MRO 1—20,002—12-8-65.

(1) Number of Pages 14

(2) Date of repair 29.10.1967

(3) Initials of the Referencer ~~27~~ 17.2.68

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. / ~~B.P.~~ No.	840	Press / Mis.

Dated 28.5.1875 196 . .

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
28th May 1875.

No. 340. Read the following Proceedings of the Board of Revenue, dated 14th May 1875, No. 1,282:—

Read the following letter from A. McC. WEBSTER, Esq., Acting Collector of South Canara, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Manjeshwar, 8th April 1875, No. 670:—

With reference to Board's Miscellaneous Proceedings,* dated 8th January 1875, No. 113, I have the honor to forward, for the information of Government, two statements prepared by the Vakils of the respective parties detailing the action taken by them since Mr. Thomas' letter was written. I also enclose a printed petition, which appears to have been forwarded to Government by Madanamma Devi and rejected, as it gives the history of the appellant's case.

*Enclosure herewith returned.

2. Previous to the date of Mr. Thomas' letter both parties had applied to the Civil Court for a certificate of heirship. The appellant's application was eventually granted, and that of the respondent Unhamma rejected. An authenticated copy of the order of the Civil Court is enclosed. The Court held that the boy Chandra Sekara Chennaraya Chouter, the grandson of the deceased Chouter, was *de facto* his successor by virtue of his nomination to the Pút by a portion of the Magany community which admittedly possessed the right to elect, and that his grandmother Madanamma (appellant) was in possession of the family property. It therefore granted the certificate to her.

3. Against this order both parties appealed to the High Court, the present appellant against that part of the order directing her to furnish security, and Unhamma against the order altogether. The High Court dismissed both appeals.

4. Unhamma, to whom the Government allowance is now paid, has taken no steps to establish her right to the family property of the deceased Chouter, or to cancel the election of the boy Rajanna (now Chandra Sekara Chennaraya Chouter) to the Pút. Her Vakil states that the period allowed by the Limitation Act has not yet expired, while the appellant's Vakil contends that it has. This point does not, however, seem to require notice in the present report.

Enclosure No. 1.—Copy of Court's Order, dated 21st September 1868.

Enclosures Nos. 2 and 3.—Petitions.

Enclosure No 4.—Copy of a Vakil's Petition.

Enclosure No. 5.—Copy of a written statement.

Submitted to Government with reference to G.O., dated 22nd December 1874, No. 1,098.

2. It appears that a certificate of heirship was granted to the memorialist under the Court's Order, dated 21st February 1868, and that no action has been

taken by either party since the date of Mr. Thomas' letter referred to in the order above quoted.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Sub-Secretary.

No. 341. ORDER THEREON, 28th May 1875, No. 840.

Miscellaneous.

THE Governor in Council sees no reason to disturb the G.O. of 14th November 1867, unless or until a decision of a competent Court in a regular suit shall establish the claim of some other party as superior to that of Unyamma to the dignity of Chouter of Mudubidri.

(True Extract.)

(Signed) A. MACGREGOR,
Acting Secretary to Government.

To the Board of Revenue.

Exd. J. Wright.

Govt. of Madras.

REVENUE.

To

THE BOARD OF REVENUE.

Dated 14th May 1875.

Read

G O, 28th May 1875, No. 840

MAY

Nos. 840-41

Charter of Madrasbut in South Canara D ist
—Adhering to G O, 14th November 1867, No 2,695, unless or until a decision of a competent Court in a regular suit shall establish the claim of some other party as superior to that of Uny amma to the dignity of —

No. 1,282.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 14th May 1875.

Read the following letter from A. McC. WEBSTER, Esq., Acting Collector of South Canara, to H.º E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Manjeshwar, 8th April 1875, No. 670:—

WITH reference to Board's Miscellaneous Proceedings,* dated 8th January 1875, No. 113, I have the honor to forward, for the information of Government, two statements prepared by the Vakils of the respective parties detailing the action taken by them since Mr. Thomas' letter was written. I also enclose a printed petition, which appears to have been forwarded to Government by Madanamma Devi and rejected, as it gives the history of the appellant's case.

* Enclosure herewith returned.

2. Previous to the date of Mr. Thomas' letter both parties had applied to the Civil Court for a certificate of heirship The appellant's application was eventually granted, and that of the respondent Unhamma rejected. An authenticated copy of the order of the Civil Court is enclosed The Court held that the boy Chandra Sekara Chennaraya Chouter, the grandson of the deceased Chouter, was *de facto* his successor by virtue of his nomination to the Pút by a portion of the Magany community which admittedly possessed the right to elect, and that his grandmother Madanamma (appellant) was in possession of the family property It therefore granted the certificate to her.

3 Against this order both parties appealed to the High Court, the present appellant against that part of the order directing her to furnish security, and Unhamma against the order altogether. The High Court dismissed both appeals.

4. Unhamma, to whom the Government allowance is now paid, has taken no steps to establish her right to the family property of the deceased Chouter, or to cancel the election of the boy Rajanna (now Chandra Sekara Chennaraya Chouter) to the Pút. Her Vakil states that the period allowed by the Limitation Act has not yet expired, while the appellant's Vakil contends that it has. This point does not, however, seem to require notice in the present report.

ENCLOSURE No. 1.—Copy of Court's Order, dated 21st September 1868.

ENCLOSURES Nos. 2 and 3.—Petitions.

ENCLOSURE No. 4.—Copy of a Vakil's Petition.

ENCLOSURE No. 5.—Copy of a written statement.

