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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

REVENUE DEPARTMENT

G.O. No. 1238 Press

B.P. ~~No.~~ Mis.

Dated 29.9.1874 .196

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
29th September 1874.

No. 267. Read the following Proceedings of the Board of Revenue, dated 8th September 1874, No. 2,530:—

Read the following letter from W. M. SCHARLIEB, Esq., Acting Government Pleader, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Madras, 2nd September 1874, No. 156:—

With reference to paragraph 2 of the Proceedings* of the Board of Re[illegible]ed 2[illegible] July 1874, No. 1,975, I have the honor to report that, having duly considered the question of the advisability of taking further action in the matter of the recent decision of the Privy Council, which is adverse to the right of Government to nominate a successor to the Guntamanaickenur Estate in Madura, such right being based on the principle that the polliem reverts absolutely to Government on the death of each holder, I am of opinion that Government are not in a position further to contest the point.

* the enclosures returned herewith.

2. Their Lordships of the Privy Council are clearly against the principle as an absolute proposition, and look upon the right advanced by Government as a question to be determined by the evidence; and they accordingly state it as their opinion in the Guntamanaickenur case, "that no sufficient evidence was given to prove that the polliem reverted absolutely to Government upon the death of the late Poligar, or that the defendant held under a fresh grant by which a newly-created estate for life became vested in him." Adverting, however, to Mr. Forsyth's suggestion that the Collector may have been misled by the decisions prior to the Judgment in the Marungapuri case, and may have, therefore, abstained from offering evidence to show that the polliem was not hereditary, the Privy Council have, upon certain conditions and upon six months' notice to the High Court at Madras, given permission for the further trial, under section 354 of the Civil Procedure Code, of the issue "whether the late Zemindar [illegible] estate of inheritance in the Zemindari which descended to his minor son as his heir." The only way of meeting this issue, as pointed out by Mr. Forsyth, would be to prove that the Government have on several occasions, or even on any one occasion, nominated some one as Poligar who was not the heir of the previous holder.

3. The Collector, however, has now reported that the Guntamanaickenur polliem appears to have been always treated as an estate of inheritance descending to the legal heir. Indeed, in paragraph 4 of his letter recorded in the Proceedings under reply, Mr. McQuhae states that the first instance in which a succession to the estate was reported to, and recognized by, Government was in the case of one Ramakristnama Naick who succeeded his uncle Vellappa Naick in August 1837 as Poligar of Guntamanaickenur; and that the second instance was that of the present minor, who was recognized in 1867 as the lawful successor of his father the above-mentioned Ramakristnama Naick. Even previous to the case of Ramakristnama Naick in 1837, the polliem appears to have passed to the next heir on the death of the previous holder. I was attracted by the Collector's statement that on the death of Vellappa Naick, Government approved the Board's proposal to recognize his *nephew* Ramakristnama Naick. Mr. McQuhae had just previously stated that another Vellappa Naick had died childless on the 17th August 1817, and had been succeeded by his step-brother Vellappa Naick, a son of Kondala Nagama Naick by his second [illegible] inferior wife. It struck me that the nephew Ramakristnama might have been a sister's son, in which case we would have had other than the lawful heir succeeding to the polliem; but on reference to the reports of the Collector of the day, I found that Ramakristnama was the son of another brother, and hence a nephew on the father's side, and thus the lawful heir of Vellappa Naick.

4. Under these circumstances, I cannot advise Government to go to trial of the issue the Privy Council have authorized under Section 354 of the Procedure Code, but would recommend that the case be allowed to drop, [illegible]ly filing in the High Court the Original Order of Her Majesty in Council, dated 17th March 1874, with an intimation that the Government do not desire to take any further action in the matter.

Proceedings of the Madras Government, Revenue Department, 29th September 1874.

SUBMITTED to Government with reference to G. O., dated 13th June 1874, No. 733.

2. The Board do not consider the present a favorable opportunity for raising the general question.

No. 268. ORDER THEREON, 29th September 1874, No. 1,238.

Miscellaneous.

HIS EXCELLENCY the Governor in Council concurs in the opinion expressed by the Board of Revenue that the general question cannot be decided with reference to the Guntamanaickenur case.

2. It is sufficiently obvious from the Collector's report of the 11th July last, No. 201, recorded in Board's Proceedings, 27th idem, No. 1,975, that the Government have never nominated as Poligar any one who was not the heir of the deceased Poligar, and under these circumstances it is useless to take advantage of the option accorded by Her Majesty's Order in Council, dated 17th March 1874, for the trial of the further issue relative to that point.

3. The original papers received from the Secretary of State will now be forwarded to the Government Pleader for disposal in ordinary course.

(True Extract.)

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

To the Government Pleader with copy of G. O., 13th June 1874, No. 733, R. D.
„ the Board of Revenue.

Fcd. W. H. French.

No. 1,975.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 27th July 1874.

Read again G. O., dated 13th June 1874, No. 733, recorded in Board's Proceedings, dated 24th June 1874, No. 1,562.

