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(3) Initials of the Referencer.....D. S. M.

MADRAS RECORD OFFICE**GOVERNMENT OF MADRAS***Revenue* DEPARTMENT

G.O. No.

935

Press

B.P. No.

Mis.

Dated

25th July

1961/874

Not to be folded or roughly handled

Read the following:—

No. 226. Proceedings of the Board of Revenue, dated 30th June 1874, No. 1,630.

Read again Board's Proceedings, dated 5th May 1874, No. 1,039.

Read also the following letter from W. M. SCHARLIEB, Esq., Acting Government Pleader, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 22nd May 1874, No. 91:—

I HAVE the honor to report my opinion on the question referred to the Government Pleader, in the Proceedings of the Board, dated 5th May 1874, No. 1,039.

2. Whether it is expedient that a suit should be brought on behalf of Government in respect to the property left by Strinavassa Ragava Charry of Damal, Conjeveram Taluq, Chingleput District, is a matter entirely for the Board's consideration; but it is clear that the Government have a right to bring such a suit as a question of law.

3. I quite agree with Mr. Barlow in the opinion expressed by him in paragraph 5 of his letter of the 26th March last, that co-widows take their husbands' property as a joint estate for life, with rights of survivorship, and that any division they may effect is a matter of convenience as between themselves. It was so held by the High Court of Madras (Scotland C. J. and Ellis J.) in the case of the Ranees of Tanjore, III., H. C. R. 424. Their lordships laid down the law in these words—“The sound rule of inheritance is that two or more lawfully married wives (*Patinies*) take a joint estate for life in their husbands' property, with rights of survivorship and equal beneficial enjoyment.” And though further down in their judgment they were of opinion that a case might be made out entitling one of several widows to the relief of separate possession of a portion of the inheritance, they held that the division spoken of in the texts referred only to the distributive enjoyment of the benefits of the joint property, so that two or more widows might by an agreement *inter se*, not prejudicial to the rights of the next heir in succession, provide for such enjoyment by an apportionment of the property; but that a partition converting the joint estate into an estate in severalty, whenever either of the widows chose to insist upon it, was quite incompatible with the right of survivorship to the whole property, arising out of the joint estate for life, and the surviving widows being the nearest heir or heirs of the husband. Under the law thus laid down, therefore, neither the fact of Lutchammal (the senior widow) and Kana-kammal (the junior widow) having divided Strinavassa Ragava Charry's property between themselves, nor the circumstance that Narasimmal Charry has got possession of his sister, the elder widow's portion, can prejudice the right of the next heir which can only arise on the death of the surviving widow.

4. As there appear to be no kinsmen, however, remote, or other heirs, of the late Strinavassa Ragava Charry, the Board are sound in the opinion that the

property will escheat to the Crown when the surviving widow dies. In the case of *Kerut Sing and Koolahul Sing*, II., Moore's Privy Council Reports, the side note is: "According to the Hindoo Law, the widow, in default of issue, is entitled to succeed to the whole of her deceased husband's estate; but her title to such estate is only as tenant for life, and she has no power to alienate or devise any portion of her husband's estate which, on her death, devolves to his legal heirs." The property must go to the husband's heirs, not to the heirs of the widows. Narasimma Chetty, the brother of Lutchmamma, is neither an agnate nor a cognate of the deceased Srinavassa Ragava Chetty. Indeed, he is not even heir to his sister, who was completely severed by her marriage from her natural family, being taken by such marriage into an entirely new gotra and family. The case, however, which has most recently determined the question of the Crown's inheritance is that of *the Collector of Masulipatam v. Canaly Venkata Narayana*, commonly known as the Visanapetta Zemindari case. In the first appeal to the Privy Council, VIII., Moore, 509, it was held that the estate of a Hindoo of the Brahmin caste, dying without heirs, escheats to the Crown as the Sovereign power in British India. In the second appeal, reported at page 520 of the same volume of Moore, it was laid down that by the Hindoo Law of Inheritance, a childless widow takes as heir, but it is only a special and qualified estate; that if there be collateral heirs of the husband, the widow cannot alien the property except for special purposes, such as for religious or charitable objects, or those acts which are supposed to conduce to the spiritual welfare of her husband, in which circumstances she has a larger power of disposition than that which she possesses for purely worldly purposes; but that to support an alienation for the latter purpose, she must show actual necessity; that the restrictions imposed by the Hindoo Law on a widow's power of alienation of her husband's estate are inseparable from her estate, and do not depend on the existence of heirs capable of taking on her death; and that when the Crown takes by escheat for want of heirs, it has the same right to impeach an unauthorized alienation by the widow, which the heirs of the husband, had there been any, would have had. In the last appeal, a report of which will be found in XI., Moore, 610, the appellant, it is true, succeeded in establishing a large debt incurred partly by the husband, partly by the widow, against the estate; but it was held that the right of the Crown to take by escheat was not defeated, the appellant being only entitled to hold the Zemindari against the Crown as a security for so much of the debt and interest as remained unpaid, the Crown possessing the right to redeem.

