Proceedings of the Madras Government, Revenue Department, 11th December 1873.

No. 136. Read the following Proceedings of the Board of Revenue, dated 22nd November 1873, No. 2,394 :—

Read the following papers :—

Proceedings of the Madras Government, dated 21st August 1873, No. 887, Revenue Department.

ABSTRACT.—*Kullakurchi Estate, in the District of South Arcot.*—Requesting the Board of Revenue to submit, for orders of Government, the reply of the Acting Collector to their Proceedings requesting him to report on certain points connected with the present possessor of the —.

From H. E. SULLIVAN, Esq., Acting Collector of South Arcot, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cuddalore, 28th October 1873, No. 429.

I HAVE the honour, as directed in the Board's Proceedings, dated 1st August, No. 1,468, to submit a report in connection with the disputed succession to the Chinna Tripathy Hill Pollput, in Kullakurchi Taluq, of this district. In perusing it I would ask the Board to keep before them the accompanying genealogical table as so many members of the family bear the same name that it will be necessary occasionally to quote the father's name to distinguish them.

2. The points on which I was directed to submit information are —

(1) The circumstances under which the minor's grandfather obtained possession of the estate.

On this point I examined Moodia Kurumba Gounden, the proprietor of the neighbouring Pollam of Thumba, and his evidence was entirely confirmatory of that recorded in 1866 by the late Tahsildar of Kullakurchi, Syed Meer Sahib. The facts of the case are as follow. The 20th Poligar, Latchmanappa Jadaya Gounden left four sons. With the two younger ones we need not concern ourselves. The eldest was named Ramappa Jadaya Gounden and the second Annathana Jadaya Gounden. It is admitted on all sides that the estate passed to the latter because his elder brother was a person of weak intellect.

3. The second and third points on which I was directed to report were—

The date on which Annadhana Jadaya Gounden aforesaid obtained possession of the estate and whether at that time the present possessor's father was a minor, and, if so, when he attained his majority.

4. I have not been able to fix the date when Annathana Jadaya Gounden obtained possession, but in a petition, marked Z, the present proprietor states that at that time his father, Kannappa Jadaya Gounden, was only 5 years of age, and that, when he attained his majority, he refrained from putting forward his claim as his uncle, Annathana Jadaya Gounden, was advanced in years and he thought it best to wait till the estate should revert to him at the death of the then Poligar. But it so happened that he died before his uncle, who survived till about twelve years ago. From the statement taken by me from Latchmanappa Jadaya Gounden, the present Poligar, it will be seen that he is now about 45 years of age and must consequently have been about 33 when his great-uncle died.

I questioned him as to why he did not then assert his claims, and it will be seen from his answer that he, following the example of his father, forbore to assert them in deference to his uncle, Letchumanappa Jadaya Gounden's (son of Annathana Jadaya Gounden) seniority in point of years and the relationship which existed between them. "Every one," he says, "has to prostrate himself before the Poligar, and I did not consider it fitting that my uncle should do this to me." Moodia Karumba Gounden also gave evidence to the same effect.

5. I now come to the question under what circumstances and on what conditions the minor's mother consented to the arrangement that the present possessor should hold the estate for life and that at his death her son should succeed to it, and whether her consent was free and voluntary.

6. The circumstances will be found detailed in the Tahsildar's report to Mr. Wright and its enclosures, which consist of a Mahazernamah taken from the principal hill men, a statement made by Oonamalai Ummal, the grandmother of the minor, and another made by Oonamalai Ummal, wife of the late Poligar and mother of the minor. On hearing of the death of the late Poligar the Tahsildar proceeded to the spot in view to satisfying himself as to who was the heir to the estate, and found that, with the consent of all the members of the family, the present possessor, who is the representative of the elder branch, had been, according to the custom of the hill tribes, nominated to the succession. Neither the grandmother nor the mother of the minor advanced any claim on his behalf, and the former stated that her husband, Annathana Jadaya Gounden, the 30th Poligar, had told her that at his death the succession would revert to the elder branch. As there was a hint thrown out in the Board's Proceedings, dated 14th May last, No. 788, Paragraph 10, that there might have been *undue foles* on the part of the Tahsildar, I desire to bring prominently to notice that in his Arzi he recommended that the estate should be registered in the name of the minor and that the present Poligar should be appointed manager till the infant attained his majority. He did this in spite of the request of the grandmother and mother that the registry should be made in favour of the present holder on the ground that "they are females and wanting in judgment." This, I think, entirely clears his character (he has since died) from any imputation of bad faith, and is, I think, evidence of Oonamalai's action in the matter having been purely voluntary, and this is further shown by her having paid a personal visit to Mr. Wright to request him merely to secure the reversion of the estate to her son, leaving the present Poligar to enjoy it for his life in view to secure efficient management.

