840/1

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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

Dated 28.5.1875 196 .

Not to be folded or roughly handled

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. 1,608.

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.)

(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.

840/3

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. 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.

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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 conflicting interests of the

Govt. of 1875 Madras.

REVENUE.

To

The BOARD of REVENUE.

Dated May 28th.

Recd. Recd.

G.O., 28th May 1875, No. 840.

MAY

Nos. 340-341.

Chouter of Mudubidri in South Canara District.—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 Unyamma to the dignity of —.

22 Decemb — 268-69

1875.

Board of Revenue,

MADRAS.

PROCEEDINGS, 14TH MAY 1875, No. 1,282.

Dept 19 May 75

Encl 5

Recd. 28 May 1875

Received 24 May

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 G.O., 22nd December 1874, No. 1608, submitted to Government.

for orders with memo
2 Sept. 75 [illegible]

No. 360

[illegible]

840/4

Pres: Bd of Revenue

Submg report of Collr that a certificate of heirship to the private property of the family was granted to Madanamma Devi of S. Canara Dr. &c &c

Memo for orders.

H. E. 14 May 1875 No. 1282

These papers relates to the payment of a permanent allowance of Rs. 793-12-0 to an ancient Polygar family in S. Canara in compensation for land resumed by Hyder Ali & subsequently retained by the British Govt.

On the death of the last recipient, two claimants arose

1. Grandson of the deceased by his daughter, & represented by the Memorialist his grand mother.

2. One Unyamma, who was adopted by the relatives of his predecessor of the deceased, & who during the life time of the latter was named & recognized as his successor.

No. 1. having also been recognized successor to the deceased after his death by the Moktessars or chief men of the tribe in whom the authority to appoint a successor is alleged to reside, the right of succession is disputed with apparent reason on both sides.

In 1867, Mr. Whiteside the then Collector of the Dt. finding it difficult to decide between the conflicting interests of the

* Madanamma Devi.

Punchayet

two parties, ordered that the Tusdik be withheld till either party produce a decision from the Civil Courts as to his right of heirship — Soon after, on Mr Thomas joining the Dt, he made a detailed report on the rights of the respective parties; & observing that Mr Whiteside's order was incorrect & shd be cancelled in as much as the civil courts have to jurisdiction in the matter of Tusdik, recommended that the allowance be paid to Unyamma for the following reasons.

1. That she is a member of the same clan or Gotra, whereas the deceased Inamdar & his descendants are aliens.
2. That she is the reversionary heir named by the Punchayat.
3. That she is in the line of Elia Santana which always ruled the succession in his family & which was waived exceptionally in the case of the deceased Inamdar.

The Government accepted this view of the Collector & sanctioned the payment of the Tusdik to Unyamma, who ~~was~~ was now ~~[illegible]~~ the recipient of the allowance — The Memorialist declares that she was not aware of Mr Thomas's report at the time at which it was made.

In February 1868 the civil court

x 11 March 1867

Note It is submitted that there appears nothing illegal in saying that the money payable by Govt. must be paid only to the man who is declared by the Courts to the rightful representative, the decision of the Courts relating only to the other property of the deceased not to the money payment by Govt. SB

Both are aliens in the same degree. The Gotra does not evidence greater affinity

G C 14 November 1867 No 2695

840

of Mangalore on a summary inquiry held under Act 19 of 1841 & 27 of 1860, passed the following order — As regards the satisfactory settlement of their respective rights as heirs of the deceased, the parties were referred to the necessity for a regular suit —

Courts order (Extract)

x x x x x x x x x

"It is clear that the grandson of the deceased is de facto his successor by virtue of his nomination to the Pet by a portion of the Mayani community which it is admitted possesses the right to elect. Whether the election is valid in this particular instance is a question which it appears to the Court ought not to be entered into in a summary suit. It 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."

x x x x x

"The counter Petitioner is declared entitled to retain possession of the property on furnishing security for the proper care & management of the same. As the right to collect debts should follow the property a certificate will be granted to the counter Petitioner as

* i.e. Memorialist

"applied for order furnishing
"further security for rendering
"an account of the sums col-
"lected."

The High Court on appeal is alleged to have confirmed this order of the Civil Court.

On the strength of the Civil Ct. order above referred to, the memorialist applied to this Govt. for a reconsideration of their order of 1867 sanctioning the grant of the allowance to Umyamma. The Govt. declined to accede to the Petitioner's request, & observed that the facts were fully laid before them in 1867, but nothing has transpired since to justify withdrawal of the pension from Unhamma, & that the order of the Civil Ct. of Mangalore is not a material document as it did not decide the right of succession & was merely passed under Act 19 of 1841.

The Secy. of State whom Madanamma Devi memorialised, says "if memorialist or any other party shd eventually obtain from the Civil courts a certificate of heirship to the private property of the family, it will probably then be right for your Government to reconsider its decision".

The Collector now reports 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 ~~[illegible]~~ their right by a regular suit.

The arrears of pension due to the deceased was ordered by Govt. to be paid to the memorialist 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.

Opposite they were due to Deceased & were paid to his widow. This settles & his widow's claims to nothing as to the succeeded after his decease.

G.O. No. 840

I see no reason to dis with the G.O. of 14 Novr. 67. unless or until a decision of a competent Ct. in a regular suit shall establish the claim of some other party as superior to that of Umyamma to the dignity of Chontar of Mudubidri.

27.5.75 [illegible]

Mid Copy to the Board of Rev. Dec. 25 May 14 Prescribed Copy Dec 11 June

In Mss. first

28 May/75

[illegible] 22-5-75

Madanamma
Devi's memorial
to the Secy of State

Note by Secy

Both the Secy of State & the Collr. 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 regular suit) as to her right of possession of decd's estate (Act XIX of 1841).

I wd suggest that, as the Secy of State inclines to think that the question "which of the parties is the proper recipi-ent of the Govt bounty" shd be left to the Courts — the sanction of Govt shd be given to Memorialist to bring a suit to try the same — Sect VI, Act No 23 of 1871.

D. S. C. 26/5/5

Hon'ble Mr H.

C. 26 May/75 Rt 28 May/75