As to the circumstance of a portion of Srinavassa Ragava Chetty's property having been transferred by Lutchmamma to Narasimma Chetty, and such assignment having since been recognized by the junior widow Kanakamma, I am of opinion that a suit may at once be brought to obtain a declaratory decree in favor of Government. If, independently of the general principle of law restricting the widow's right to encumber her husband's Estate only for very limited and special purposes, we need any decided case warranting the intervention of a reversioner, we have one in the case of *Sicut Chundoo Sen v. Muthaera Nath*, 7 W. R. 303, which is also noted at page 141, of the Indian Digest by Cowell and Woodman, First Edition. The note is as follows:—"Though a reversioner cannot obtain possession during the lifetime of a Hindoo widow, yet he may be entitled to a declaration

whether the alienations made by the widow are, or are not, valid and binding on the absolute heir."

6. The Razinama and the Munsif's judgment and decree, referred to in paragraph 2 of the Board's Proceedings under reply, have not reached this Office from the Collector of Chingleput, but I do not apprehend that they are likely to affect the views expressed above.

SUBMITTED for the orders of Government.

2. A man named Srinavassa Ragava Chetty, who possessed property at Damal died in 1858, leaving two widows, but no other heirs.

3. The widows divided the property into two equal shares, and the senior widow's share of the immoveable property has been valued at Rupees 5,027.

4. The senior widow died in 1872, after making over her property to her brother who is now in possession. The junior widow is still alive, and has recognized the transfer.

5. The Government Pleader advises that the whole property will become an escheat on the death of the junior widow, but not before, and thinks that Government should secure their right to the portion in possession of the late senior widow's brother by suing for a declaratory decree.

6. It is accordingly necessary for Government to decide now whether they will assert their right to the future escheat. The Board see no reason why they should not do so.

No. 227. Proceedings of the Board of Revenue, dated 9th July 1874, No. 1,714.
Read the following letter from W. M. SCHARLIEB, Esq., Acting Government Pleader, Madras, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 19th June 1874, No. 102:—

With reference to paragraph 6 of my letter, dated 22nd May 1874, No. 91, on the subject of the right of Government to succeed by escheat to the property of one Srinavassa Chetty of Damal on the death of the surviving widow, I have the honor to forward copy, received from the Collector of Chingleput, of the razinama and decree of the Munsif in a suit brought against the widows by a man setting himself up to be a *Chayathi* or distant cousin of the deceased, and to state that these papers, as I anticipated, do not affect the views expressed in my letter above referred to. On the contrary, they only serve to confirm them; for by the razinama and the Munsif's decree therein, the man Vedanta Iyengar is precluded from again setting up his claim, while the surviving widow is precluded from setting up any adoption.

ENCLOSURES Nos. 1 and 2.—Copy of Razinama and Decree of Munsif.

SUBMITTED to Government in continuation of Board's Proceedings, dated 30th ultimo, No. 1,630.

Proceedings of the Madras Government, Revenue Department.
25th July 1874.

No. 228.

ORDER NUMBER, 25th July 1874, No. 955.

Miscellaneous.

HIS EXCELLENCY the Governor in Council, desires that the Board will ascertain whether delay until the death of the co-partener will be detrimental to the claim of Government.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

No. 1,039.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th May 1874.

Read the following letter from R. W. BARLOW, Esq., Collector of Chingleput, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Sydapet, 26th March 1874, No. 104 :—

I HAVE the honour to forward copies of the marginally noted correspondence, From the Acting Sub-Collector, dated 5th July 1873, No. 318. and request, at the instance of the Sub-Collector, the orders of the Board as to To do. from the Acting Collector, dated 30th July 1873, No. 869. whether the property therein referred From do. to do. dated 3rd September 1873, No. 432. to should be claimed as an encroachment to Government. It will be observed that the value of the land alone is considerable.