7. The present possessor has, since a doubt has been raised as to the validity of his claims, imputed illegitimacy to the minor, alleging that Oonamalai Ummal was not the lawful wife of the late Poligar but his mistress. I entirely disbelieve this. It has never been alleged till quite recently. When the Tahsildar held the inquiry in 1866 she was spoken of by all parties as the wife of the late Poligar, and the only reasons put forward by the hill people and the members of the family for having the estate registered in the name of the present holder were his priority of claim as representative of the elder branch and the tender age of the son of the late Poligar, but never till the other day was a shadow of doubt cast on the legitimacy of the latter. Although the Poligar now states

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broadly that Oonamalai Ummal was the concubine of the late Poligar, he would not say as much when examined by Mr. Lister in October last year, but merely stated that she had been secretly married to him. The other Oonamalai Ummal, the mother of the late Poligar, in her statement given before the Tahsildar in 1866 speaks of her as her son's wife, and, if the question ever becomes the subject of a formal inquiry, I do not think that there would be any difficulty in rebutting the imputed illegitimacy of the minor.

8. Taking for granted, however, that he is legitimate, I would respectfully submit that the superiority of his right to the estate over that of the present possessor is open to grave doubt. Even if it is so in law, it could not, I think, be upheld in equity. The succession, owing to the mental disability of the next heir, passed from the elder to the younger branch two generations back. But surely it could not be argued that this accident was to shut out the elder branch from the right of succession for ever. When Annathana Jadaya Gounden, the first Poligar of the younger branch, died, Kanappa Jadaya Gounden, the father of the present Poligar and the eldest son of the man whose claims had been set aside on account of his mental condition, was only 5 years of age and was consequently debarred from succeeding, and, when he attained his majority, he deferred putting forward his claim, preferring to wait for his uncle's death to ousting him. However, he died first. When Annathana Jadaya Gounden, the minor's grandfather, died, it certainly does appear a point in favour of the claim of the younger branch that the present holder, who was then 33 years of age, did not come forward to take his inheritance. He explains that he did not do so out of deference to his uncle's age, but at his death he assumed the Chieftainship as a matter of course with the assent of the members of the family including that of the mother and grandmother of the minor and of the people of the Poliput. That he forbore to press his claim during the life-time of his uncle, who was much his senior, cannot, I think, be held to extinguish that claim.

9. The woman Oonamalai Ummal is apparently the tool of an intriguing Vakeel named Tirumalay Iyer, who is said to have been dismissed from the service of the present Poligar. In his statement given before me he admits having got the woman to execute a bond in his favour for Rupees 3,000, to be paid in the event of her getting the estate for her son. He says that since the publication of the Inam Commissioner's notice in the Gazette he has returned the bond to her. This may be taken *quantum valeat*.

10. I enclose Mr. Wright's explanation of the action taken by him in the matter in 1866. From it it would appear that the Tahsildar's Arzi on the subject was, although addressed to him, received by the Collector, who took charge of his office whilst he (Mr. Wright) was absent on leave, and that is why he made no report of the death of the Poligar to Mr. Reade. Finding, on his return from leave, that the Arzi had not been disposed of, he, as a matter of policy, knowing the unruly character of the hill tribes, passed the order commented on by the Board, which secured a tranquil administration, and which, as pointed out by Mr. Wright, was little more than an informal ratification of an arrangement made by the parties themselves. He ought doubtless to have referred the matter for the Collector's orders, but had he done so Mr. Reade would probably have taken

the same view of the case, and, no claim having been made on behalf of the minor, I doubt, under the peculiar circumstances of the case, whether the estate could have been taken under the management of the Court of Wards.

11. As regards the first part of Mr. Handley's suggestion that the title-deed issued in 1870 should be cancelled on the ground that it was issued by mistake, I think this ought to be done; but, in regard to issuing a fresh title-deed in the name of the minor, I am of opinion that this ought to be deferred until the present possessor has been ousted in due course of law. I cannot but regard him as the rightful heir who has been for a long time kept out of his inheritance. Having arrived at this opinion I would deprecate any action being taken by Government to eject the present holder; but, whatever course it is resolved to adopt, I recommend the matter being disposed of with as little delay as possible as the tenants take advantage of the doubtful proprietorship to withhold their rents. Already, I am informed, Oonnamalai Ummal and her agents have instigated the tenants to do this, and I have, therefore, issued instructions to the effect that, pending final orders, the rents are to be paid to the *de facto* proprietor as heretofore. Should eventually the estate pass from him he will, of course, be liable for mesne profits. Meantime it is essential to good order to uphold his authority.

12. A list of the documents enclosed is appended.

Enclosure No. 1.

List of Records sent to Board of Revenue with Collector's letter, No. 420, dated 28th October 1872.

A.—Genealogical Tree of the Family of the Poligar of Chinna Tripathy Hills.

B.—Translation of Arzi, No. 14th, dated 19th December 1806, from the Tahsildar of Kulla-kurchi, and its enclosures, being—

(1.) Muhazernamah presented by the Hill ryots and others.
(2.) Statement of Oonnamalai Ummal, mother of the late Poligar.
(3.) Do. of Oonnamalai Ummal, wife of do.
(4.) Do. of Konappa Jadaya Gounden.
(5.) Do. of Latchmanappa Jadaya Gounden, son of Ramappa Jadaya Gounden.

