,103.

Miscellaneous.

THE occasion of this reference to the Advocate-General is explained in the foregoing memorandum. The fact of these alienations by the Ramnad Zemindar was incidentally brought to the notice of Government when disposing, as above, of a reference from the Board of Revenue regarding his late brother Ponnusamy Tever's estate. They observed that he got no compensation for them; and it was apparent that he was holding back from completing the transactions in the terms originally adopted by him, on some expectation of being able to set them aside.

2. The Acting Collector of Madura will now inform the Zemindar of the opinion of the Advocate-General that these grants are binding upon him for life; and that in view of the application this Government has lately made to the Government of India for a loan to release the Zemindar from his difficulties, His Excellency in Council confidently relies upon receiving his early assurance that, laying aside all private feeling in the matter, he withdraws all objections to the alienated talooks or divisions being formed into separate estates, which, on the necessary authority being conveyed to him by the Zemindar, the Collector will use all diligence to effect.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Acting Secretary to Government.

To the Collector of Madura.

„ the Board of Revenue for information.
„ the Advocate-General

Exd. F. R. Bantleman.

Ms. C. 2. 2659d/11



Translation
Dad executed by Mutoramalinga
Saidoolady, the Zemindar of Ramnad;
to his uterine brother Ponnosawmy Iyer
under date the 10th Novr 1863
You have for certain reasons
withdrawn the Suit No 6 of 1861 on the file
of the Civil Court of Madras, instituted
by you on account of the collector of
Madras having refused to fix a Dist.
cash and register, in your name, the
Sub Division of Pulliamputty, situated
in Pulliamadam Talook of this Zemin.
day, and comprising eleven villages,
as requested by my adoptive Mother
Paradavaidani Natchayan, who had
granted the same to you on the 3rd June
1858. It is true that it was with

my

my consent alone that my adoptive
mother had granted you the said divi-
sion of Paliamputty, which you are
now continuing to enjoy. As I am
desirous to make it plain that I
did give my consent, as above stated,
in gratitude for the trouble you have
taken, and are still taking, on my
account, I now execute this Deed.
I do hereby further declare that I
approve of every order issued, and
the deed executed, by my said
adoptive Mother, to you, permitting
you to take the Division of Paliam-
putty. You are therefore at liberty
to enjoy immediately the said
Division of Paliamputty comprising
seven villages (Kandari Villages).

Handwritten note in left margin:
I am the
Collector
a copy of the
deed is given

Handwritten note in left margin:
The Deed
is given to
the Collector
to be filed

with power to dispose of the same
by gift, sale or otherwise. This Deed
is executed to empower you to pay
annually, into the Government Treas-
ury, such Peshkash as may be
fixed, with reference to Section 9
Regⁿ XXV of 1802, out of the annual
revenue of Rs 9,000 15. 3, being
the average drawn from the Accounts
of ten years, viz the Karar from
maturity Account from July 1258
to 1266, and the Bowler from maturity
Accounts for July 1267, which Accounts
were forwarded to the Collector by
my adoptive Mother on the 7th June
1858, & to enjoy the surplus revenue
yourself: and may you be happy
10 Nov 1863 } Signed & attested
Saidorally
Prepared

Witnessed by Latchman Sanyal, English
Writer in the Office of the Zemindar.
(Here enter names of Witnesses)

(Signed) Mr. Sadashree Pillay
Prinsep Sahib Amien

(Translation)

Deed executed by Mulooramalinga
Saidobadi, the Zemindar of Panind,
to his sincere Brother Ponnasamy
Saver, witness date the 13th Nov 1863.