2. The facts are as follow :—One Strinivassa Ragava Charry of Damal, in the Conjeveram Taluq, possessed certain landed property, house, etc., in that village and died in 1858 without issue, but leaving two widows, viz., Lutchammal (senior) and Kanakammal (junior); these two divided the property of their husband in equal shares, and obtained separate puttass in their names for the lands.

3. At the settlement of Fasli 1268 (1858-59) Lutchammal, the senior widow, got the putta of her share transferred in the name of her brother, Tattai Narasimma Charry, alleging that she had left the property to him by a will. Subsequently in 1862 (Fasli 1271-72), a suit (No. 828) was filed in the additional Munsif's Court of Chingleput by one Vedanta Iyengar against Lutchammal and her brother for the recovery of the immovable property which she inherited from her late husband, in which the plaintiff contended that he was the distant cousin (Gnyathee) of the deceased, and therefore disputed the validity of the will. The junior widow, Kanakammal, was also made a supplemental defendant at her own request. The widows at first set up a plea, to the effect that they had the permission of their late husband each to adopt a son, which they had accordingly done; but they subsequently abandoned this plea, and entered into a compromise with the plaintiff filing a razinamah, with reference to which a judgment was passed by the Munsif. This razinamah contains the following conditions among others, viz., that the plaintiff not being able to establish the plea that he was the "Gnyathee" (distant cousin) of the deceased had relinquished all claim to the property of the deceased, but that he should accept a sum of Rupees 900 from the two widows to be given him as an act of grace; that the widows being unable to establish their respective pleas, of each having adopted a son with the permission of their late husband, such adoption should be void; and that the property which fell to the share of the senior widow, Lutchammal, should be enjoyed by her brother Narasimma Charry and registered in his name in all the public accounts as hitherto. This razinamah is dated 4th August 1865.

4. In 1863, while the suit was still pending, the said Narasimma Charry relinquished the lands in favour of his sister Lutchammal and her alleged adopted son Rungasamy Iyengar, in whose names the putta was accordingly made out; but in 1869 it was re-transferred in the name of Narasimma Charry at his request, with reference to the stipulations contained in the razinamah.

2-3-000

5th of 1874
REVENUE

THE BOARD OF REVENUE

2nd July 1874

10th July 1874

JULY

NO. 206-207

Charry of Damal, Conjeveram Taluq, Madras District, Revenue, No. 104, dated 26th March 1874, No. 104.



Not Brought in to
August 1874
5th July
No. 104 to 105 of 1874
10th July

5. In 1872 the widow Lutchmammal died, and the question arises whether her share of the property, in which she had at least only a life-interest should not be claimed as an escheat by Government. The Acting Sub-Collector is inclined to the view that it should. I am, however, of opinion that so long as the younger widow, Kanakammal, survives the escheat cannot be said to have taken place, and that the most we can do is to obtain a declaratory decree against Narasimma Chetty, to the effect that Government is the ultimate heir to the property now standing in the accounts in his name. According to Hindu law I believe widows take a joint estate for life in their husband's property with rights of survivorship, and that among sisters or co-widows a division cannot be productive of more than convenience to the partitioning parties themselves; it will not give any one of them a right to dispose of her separate share, or in any manner vary the rules of inheritance. It is true that the surviving widow has given a deposition, stating that she has no objection to Narasimma Chetty enjoying the property left by the deceased widow, but this cannot be construed into a renunciation of her rights as the heir at law should such enjoyment be disturbed, and it seems clear to me that so long as the junior widow lives no escheat can be held to have taken place, and Narasimma Chetty's enjoyment must be viewed as simply permissive.

6. It is possible that in a case of this nature the Government may not desire to assert their claim, but waive it as they did on a former occasion,* and if so I need not trouble the Board further; but otherwise I must request instructions as to whether an escheat has already occurred, and if so what steps I should take to enforce it; or if not, and the death of the second widow has to be awaited, whether a suit should now be filed regarding the ultimate heirship.