C.—Translation of order issued by Mr. Wright, No. 217, dated 21st March 1867, to the Tahsildar Kullakurchi.

D.—Board's Proceedings, No. 1,636 of 1873, presented by the present Poligar, Annathana Latchmanappa Jadaya Gounden.

E.—Statement given before Mr. Lister by the present Poligar on the 24th October 1872.

F.—Do. do. the Collector by Moodia Karumba Gounden, proprietor of Kavunia Poligar.

G.—Statement given before the Collector by Chinnammariya Gounden, of Pudur Jaghire.

H.—Do. do. do. by Kanappa Jadaya Gounden, son of Muthusamy Jadaya Gounden.

I.—Statement given before the Collector by Tirumalay Iyer, Agent of Oonnamalai Ummal, wife of the late Latchmanappa Jadaya Gounden.

J.—Statement given before the Collector by Latchmanappa Jadaya Gounden, the present Poligar.

K.—The Deputy Collector's (Mr. Wright's) explanation, dated 15th August 1873.

Z.—English Petition presented by the present Poligar, Annathana Latchmanappa Jadaya Gounden, dated —— October 1873.

(Signed) H. E. SULLIVAN,
Acting Collector.

Enclosures Nos. 2 to 18.—Records.

Submitted for the information of Government with reference to G. O., dated 21st August 1873, No. 887.

2. It appears from the Collector's report on this case that Latchmanappa Jadaya Gounden, who is at present in possession of the Hill Poligars of Chinna Tripathy, is the grandson of the eldest of the four sons of the twenty-ninth Poligar and that the minor is the grandson of the second of the four. The eldest of these four brothers being of weak intellect, and his son, the father of the present possessor, being then a boy of 5 years old, his uncle, the minor's grandfather, assumed the Poligarship. He outlived his elder brother's son, and on his death, which occurred only twelve years ago, he was succeeded, not by that nephew's son, then 33 years old, but by his own son, to whose seniority the present Poligar says he gave way. This may have been on the understanding that he should succeed on the death of his cousin, as the widow of the father of the late Poligar states that before his death her husband named the present Poligar as his successor stating that the Polliem should thereafter revert to the eldest branch. The present Poligar accordingly, with the approval of the tribe and family, assumed the Polliem on the death of his cousin and in conformity with what the Collector states to be "the custom of the Hill tribes."

3. The evidence further shows that the minor was, under this arrangement, admitted to be the heir to the Polliem on the death of the present possessor. Such, at all events, was the condition on which the mother and grandmother acquiesced in the succession of the present Poligar. The recommendation of the Tahsildar was to the effect that the present Poligar should only be recognized as manager on behalf of the minor and that the latter should be registered as possessor of the Polliem. This Arzi went up to the then Collector, Mr. Reade, who had taken charge of Mr. Wright's office during his absence, but it was not disposed of by Mr. Reade, and Mr. Wright, on his return, finding matters in this position, took upon himself to ratify by an order the arrangement under which, as already shown, the present Poligar had succeeded. In passing such an order Mr. Wright clearly exceeded his authority. At the time of the late Poligar's death and up to 1870 this Polliem paid no revenue to Government, but it was in that year enfranchised under a title-deed by the Inam Commissioner and pays quit-rent since that time. No appeal to the Court of Wards on behalf of the minor has yet been preferred, nor could such claim have been made by guardians who had acquiesced in the assumption of the estate by another.

4. The Government Pleader has suggested that, in the event of the minor being declared a ward of Court and a suit brought on his behalf to oust the present possessor of the estate, there are circumstances which render the issue doubtful.

The Collector's present letter will be forwarded to Mr. Handley and his opinion requested on the further particulars now furnished.

5. The Inam Commissioner will be requested to favour the Board with his opinion as to the feasibility and expediency of cancelling the title-deed. The declaration authorized by Government in G. O., dated 7th June 1873, No. 583, seems to have been issued already.

6. The Board are glad to be able to declare the deceased Tahsildar, Syed Meer Sahib, completely exonerated from all blame.

7. The Second Member is not a party to these Proceedings believing that a wrong which ought to be redressed has been done to the minor, and he has recorded his dissent in a separate Minute.

No. 137. ORDER thereon, 11th December 1873, No. 1,895.

Miscellaneous.

THE Government await the further reports called for, paragraphs 4 and 5.

(True Extract.)

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

For the Board of Revenue.

Gout. of Bihar's

REVENUE.

Land Revenue 1172

Excise 1172

Total

Rev. 1873. Dec. 3885

1873.

Board of Revenue,

MADRAS.

PROCEEDINGS, 22ND NOVEMBER 1873, No. 2,394.

Received 27 Nov

NOVEMBER.

No. 2,394.

Chinna Tripathy Hill Pattiem—in Kallakurchi Taluq, South Arcot District.—Collector's report in connection with disputed succession to — and propriety of instituting a suit on behalf of minor son of deceased Zemindar against present possessor, grandson of a former holder, submitted to Government with remarks, and opinion of Government Pleader requested on further particulars now furnished by Collector. Opinion of Inam Commissioner requested as to feasibility and expediency of cancelling title-deed for the estate.