I have on the 10th Instant
executed a Deed to you, containing
my consent as touching the Division
of Palampatty attached to the
Pillomudam Talook in this Zemin-
dary, which Division you are now
enjoying



enjoying and which you had obtained
by my consent from my adoption
Mother Ram Parvathaswami
Natchay, on the strength of a
Deed dated the 3rd of June 1858.
As I do not think that the Division
of Palampatty so granted to you
is a sufficient remuneration when
compared with the brotherly af-
fection I bear towards you, the
ability with which you have dis-
charged the duties as Manager
of this Zemindary, and thereby
averted various losses to it, and
the great troubles you have taken
and are still taking, in the conduct
of my adoption case &c. I am
therefore desirous to bestow on you
additional

additional landed property, which
though you do not feel disposed to
accept of, yet it is proper, and
it is my wish, to grant you, at
least, the Division of Randalapoodi
comprising three villages in the
same Talook. Accordingly grant
you, by means of this deed, the
three villages named below and
forming a sub division. You are
therefore at liberty to enjoy heredi-
tarily, and from the present Chooly
1273 the Villages of Heruler Taluk,
forming the Division of Randalapoodi,
with power to dispose of them either
by sale, gift or otherwise. Execute
this deed to empower you to pay
annually

instead of the
old duty
of 1000
to 1200

Heruler
Taluk.

+ the Reg
of 1273
to 1274
to 1275
to 1276
to 1277
to 1278
to 1279
to 1280

65
annually, into the Gmuday Treasury,
according to the Kistbandy, such
cash as may be fixed, with reference
to Section 9 Regⁿ XXV of 1802, out of
the annual revenue of Rs. 21,939-
8-15, being the average drawn
from the Accounts of ten years, viz.
the Karar Jummabundy Account
from July 1263 to 1270, and the
Dowle Jummabundy Account
for Fisher 1271 & 1272; and to
enjoy the surplus revenue your-
self: - and may you be happy.
13th Nov 1863. - 158/ Mulooramahaja
Saidoorbad.

Heruler Taluk

This deed was prepared by
Lutchmanga, English Writer, in the
office of the Gmuday of Ramnad.

Her

Here enter names of Witnesses

(Signed) M. Sadasiva Pillai
M. Sivasubramanian

1895

[Faint handwritten notes at the bottom of the page, possibly bleed-through from the reverse side.]

1900

[Faint, illegible handwriting]

1861

100

The above is a list of the names of the persons who have been
 in the office of the Secretary of the Board of Education since
 the first of January, 1880, to the first of January, 1881.

4

XXXIX. Memorandum.

To the Collector of Madras.

In the matter of registering
to the Regulation in the name of Ponnusawmy
Saver my uterine brother, the Sub Division con-
sisting of Poliampaty 11 villages and Pundat
Kudi 3 villages which are in his enjoyment
you sent me a memorandum on the 10th Octo-
ber containing my opinion on the subject. In
reply I sent a letter on the 15th November
upon which an order was passed to the
effect that the registry cannot be made
without my consent. Both of us having
now come to an amicable settlement and
the said Ponnusawmy Saver having given
me an agreement regarding the Terwar
on the Sub Division villages, I hereby in-
form you that I have no objection to the reg-
istration as requested by the said Ponnusawmy
Saver; that the said villages should
be registered in the name of Ponnusawmy

W. J. Lauer

58

187

at the ... 1871
June 16th 1871

Memorandum.

... This Govt has lately gone up. ...
... for a loan of Rs. 10 lacs ...
... to pay off the debt of the ...
... on terms which ...
... involve some risk of loss ...
... the possible event of his ...
... death and of his ...
... before the whole of the loan ...
... is paid back.
... The larger his income can be made ...
... the risk to Govt? because he ...
... will be reimbursed. Now, here ...
... two talooks - Pollamputty & ...
... Pandelgudy, in the possession of ...
... his brother Ponnusamy Taver's heirs ...
... under his own deed of gift to ...
... Ponnusamy; the history of ...
... whose alienation is as follows:-
... and the question submitted to ...
... the Advocate General is, what ...
... course the Zamindar should be ...
... advised to take - whether ...
... (1) to sue for the recovery of the talooks, ...
... or (2) to complete the transaction

in the most formal manner possible
 by Registration, with the usual
 Suba-performant, in the Collector's
 Office; as he at one time authorized
 the Collector to do, though he now
 draws back from it.