7. It seems to me that, if we remain without taking any action, the Government rights might be imperilled, as a Court of Equity might subsequently hold, in the event of any alienation by sale by Narasimma Chetty, that the alienee or purchaser had acquired in equity a good title, he being a *bona fide* purchaser for valuable consideration without notice.

Enclosure No. 1.

From S. CHOLLA, Esq., Acting Sub-Collector, to H. W. BARLOW, Esq., Acting Collector of Chingleput, dated 6th July 1873, No. 348.

One Sivaraman Ranganengar of the village of Dammal, in the Congevaram Taluk, died without issue in the year 1858, leaving two widows by name Lutchmammal and Kanakammal, who divided their husband's property in equal shares.

2. In 1863 the putta for the lands which fell to the share of the elder widow Lutchmammal, was at her request, on the ground of her having made a will in his favour, issued in the name of her brother Tattai Narasimma Chetty. While that for the younger widow's lands was issued in her own name.

3. We then had one Vedanta Iyengar filing, in 1862, a Suit No. 628 in the additional Munsif's Court at Chingleput against the said Lutchmammal and Narasimma Chetty for the recovery of the property of the senior widow (Lutchmammal), alleging himself to be the heir in the direct

line of the deceased's family (undivided), and that therefore the conveyance by Lutchmammal by will of her husband's property to the said Narasimma Chetty was void. In this suit the junior widow was included as supplemental defendant at her request. Up to this time it is quite clear that no adoption had been thought of.

4. A year afterwards, and prior to the decision in the suit, that is in 1863, the putta obtained by the said Narasimma Chetty for the senior widow's lands was at his request re-transferred in the joint names of the said Lutchmammal and her alleged adopted son Rungasamy Iyengar, the grand-son of the above-mentioned Tattai Narasimma Chetty. There is not the slightest reliable evidence of the adoption.

5. I have the honour to observe that this suit seems to have been compromised in 1865, the parties, viz., Vedanta Iyengar (plaintiff), Lutchmammal and Kanakammal (defendants), having filed a razinamah, in which they agreed to leave the property in the enjoyment of the said Narasimma Chetty. A decree was passed in accordance therewith. This compromise appears from the razinamah itself to have been arrived at by payment of Rupees 900 in equal shares by the widows to the plaintiff. A copy of the said razinamah is forthcoming, and it may be worthwhile here to mention the stipulation of the said razinamah, which sets forth that the two widows have each clearly admitted their inability to prove their respective pleas of authority having been given by their husband to adopt, and of a valid adoption being made. It is equally improbable and incredible that a man while he was alive would have given permission to his two wives to adopt two boys separately.

6. In 1869 the Tahsildar, Sami Naidu, issued a taluk to the Curnam, ordering him to transfer for the second time in Narasimma Chetty's name the putta standing in the name of Lutchmammal and Rungasamy Iyengar, the alleged adopted son of the senior widow, in accordance with the terms of the decree in the suit above referred to. Lutchmammal has since died, viz., in 1872. In any case any transfer of property derived from her husband made by her (a widow) could be valid only during the life-time of the widow. It is clear from the above that the adoption of the said Rungasamy Iyengar by the deceased's widow (Lutchmammal) was not established, neither is any decree of the Courts produced warranting the transfer of the putta in the name of Narasimma Chetty.

7. These circumstances lead me to believe that the alleged adoption did not actually take place. The alleged will also can be of no effect since the deceased widow had, according to Hindu law, only a life-interest in her husband's property. I beg to lay before you these circumstances for orders.

8. It appears from the report of the late Tahsildar Sandra Row, who instituted an inquiry into the matter, that the value of the deceased widow's landed property alone amounts to about Rupees 5,026-12-9. A petition has been received, giving the same as Rupees 7,000. The particulars according to the Tahsildar's estimate are as follow:—

	RS.	A.	P.
Three Pangu of lands	2	900	0 0
Nunjab, Kanies 15-14-4	1	255	4 0
Panah .. 6-0-14	68	8	9
Maniam .. 0-12-12	160	0	0
Pope .. 1-5-0	100	0	0
House ..	500	0	0
Cattle-stall ..	150	0	0
Total ..	5,026	12	9

9. The petition in which the above case was brought to my notice, together with other petitions and the record of the inquiry, are enclosed.

(True Copy)

(Signed) H. W. BARLOW,
Collector.

