

Revenue

1871

Go 1447

Go 147-148

16-11-1871

*Proceedings of the Madras Government, Revenue Department,
16th November 1871.*

No. 147. Read the following Proceedings of the Board of Revenue, dated 7th October 1871, No. 4,302:—

Read again Proceedings of the Board of Revenue, No. 2,894, dated 12th July 1871.

Read also the following letter from the Acting Collector of Madura, to the Acting Secretary to the Board of Revenue, dated 6th September 1871, No. 263.

WITH reference to the Proceedings of the Board of Revenue, No. 2,894, dated 12th July 1871, I have the honour to report that an inquiry has been held by the Deputy Collector at Sandiur, and that I have also heard the Pleaders of the persons who claim the Sandiur estate. After considering the evidence and arguments, I am not satisfied that any one was in possession of this estate when the Collector took charge of it in February 1871.

2. It was not contended before me that the mortgage relied on by Nagaya and Chinnapa Naik was a *bona fide* transaction. It was merely argued that the Zemindarni had power to alienate the estate, and that she placed Nagaya in possession.

3. The mortgage bond is dated 21st December 1869, and the Zemindarni died on the 22nd December 1870. It is not disputed that during the year 1870 previous to the 13th December Nagaya and Chinnapa Naik granted several receipts to Nattangars for the kists paid by them into the Sandiur Cutcherry. The argument of the other claimants is that the Zemindarni retained in her own hands the power of issuing puttahs to the ryots and paying the peishcush to Government, that the receipts granted by the Nattangars to the ryots were granted in her name, and that consequently she was the person really in possession at the time of her death. They argue that without really handing over the estate to Nagaya, she wished it to appear that she had done so, in order to favour the claim of her foster son to succeed.

4. It appears to me that there is much force in this argument. The alleged mortgagees seem to have received some paddy after the Zemindarni's death, but the Nattangars apparently ceased to pay them the kists, and having no power to grant puttahs, they could take no legal proceedings to enforce payment by any ryot.

5. An order of the Board placing them in possession would recognize their right to receive money, which they have no power to collect under Act VIII. of 1865; and as there must be litigation, I do not see why the Court should not appoint a Receiver or Manager under Section 92 of the Civil Procedure Code. This course was consented to by all the Pleaders before me, and was objected to by no one but Nagaya himself, who wishes to obtain an order from the Board recognizing the validity of the mortgage. I therefore recommend that notice be given that from a certain date the Collector will cease to manage the estate. Parties interested can then apply to the Court to prevent waste.

6. I enclose a translation of the mortgage bond and a copy of the Deputy Collector's report dated 24th August, No. 198. The other papers produced before me are receipts and a few takeeds purporting to be written by the Zemindarni to Nattangars directing them to pay kists to the mortgagees. I have stated above

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that the receipt of these kists by the mortgagees is not disputed, and consequently this evidence is comparatively unimportant.

ENCLOSURE No. 1.

From the Acting Deputy Collector on General duties, to the Acting Collector of Madura, dated 24th August 1871, No. 198.

IN reply to your letter of the 10th instant, No. 1,460, I have the honour to inform you that from inquiries I made at the spot, I have ascertained that the alleged mortgagees, Nagaya and Chinnapa Naik, were jointly in possession of the Sandiur Poliem at the time of the death of the late Zemindarni, which took place on the 22nd December 1870.

2. The village officers produced before me orders from the late Zemindarni, informing them of the alleged mortgage, and requiring them to submit to the mortgagees in all Revenue matters. Subsequent to the date of execution of the mortgage bond (the original was not produced before me, it is said it has been presented to the Board), the village collections of Fusly 1279 and of the first instalment of Fusly 1280 have been paid to the mortgagees, and receipts granted by them have been recognized. A number of these receipts and the orders of the late Zemindarni above referred to, together with a file of Razenamahs, etc., presented to them as mortgagees are herewith sent. From an account rendered to me in the talook, it is evident that, up to the date of attachment of the estate, a quantity of paddy due for Fusly 1280 as the share of the Zemindar, has been received by them. The puttah granted to the ryots for Fusly 1279, however, has been passed in the name of the Zemindarni with her name stamped. This was done, I believe, in conformity with one of the conditions of the mortgage.

3. I have no reason to doubt the several documents produced being *bona fide*, some of them having come from parties hostile to the mortgagees. These hostile parties have also produced, in a former inquiry before the Tahsildar, some orders (enclosed) from the late Zemindarni and from one of the alleged mortgagees, from which it appears that the said Chinnapa Naik made over his right in the mortgage, although he has denied it before me, to one Mahalinga Naik. Chinnapa Naik is the brother of the alleged adopted son of the late Zemindarni, who lays a claim to the estate, and Mahalinga Naik is his son, a child of about seven years old. Chinnapa Naik, who is illiterate as well as his brother, is but a tool in the hands of Nagaya, the natural son of the brother of the late Zemindarni, who had great affection for him and allowed him to manage all her affairs, though in her name, for about four years previous to her death. I feel myself convinced that the transaction of the mortgage is only a plot effected to benefit the alleged adopted son and Nagaya, and to thwart the interference of other claimants to succeed to the estate. I do not consider it necessary to dwell at length on the point, as we are not now required to report on the validity or otherwise of the bargain.