Of the 1st course is likely to be
 capful, it will of course be less
 as in that case the Zamindar
 would get back some 90,000 Rs
 rental. Nowly is he losing his
 every year, but he continues to
 pay the entire peshkush of the
 Rammad Estate, of which there
 are two alienated talooks are able
 to pay as he got demand is
 concerned, a part.

But even the 2^d course would pro-
 cure a sensible relief. It appears
 that the Rammad permanent
 jumma was fixed in 1802 at
 2/3rd of the gross receipts; and
 here two talooks, when assessed
 to the public revenue on that
 principle, would bear a peshkush
 of 60,000 Rs; a corresponding

deduction being made from the
 Rammad peshkush; which, after
 that, was stood at Rs 2,66,440
 in lieu of Rs 3,26,440.

5. One of the talooks, Pollampully,
 was granted to Vennusamy Taver
 by the Zamindar's adoption
 in 1858. She at the same
 time prayed the Collr for regis-
 tration & suba-performant. He refused
 on the ground that she had only
 a life interest. The Civil Judge
 thought the Collr's refusal barred
 the Grant's right of action against him.
 This was reversed by the H. C.,
 who decided that the Collr was
 bound to comply with the Plff's
 requisition, unless it could be
 shown that the alienation was
 contrary to Hindu law.

6. However the plaintiff very shortly
 withdrew the suit - immediately after
 which the Zamindar adopted a
 ratifies his mother's grant of Pollampully
 and makes a fresh grant of three
 more villages, comprising the Pandelgedy
 division. The Zamindar, it may be
 remarked, was now of full age - he
 came of age indeed in 1860.

B.
 of respective
 10th 11/3rd Nov/63
 the daily report
 in the B. S. Ammir's Court.

7. In 1868 Ponnusamy applied for Registration at the Coll's Office - The Zamindars objected, & the Collr. refused.

8. A year afterwards, 26th Sept/69, the Zamindars addressed the Collr, formally withdrawing all objection; shortly after which before the king was carried out, Ponnusamy Tever died - 10th Decr 1869.

9. Subsequently, last year, when the question of taking Ponnusamy's estates under the E.E. of Wards, was before the Bd of Revs, the Zamindars were asked by the Collr. about the registering. He replied in English letters, that for reasons given, he did not like to have it done.

Signed
as Secy to Govt

The Comdr of S. Mague
Advocate General

Revenue 1871 Sept
No 1971

Memo.
By Mr Secy to Govt
Rev Sept

Dated 16 June/71
D.O. No 1103 23 June/71

Referring certain question relating to the Kamnad Zamin- dary for the opinion of the Advocate General -

No 275

1103 23 June 1871

Read again Pro Govt No 886
d/20 May/71

Read also Memorandum by the Ag
Secy d/16 June instant, and the
Advocate General's Opinion d/19 June idem.

The occasion of his reference to the
Advocate General is explained in the
foregoing Memorandum. The fact of
these alienations by the Rammad
Zaminidars was incidentally brought
to the notice of Govt, when disposing,
as above, of a reference from the Bd
of Rev, regarding his late brother
Ponnusamy Tever's estate. They showed
that he got no compensation for them;
and it was apparent that he was
holding back from completing the
transactions in the terms originally
adopted by him, on some expectation
of being able to set them aside.

Re: Pro. 20 April/71

2. The Ag Secy of Madras will now inform
the Zaminidars of the opinion of the Advocate
General, that these grants are binding upon
him for life; and that in view of the
application his Govt has lately made to
the Govt of India for a loan to release the
Zaminidars from his difficulties, H. 2. in

laying aside all private
feeling in the matter,

confidently relies upon receiving
his early assurance to the
introduces all objections to the
alienated talooks or divisions being
formed into separate Estates; which,
on the necessary authority being
conveyed to him by the Zamindar,
the Collector will use all diligence
to effect.

S.S.
2/6/71.

- 1 To Govt of Madras Dec 23
- 16 Cpe Bd Rev for inform Dec 26
- 2 Advocate General's

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