

770

*Proceedings of the Madras Government, Revenue Department,
14th May 1872.*

No. 132. Read the following Proceedings of the Board of Revenue, dated 29th April 1872, No. 679 :—

Read the following letter from A. MACGREGOR, Esq., Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 11th April 1872, No. 95 :—

I HAVE the honour to inform you, that a question has arisen as to whether a large property, valued at two lakhs of Rupees, should not lapse to Government on failure of heirs.

2. The property was enjoyed by one Malillatha Edathil Govinden Ekken, styled Ayaraprabhu Kartayu, or the Lord of 5,000 men, up to the date of his decease in 1869. This individual had in the year 1851 reported to the Collector the adoption of an heir, and an enquiry had then been made verifying the fact of the adoption.

3. Again in 1858 a petition was presented, stating that this adoption had been cancelled, owing to the party having reverted to his own family, and that one Maniledut Ramuni Nair had been adopted. This was also verified by enquiry.

4. The intimation in question was given apparently in conformity with an order of Government, dated 16th March 1846, and the adoption was duly registered in this office.

5. This Ramuni Nair was for some years associated with the deceased in the management of the lands, and is now the claimant and in possession.

6. A petition having been presented alleging that he had no title, this enquiry was instituted ; and meanwhile, a suit was tried in the Principal Sadr Amin's Court, in which the question of title was ventilated.

7. I enclose a copy of the decision of the Principal Sadr Amin, and of the Civil Court on appeal.

8. It will be observed that the plaintiff was a tenant of some of the land attached to the title of Ayaraprabhu Kartavu, and that he sued for a declaration of his title to a seventy-two years' lease on a deed.

9. While however admitting that the suit was brought against the defendant in his capacity of Ayaraprabhu Kartavu, the plaintiff also admitted that defendant did not hold that rank. Under such circumstances, a decree against him seemed a matter of course, and was delivered with costs. The defendant appealed against this decision, on the ground that certain points had been decided against him, but the Civil Judge dismissed the appeal, on the ground that it was impossible that the decree could have been more favorable than it was, and that there could thus be no appeal.

10. The decision goes at length into various points, which, as it seems to me, are irrelevant, and lays down certain dicta, which are evidently beside the question.

11. In paragraph 7 of his decision, the Principal Sadr Amin says that it appears from the defendant's own admission that he did not regularly or according to the former practice succeed to the rank of Kartavu, and that if there is no other successor to the rank, then the property must lapse to Her Majesty's Government.

12. His train of argument appears to be first that the Kartavu must be of the Kartakannu caste, and that his succession must be confirmed by the Zamorin, and

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that as the claimant is of another caste, and has not been confirmed by the Zamorin he cannot be Kartavu; and secondly, that the property is inseparable from the rank or office, and that therefore a suit against the holder of the property cannot lie unless he be also the holder of the title and office.

12. He lays it down as proved by the evidence of the Zamorin, and by an historical work, that the Zamorin's consent is necessary to enable a man to hold the title.

14. The attendance of the official in question was essential only on the coronation ceremony of the Zamorin.

15. That ceremony involved some curious customs, one of which the acceptance of betel-nut from a Moplah woman at the Kalai bridge, involving a certain degree of pollution which lasted for life. The late Rajah dispensed with the ceremony, and the present Rajah, though he succeeded four years ago, has not performed it.

16. This alone would account for the fact of the Zamorin allowing the title to fall into abeyance, even admitting that his altered circumstances had not deprived him of the power of confirmation to an ancient office of State.

17. I cannot imagine that the law would support the Government in claiming as an escheat, property which has for a long period been treated as private property, and to which there is an adopted heir, the validity of whose adoption is not questioned; and had it not been for the strongly expressed opinion of the Principal Sadr Amin, I should scarcely have deemed a reference necessary.

18. According to tradition, the property originally belonged to a Prince styled the Lord of 10,000, who occupied a stronghold not far from Calicut. The Zamorin offered his Lieutenant half the property if he betrayed his master, and the offer was accepted, and the Lord of 10,000 forced to fly to North Malabar.

19. The exercise of power to confirm now is as inconsistent with the Zamorin's position, as would be his attempt now at an arbitrary interference with property, like that alluded to in the preceding paragraph.

ENCLOSURE No. 1.—Copy of Judgment.

ENCLOSURE No. 2.—Copy of Decree.

SUBMITTED for the orders of Government.

2. The Board agree with the Collector in thinking it quite impossible to found a claim of escheat on lands which have been held for a long period as private property having lost their feudal character when they passed without challenge into the possession of a Nair proprietor.

No. 133.

ORDER THEREON, 14th May 1872, No. 770.

Miscellaneous.

THE case is clearly not one in which the Government should assert any claim of escheat. Practically the

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property had acquired a private hereditary character and passed by the adoption to the party in possession.

(True Extract.)

Signed, W. H. BENTLEY,

Officiating Chief Secretary.

The Board of Revenue.

F. R. Bantleman.

No 132 133

Board of Revenue,

MADRAS.

74. 1578.

PROCEEDINGS, 29TH APRIL 1872, No. 679.

Dep't 6 May/72
Encl. 2

Received

APRIL.

No. 679.

Property.—Question referred by Collector of Malabar, as to whether certain — valued at two lakhs of Rupees should lapse to Government owing to failure of heirs,—submitted for orders of Government, with expression of concurrence in Collector's opinion that a claim of escheat cannot be founded on the lands.

With order
No 770 - 14 May/72

8: May 192 R. 10: May A.C. 11th A 11th