From R. W. BARLOW, Esq., Acting Collector, to G. S. CROLE, Esq., Acting Sub-Collector of Chingloput, dated Sydapet, 30th July 1873, No. 869.

In returning the records sent with your letter, No. 318, dated 5th instant, for orders I have the honour to request that, with reference to paragraph 7, you will be so good as to state specifically what you consider should be done in the case.

(True Copy.)

(Signed) R. W. BARLOW,
Collector.

ENCLOSURE No. 3.

From C. S. CHOLE, Esq., Acting Sub-Collector, to R. W. BARLOW, Esq., Acting Collector of Chingleput, dated 3rd September 1873, No. 432

With reference to your No. 869 of the 30th July last, I have the honour to inform you that the object of my report was to ascertain whether the property in question should be claimed by Government as an escheat.

2. The records which accompanied your letter under reply are herewith sent.

(True Copy)

(Signed) R. W. BARLOW,
Collector.

Under the circumstances reported by the Collector, and assuming that the late Srinivassa Charry left no heirs, the Board are of opinion that the property will escheat to Government when the widows die. The Government Pleader will accordingly be requested to advise the Board whether they are right, and if so whether a suit should be filed to obtain a declaratory decree in favour of Government.

4. The Collector will forward a copy of the nazimannal described in paragraph 3 and of the Munshi's judgment and decree, direct to the Government Pleader.

(True Copies and Extract.)

(Signed) J. GROSE,
Secretary.

To the Government Pleader,
the Collector of Chingleput.

E. J. Talbot

No. 1,744.

PROCEEDINGS OF THE BOARD OF REVENUE. dated 9th July 1874.

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Enclosures Nos. 1 and 2.—Copy of Razinama and Decree of Munsif.

Submitted to Government in continuation of Board's Proceedings, dated 30th ultimo. No. 1,630.

(A true Copy and Extract.)

H. E. Under
 Secretary.

To: Land and Society to Government, Revenue Department,

with two original Gaclofures

Copy to the Government Pleader
to the Collector of Chingleput.

Dr. F. B. Beallman.

1874.
 SECOND of SEPTEMBER,
 MADRAS.

THE UNIVERSITY OF CHICAGO

100

THE

1902-3 and in 1903-4. The following figures show the extent of the work done in the various districts of the Province during the last year:

REVENUE DEPARTMENT.

No. 222

1998

1997

FOR ORDEIN

I see no particular
reason why the right
of the Crown should be
at once denied. I shall refer
him however that these
rights would be an officious
interference, by formal notice
being

Journal of the
MADRAS.

PROPERTY OF THE FBI
JUL 1 1974

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Leaders of the Singapore Chapter of The United Nations Conference on the Environment and Development (UNCED) met in Singapore last week to discuss the progress of the Singapore Environment Development Fund (SEDF) and the Singapore Environment Development Fund (SEDF) and the Singapore Environment Development Fund (SEDF).

pen to the surviving widow
I the husband of the deceased
in no way the claim of
the estate, in no way adverse
to the estate of the latter.

If I am wrong, a declara-
tion should, I think, be
filed.

Lot

A more notice
can be of no value
the the already have
the the estate

A delay until the stock ^{market} rises
on the death of Mr. C. P. C. C.,
is the detriment to the claim
the of the law? await the
decision

1877
J. P. C. C. as executor
of the estate
11/23/77

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2. A man named Srinavassa Ragava Chetty, who possessed property at Damal died in 1858, leaving two widows, but no other heirs.

3. The widows divided the property into two equal shares, and the senior widow's share of the immoveable property has been valued at Rupees 5,027.

4. The senior widow died in 1872, after making over her property to her brother who is now in possession. The junior widow is still alive, and has recognized the transfer.

5. The Government Pleader advises that the whole property will become an escheat on the death of the junior widow, but not before, and thinks that Government should secure their right to the portion in possession of the late senior widow's brother by suing for a declaratory decree.

6. It is accordingly necessary for Government to decide now whether they will assert their right to the future escheat. The Board see no reason why they should not do so.

(A true Copy and Extract.)

H. G. M.
Secretary.

To the Acting Secretary to Government, Revenue Department,
with Board's Proceedings, dated 5th May 1874, No. 1,249.

Copy to the Collector of Chingleput,
" to the Government Pleader.

Edw. G. A. Tait.

For one case
of the