4. I understand from private information that the transfer to Mahalinga Naik was, on an after-thought, not carried into effect, the orders sent to the village officers on the subject being recalled by the late Zemindarni. Those that have been produced were, however, retained by the parties concerned.

5. I observe a good deal of difference between one and the other of the signatures of the late Zemindarni affixed to the several papers herewith submitted, in regard to both shape and spelling. I again find a similar discrepancy between 2 Arzis said to have been addressed by her and taken from the records of my office. Her signature is capable of being imitated without any difficulty. This only leads me to doubt whether she signed her own name or employed an amanuensis to sign for her. If the alleged mortgage deed were before me, to which according to the Registration Rules she must have affixed her name in the presence of the Sub-Registrar on two or three occasions, I would be in a position to form an opinion as to which of the signatures is genuine. But, however, I have no hesitation in saying that the late Zemindarni was not uncon-

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ous of Nagaya's interested interference in the estate, since she executed the mortgage d.

6. The enclosures to your letter are herewith returned.

ENCLOSURE No. 2.—Translation of a Mortgage Bond.

SUBMITTED for the orders of Government.

2. In his letter dated 14th February 1871, No. 45, (recorded in Government order, No. 425, dated 9th March 1871,) the Collector reported the death of the Zemindarni of Sandiur, and stated that he had temporarily taken charge of the estate.

3. In his letter of the 11th May, embodied in the Proceedings quoted above, dated 12th July 1871,) he reported fully on the claims of all the parties to succeed the estate, and gave his opinion in favour of the second claimant Gopala Kristammal, the daughter of the husband of the late Zemindarni by his (deceased) junior wife.

4. The Board deferred passing orders; and, with reference to a claim set up by certain alleged mortgagees, requested the Collector to report who was actually in possession when he took charge of the estate.

5. His letter recorded at the head of these Proceedings is his reply; and from it it appears that the possession was vacant; that the mortgage is fictitious; that the adoption alleged on behalf of Lakshmana Kullapa Naik, who is described as the first claimant in the Collector's letter of the 11th May, No. 142, is feigned and invalid; and that the proper heir is the step-daughter, the childless widow, as stated by Mr. Arbutnott in the same letter. She is of course disqualified, by her sex and by her admitted inexperience of business, for managing the property herself; and the Board therefore recommend that it be formally placed on her behalf under their management as Court of Wards.

6. Parties claiming a better title than the Court of Wards will of course be at liberty to bring it forward by a regular suit; and meanwhile the property will be well cared for. As to what the Collector says (paragraph 5) of a Receiver being appointed by the Civil Court, that can only be done now after a regular suit has been brought, and even so, (it will be seen on a reference to the enactment cited,) the law contemplates the appointment of the Collector of the district as such Receiver and Manager, where, as in the present instance, the land pays revenue to Government.

7. The estate is permanently settled, and pays a peishcush of Rs. 3,697-1-9.

No. 148. ORDER THEREON, 16th November 1871, No. 1,947.

Miscellaneous.

THE Government authorize the Court of Wards to assume the management of the Sandiur estate on behalf of Gopala Kristnammal, as only lineal descendant of the late Zemindar Orjia Gopala

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16th November 1871.*

Kullappa Naik (being his daughter by his first wife) and step-daughter of his second wife, the now deceased Zemindarni.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Court of Wards.
,, the Accountant-General.

Govt. of {1871} Madras.

REVENUE.

To

THE COURT OF WARDS,

&c., &c., &c.

Dated November 16th.

Recd.

Encl.

G.O., 16th November 1871, No. 1,947.

NOVEMBER.

Nos. 147-148.

*Sandiyur estate in Madura District.—
Court of Wards directed to assume its management
on behalf of Gopala Kristnammal as the only lineal
descendant of the late Zemindar.*

*Proceedings of the Madras Government, Revenue Department,
16th November 1871.*

Kullappa Naik (being his daughter by his first wife) and step-daughter of his second wife, the now deceased Zemindarni.

(True Extract.)

Revenue Department
No. 556

1871. 3447

Board of Revenue,

MADRAS.

PROCEEDINGS, 7TH OCTOBER 1871, No. 4,302.

Dep^d 23 Oct 1711

Encl. 3

Received. 30th Jan - 2902

552.
1 Box of
Pine Shavings.

OCTOBER.

No. 4,302.

Sandiyur estate in Madura District.—Recommendation to Government that this estate be placed under management of Court of Wards, on behalf of Gopala Kristnammal, daughter of husband of late Zemindarni by his (deceased) senior wife.

Dr 1947-1600 orders 1871
W. H. Anderson

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