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Proceedings of the Madras Government, Revenue Department,
21st August 1873.

No. 173. Read the following Proceedings of the Board of Revenue, dated 1st August 1873, No. 1,468 :—

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 25th June 1873, No. 107 :—

Dated 16th June 1873, No. 1,029.

I HAVE the honour to acknowledge receipt of the Board's Proceedings noted in the margin requesting my opinion as to certain points connected with the Kullakurchi Estate in the South Arcot District and to submit the following opinion.

2. I think that the minor, Annathana Jadaya Kounden, may properly be made a ward of the Court of Wards. The interest of which his father was the previous holder on the death of that father devolved by inheritance upon the minor son, and thereupon the jurisdiction of the Court of Wards under Regulation V. of 1804 at once arose and could not be ousted by the subsequent possession obtained by another person.

3. I must point out that the proposed suit against the present possessor of the estate, Lakshmanappa Jadaya Kounden, is by no means free from difficulties and its success is consequently somewhat doubtful. It appears that the present possessor is the direct lineal heir of an elder son of a former holder while the minor is only descended from a younger son of the same holder. The minor's grandfather is said to have obtained possession because his elder brother, the present possessor's grandfather, was of unsound mind ; but that would not affect the right of his son, the present possessor's father, and, through him, of the present possessor himself. If the present possessor were seeking to enforce this right he would no doubt be barred by the Limitation Act, for the cause of action must have accrued to his father much more than twelve years ago. Being in possession the old Law of Limitation would not have affected his right, but it may be that his right is extinguished by Section 29 of the Indian Limitation Act, 1871, which provides that at the determination of the time thereby limited to any person for instituting a suit for possession of land his right to such land is extinguished. If, therefore, his suit for possession would have been barred in 1867, when he was put into possession under Mr. Wright's order, his title by inheritance, even if it were originally preferable to the minors, may not now help him. How far, however, this section has a retrospective effect as to time which ran before the passing of the Act is a doubtful point which has not as yet received judicial elucidation as far as I am aware. I think it would be well, before any decided step is taken, to ascertain, if possible, more particulars as to the circumstances under which the minor's grandfather obtained possession. The date of that possession and whether the present possessor's father was a minor at that date, and, if so, when he attained his majority, are all important facts as bearing upon the question of limitation.

4. Another defence to the proposed suit may be that the minor is bound by his mother's consent to the arrangement made by Mr. Wright. It may be said that in a case of disputed succession a *bonâ fide* claim by inheritance being put forward by the present possessor, an arrangement by which he was to hold for his life and then the estate to go to the minor, was a very fair and equitable compro-

mise and such a one as might properly be entered into by the minor's natural guardian, his mother, on his behalf. Mr. Wright's report may throw some light upon this part of the case. It is probable, of course, that the widow was then entirely under the influence of her kinsman, and it is not likely that the Courts will hold an arrangement made by a woman under such circumstances to be binding upon her and her minor son, but it is as well to be prepared for all defences that may be raised.

5. I would suggest whether the proper order to be made by the Inam Commissioner would not be one cancelling the title-deed of 1870 on the ground that it was issued by mistake, the person named therein as the holder of the estate having been dead at the time, and then a fresh title-deed might be issued in the name of the minor.

6. I return the enclosures to the above Proceedings.

THE Collector is requested to report after full inquiry on the points suggested by the Government Pleader, viz. :—

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

(2.) The date on which he obtained possession.

(3.) Whether the present possessor's father was a minor at that date; and, if so, when did he attain his majority.

(4.) 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.

(5.) Whether her consent was free and voluntary.

2. T Collectorhe is also requested to favour the Board with his opinion as to the expediency of adopting the Government Pleader's suggestion in regard to the cancellation of the inam title-deed (*vide* paragraph 5 of his letter).

No. 174. ORDER THEREON, 21st August 1873, No. 887.

Miscellaneous.

THE Acting Collector's reply to ~~their~~ Proceedings should be submitted for the orders of Government.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

Pro: Board of Revenue

Opinion of Govt Pleader on certain points on the subject of the Court of Wards taking charge of Kallakurchi Estate in South Arcot.

5 Augt 73. No 1468

No 887. 21 Augt 73

The A. Collectors reply to these Proc^s. Shd be submitted for the orders of Govt

Note. I think it may questionable whether the Court of Wards should endeavour to oust the present possessor who is the 'heir of line' of the family

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