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*Proceedings of the Madras Government, Revenue Department,
20th August 1872.*

No. 170. Read the following Proceedings of the Board of Revenue, dated 20th July 1872, No. 1,372:—

Read the following letter from A. MACGREGOR, Esq., Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 21st June 1872, No. 147:—

I HAVE the honour to report the death, without heirs, of Subadi, the female surviving member of the Nambalacodi Varnavar's family.

2. I deputed the Tahsildar of the Ernad Taluq to inquire as to whether she had left any property, and he reports that personal ornaments to the value of Rupees 38½ have been delivered up by the Karyastan of the Nellambur Rajah as the only property of the deceased.

3. The entire circumstances of this escheat, which has long been anticipated, have been so fully discussed by Government in their Order of the 29th March 1860, No. 484, that it is not necessary for me to go at any length now into the matter.

4. The family property, or part of it, was sold in execution of a decree of the Munsif's Court of Manantoddy in the year 1835, and purchased by the Nellambur Rajah.

5. On this, Government have decided (paragraph 10) that the part of the estate included in the Court sale belongs to the Rajah indefeasibly.

6. As to the remainder, they held that on the death of Subadi, it would become an escheat to Government, subject to a mortgage to the Nellambur Rajah, if indeed that transaction was a mortgage, and the mortgage was redeemable. If Subadi disposed of the property in the Rajah's favour, her power to do so might be contested.

7. Further, it is added that it does not seem likely that Government would ever be able to make a good title to the estate; and again in paragraph 17 it is held to be certain that the claim to the remainder of the property put forward by the Rajah could not now be disproved, and the right of Government established.

8. A further period of fourteen years' possession by the Rajah has, of course, strengthened the claim, and I can adduce no arguments in favour of a view other than that already expressed.

9. The Rajah, in the suit brought against Government for the Cinchona plantations, filed two mortgages and a deed of sale executed by Subadi, so that the contingency referred to by Government has actually occurred.

10. As in Malabar it is an admitted doctrine that in Maramakatayam families, *i.e.*, families adopting the succession through the female, females have the same power over property as males, it would be hopeless to contest the sale.

11. Subsequent to the order in question, a careful comparison was made by Mr. Richardson between the sale deeds and the actual ground, the result of which was to lay down a certain line beyond which no single point had ever been enumerated in any of the sale deeds; and what was contended at the late suit was that no part of the Nambalacodi Estate ever extended beyond that line, and that the claims to property beyond it were untenable.

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12. The result of the suit was to negative permanently all claims to the land between the old Neddivuttum and Pykara road and the Pykara river; thus establishing the Government claim to all the Cinchona plantations and the adjoining plateau.

13. A claim of the Rajah's still remains to the land on the other side of the old road, stretching along the left bank of the Pykara river, upwards from the Pykara Bungalow. There is little chance, however, of this claim being put to the test, and if Government had to defend it, they would, of course, persevere in the same line of defence as in the former case, viz., that the Nambalacodi and Nellambur Rajahs never held possession, and that the tract is part of the Nilgiris, grazed over by Toda herds, that it never belonged to Malabar, and that the jenm title there is unknown.

14. The only other portion of land which is claimed on the strength of a title from the Varnavar, other than the deed of sale, is the land claimed by Mr. Ouchterlony, regarding which the Board have already addressed Government on my report and on that of the Commissioner of the Nilgiris; and the claim of Government to this land also rests on the theory that it never formed part of Malabar.

15. In regard to the question of the Ouchterlony Valley, there is one point, I think, should be noticed.

16. If the Commissioner's proposal to make Nilgiri Peak Mr. Ouchterlony's boundary is adopted, it entirely ignores Captain Godfrey's claim to a portion of the valley under Nilgiri Peak.

17. It must be remembered that in settling a certain line on the Nilgiris as Mr. Ouchterlony's eastern boundary, the result is to admit *all his claims in Malabar*. There were two purchasers from the Rajah, of whom Captain Godfrey, I believe, was the first, and it seems to me that in deciding as to what titles are to be admitted as *bonâ fide* the case of these two rivals should be carefully considered. The impression produced on my mind by all I have heard of the subject is that Captain Godfrey is the *bonâ fide* purchaser of a great part of the tract claimed by Mr. Ouchterlony and he should certainly have a hearing.

THIS letter will be submitted for the information of Government.

2. It was at one time a serious question what should be done when Subadi the last member of the Nambalacodi family died, but since this question was discussed in G. O., 29th March 1860, No. 484, she seems to have disposed of all her landed property to the Nellambur Rajah. There is no ground for contesting her power to alienate her land, and now that she is dead there is nothing to escheat to Government.

3. The Board think that the trifling personal ornaments which have been given up as belonging to the dead woman should be returned to the Nellambur Rajah in whose house she died.

4. In paragraph 15 *et seq.* Mr. MacGregor starts a distinct subject, and with reference to Board's Proceedings, 18th March 1872, No. 464, and 18th April 1872, No. 622, urges that the determination of the eastern limit of Mr. Ouchter-

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lony's property will disallow Captain Godfrey's title to part of the Ouchterlony Valley which is claimed by him. The Board cannot admit this. The boundary of the valley estate is to be determined only so far as Government is concerned. The rights of rival claimants to land on the other side of the boundary will not be affected by the decision.

No. 171.

ORDER THEREON, 20th August 1872, No. 1,230.

Miscellaneous.

THE Governor in Council concurs in opinion with the Collector and Board that there is no room for Government to assert any claim by escheat to the landed estate assigned by Subadi to the Nellambur Tirupad by deeds of mortgage and sale. The personal property produced by the Rajah's agent should be returned to him. The point raised by Mr. Macgregor in relation to the conflicting claims of Messrs. Ouchterlony and Godfrey will be disposed of separately.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

PROCEEDINGS, 20TH JULY 1872, No. 1,372.

Encl.

Received

29th July/72

JULY.

No. 1,372.

Nambalacodi Varnavar's family—in Malabar District.—Collector's report on death of Subadi, female surviving member of — without heirs, submitted to Government, with remark that personal ornaments left by deceased should be returned to Nellambur Rajah in whose house deceased died. Collector informed that determination of eastern limit of Mr. Ouchterlony's property will not affect Captain Godfrey's title to a part of the Ouchterlony valley which is claimed by him.

With Over
No 1234 - 20th August 1872.

28th Dec. 1890
 Dear Sir,
 I have the honor to acknowledge the receipt of your letter of the 27th inst. in relation to the above mentioned matter. I have the honor to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
 Yours,
 J. H. [Signature]