Read also the following letter from W. McQUHAE, Esq., Collector of Madura, to J. GROSE, Esq., Secretary to the Board of Revenue, dated 11th July 1874, No. 201:—

WITH reference to the Proceedings* of the Board of Revenue, dated 24th June 1874, calling for information regarding successions to the Guntamanaickenur Estate, I have the honor to report that the early history of this ancient Poliyam cannot be accurately traced. It was resumed by Tippoo Sultan in 1773, and restored to the dispossessed Poligar in 1783, when Dindigul was taken by Colonel Lang. The country was given back to Tippoo Sultan in the following year, and in 1788 he resumed this and other Poliyams on account of arrear of tribute. In August 1790 Dindigul was taken by the British, and shortly afterwards all the resumed Poliyams were restored. The accounts having been carried off, and the country being in a disorganized state, the Collector at first made the best settlement he could with the Poligars. On the 13th June 1796, a formal sanad was given to the Poligar Kondala Nagama Naick, who was the eldest son of the man displaced by Tippoo, in order that the duties of his office and the conditions on which he would be allowed to hold it might be fully defined and understood. The tribute to be paid was fixed for one year only, and the effect of this document has already been considered by the Courts.

* Six enclosures returned.

2. Kondala Nagama Naick was succeeded by his son Velappa Naick who executed a Muchilika on the 17th December 1802, corresponding with the sanad of 1796. The exact date of his succession is unknown, and it appears to have taken place in the ordinary course without reference to Government.

3. This Velappa Naick died childless on the 17th August 1817, and was succeeded by his step-brother Velappa Naick, a son of Kondala Nagama Naick by his second or inferior wife. This succession does not appear to have been formally reported or recognized.

4. This Velappa Naick died on the 6th August 1836, and in an extract from the Minutes of Consultation, under date the 2nd August 1837, the Governor in Council approved of the Board's proposal to recognize his nephew Ramakristnama Naick as the lawful heir to the estate. This appears to be the first instance in which a succession to the estate was formally reported and recognized by Government.

5. Ramakristnama Naick died on the 25th May 1866, (*vide* Board's Proceedings, dated 4th September 1866, No. 6,289, and 21st January 1867, No. 416,) and his son, the present Minor, was recognized as Zemindar on the 27th September 1867.

6. The existence of any estate at all may have depended upon the will of Government, for they have never bound themselves to leave any thing to the Poligar, and in former years the estate was continually under the Collector's management for arrears of revenue. But such estate, as the Government Settlement left in existence, has been treated as an estate of inheritance descending to the legal heir.

Majesty in Council, dated 17th March 1874, with an intimation that the Government do not desire to take any further action in the matter.

SUBMITTED to Government with reference to G. O., dated 13th June 1874, No. 733.

2. The Board do not consider the present a favorable opportunity for raising the general question.

(A true Copy and Extract.)

Acting Sub-Secretary.

To the Acting Secretary to Government, Revenue Department,
with copy of Board's Proceedings, dated 27th July 1874, No. 1,975, with its enclosures consisting of eight original papers, and a file of printed papers (to be returned), and a packet of six papers relating to the Appeal to the Privy Council.

Copy to the Collector of Madura.
" to the Acting Government Pleader.

Fxd. W. H. French.

1238/5

Revenue Department.

No. 1238

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 29th September 1874.

READ the following Proceedings of the Board of Revenue.

Submitting letter from the Acting Government Pleader advising that no further action be taken in matter of Appeal to Privy Council of Polagappa Chetty regarding succ. Sessions to Gantamanaickkenur Estate in Madura District — H. E. 8th September 1874 No. 2530.

His Excellency the Governor in Council concurs in the opinion expressed by the Board of Revenue that the general question cannot be decided with reference to the Gandamanaickenur Case.

2. It is sufficiently obvious from the Collector's report of the 11th July last No. 204 recorded in Board's Proceedings 27th idem No. 1975 that

PROCEEDINGS, 8TH SEPTEMBER 1874, No. 2,530.

Despatched 9th Sept 1874. Enclosures

Received 11th Sept 1874.

SEPTEMBER.

No. 2,530.

Gantamanaickenur Estate—in Madura District.—Letter from Acting Government Pleader, advising that no further action be taken in matter of Appeal to Privy Council of Polagappa Chetty regarding succ[illegible]sions to —, submitted to Government with remark that Board do not think the present a favorable opportunity for raising the general question.

Board of Revenue

MADRAS.

Rd 29 Sept 1874 11 Sheets

2 Enclosures

Rd 1293 C.V. No. 3/192.

No. 1293 dated 1874. Sept. 26

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shall the Government have never nominated as Poligar anyone who was not the heir of the deceased Poligar, and under these circumstances it is to take advantage of the option accorded by Her Majesty's Order in Council dated 17th March 1874 for the trial of the further issue relative to that point.

3. The original papers received from the Secretary of State will now be forwarded to the Government Pleader for disposal in ordinary course.

To
The Government Pleader
with copy of G.O. 13 June 1874
No 733 R.D. and the packet of 6 papers received from the Secty of State
& Box Bundle with 8 original papers
and a file of printed papers
Disp. Table 7/4