SUBMITTED to Government with reference to G.O., dated 22nd December 1874, No. 1,608.

2. It appears that a certificate of heirship was granted to the memorialist under the Court's Order, dated 21st February 1868, and that no action has been taken by either party since the date of Mr. Thomas' letter referred to in the order above quoted.

(A true Copy and Extract.)

Acting Sub-Secretary.

To the Secretary to Government, Revenue Department,
with five enclosures.

Copy to the Collector of South Canara.

Exd. J. Wright.

the complexity interests of the

22 December 268-69

1875.

Board of Revenue,

MADRAS.

PROCEEDINGS, 11TH MAY 1875, No 1,282

Desp 19 May 75

Encl 5 Ord

SCD. 840. 28th May 1875

Received 24 July

MAY.

No. 1,282.

Madanamma Devi—of South Canara District, who claims certain hereditary pension on behalf of her grandchild—Report of Collector that a certificate of heirship to the private property of the family was granted to—under Court's Order of 21st February 1868, and that no further action has been taken by the parties concerned since the date of Mr Thomas' letter referred to in GO, 22nd December 1874, No. 1608, submitted to Government.

h 340

a 26 Aug 75 Rt 28 Aug 75

two parties, ordered that the Funds be withheld till either party produce a decision from the Civil Courts as to his right of heirship &c, as after giving the Dr. he made a declaration on the rights of the respective parties, observing that the Khidmutgar's order was incorrect & that he cancelled in as much as the civil courts have jurisdiction in the matter of Funds. Commanded that the allowance be paid to Thyamma for the following reasons.

1. That she is a member of the same class or Gotra, whereas the deceased Thimma & his descendants are aliens.

2. That she is the Executrix by her named in the Purchase

3. That she is in the line of Ekadantana where always called the successor in his family & which was waived exceptionally in the case of the deceased Thimma.

The Government accepted the views of the Collector & sanctioned the payment of the Funds to Thyamma, who even now has taken Receipt of the allowance. The Memorialist declares that she was not aware of her Husband's Report at the time at which it was made.

In February 1864 the civil court

x 11th March 1863

not [illegible] appears nothing illegal in agreement that the Memorialist shall be paid any to him whatever order by the Courts but the right that the presentation - the decisions of the Courts relating only to the rights of the deceased not to be moved payment by Govt. [illegible]

[illegible] are absent in the same degree. The former deceased [illegible]

G.O. 16th December 1867 No 2695.

of hearing one on a summary inquiry held under Act 19 of 1841 & 27 of 1850, passed the following order - As regards the satisfactory settlement of their respective rights as heirs of the deceased, the parties were referred to their bringing a regular civil suit - Khandadar (Ex Asst).

× × × × × × × × ×

"It is clear that the Khandadar of the deceased is, de facto his successor by custom of his community & that it is admitted parties his right to elect. Whether his election is valid in this particular instance is a question which it appears to the Court ought to be entered into in a Summary suit. If is sufficient that the person in possession of the property has a prima facie right to hold it & that the possession is not clearly wrongful."

× × × × ×

The Civil Petitioner is declared entitled to retain possession of the property upon his giving security for the proper care & management of the same. As to the right to collect debts, should follow the property a certificate will be granted to the Civil Petitioner as

*c.c. Memorialist

"applied for order furnishing
further security for rendering
an account of his dues Col.
"Lecked."

The Supt Court in appeal
is alleged to have confirmed
this order of the Civil Court.

On his Memorial against Civil Ct
order above referred to, the Memo-
rialist applied to Govt for
reconsideration of his order
of 1867 sanctioning the grant
of the allowance to Ungamma.
The Govt decided to decide both
Petitioners request, & directed
that the facts were fully
laid before them in 1867, but
nothing has transpired since
to justify withdrawal of the
pension from Linkamma, &
that the order of the Civil Ct
Mangalore is not a material
document as it did not de-
cide the right of succession
& was merely passed under
Act 10 of 1841."

The Sec'y of State whom Madanamma
Devi memorialed, says "if me-
morialist or any other party shd
eventually obtain from the
Civil Court a certificate of
heirship to private property
of the family, it will probably
then be right for Govt to recon-
sider its decision"—

The Collector has reported
that after the passing of the
order of the Civil Court above

referred to, no steps have been
taken by either of the parties
to establish their right
by a regular suit—

The arrears of pension due
to the deceased was ordered
by Govt to be paid to the Me-
morialist in 1871

Orders are requested
as to the disposal of the
Memorial to the Secy of State
referred back to this Govt
by that authority.

General Orders
Secretariat - Transfers
Civil Service - Appointments
Military Promotions
Leave &c &c &c

G.O. Jud. C No 840

Forwarded to
the Secretary of
State for India
in Council.

27.5.75

In Despatch

28 May/75

Sent Copy to the Board of Revenue & Inam
Sent Board Copy on 11th June

22-5-75

Note by Secy

Both the Secy of State & the Coll. talk loosely of a "certificate of heirship". There is no such thing to be got. There is the certificate to collect debts due to the decd (Act 27/60), but this gives no title to the beneficial enjoyment of the property.

The Memorialist has obtained this: also a summary judgment (subject to repeal on suit) as to her right to possession of decd's estate (Act XIX 2 1861).

I wd suggest to Govt, as the Secy of State inclines to think that the question "which of the parties is the proper recipient of the Govt bounty" should be left to the Courts — the sanction of Govt should be given to Memorialist to bring suit if they be same - Sect VII, Act No 23 of 1871.

D.S.-26/5/75

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