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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

REVENUE DEPARTMENT

G.O. No. 543
B.P. No.

Press
Mis.

Dated 24-4-1976 196 .

Not to be folded or roughly handled

Read again G.O., dated 5th May 1875, No. 694.

Read also the following papers:—

No. 174. Petition from M. K. LAKSHMI AMMA, the adopted heiress of the late KUNNUMAL VALIA NAMBYAR, Panur Amshom, Kottayom Taluk, North Malabar, to the Most Noble the Governor in Council of Fort St. George, dated 30th December 1875.

Abstract.—Appealing against the enclosed endorsement of the Board of Revenue, states that a perusal of her petition to the Board would show that her claim cannot be rejected without a violation of the principles of justice; that the Collector recommended the discontinuance of the Malikhana allowance on the grounds that her Karanavan alienated by gift all his property in favor of her natural Karanavan twenty-eight months prior to the adoption, and also omitted to report to the Collector, at least six months before his death, the adoption of the petitioner as required by the notification of the 16th March 1846; but that, as to the first, she claims only such property of her adoptive ancestor as are left undisposed of at his death; that an adoption under the Hindu Law is analogous to birth and clothes the adoptee with all the rights belonging to a member naturally born in the family, as the Government recognised the late Valia Nambyar as a legal member of the family although he was so by adoption; and that as to the second ground, the notification of Government was virtually cancelled by the proclamation of Lord Canning which conceded an independent right of adoption to all Native Rajahs, Chiefs, and Nobles of the country; and that petitioner's adoption is undisputed; that the stoppage of the Malikhana has put her to great inconvenience.

2. Prays for a favorable and early order.

No. 12.

REFERRED to the Collector for further consideration and full report.

2. Meanwhile, the decision on the Malikhana succession (G.O., dated 5th May 1875, No. 694) will be held in abeyance.

(By order.)

FORT ST. GEORGE,
2nd March 1876.

(Signed) H. B. GRIGG,
Acting Under-Secretary to Government.

No. 175. From W. LOGAN, Esq., Acting Collector of Malabar, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Calicut, 15th March 1876, No. 24.

REPLYING to endorsement, dated 2nd instant, on the enclosed petition from Mithangat Kunnumal Lakshmi Amma praying that the Malikhana allowance enjoyed by the late Valia Nambyar may be continued to her as his adopted heir, I have the honor to observe that my predecessor's letter, No. 58, dated 2nd March 1875, contains

*Proceedings of the Madras Government, Revenue Department,
24th April 1876.*

nearly all the information which can be gleaned from the records on the subject; but as I observe that one point bearing on petitioner's claims has not been brought into sufficiently prominent relief, I should point out that petitioner's assertions, first, that the late Nambyar was the last surviving member of his family; and, second, that petitioner, as his adopted heir, is therefore now the only surviving member, require to be proved.

2. For you will observe on reference to the enclosed copy of the judgment in Civil Appeal No. 69 of 1873 on the file of the Tellicherry District Court that one of the issues of that suit was whether plaintiffs, as the descendants of a woman named Umamma who was alleged to have been adopted into the family along with Madhavi-amma, the mother of the late Valia Nambyar, were entitled to sue as Anantiravars of the family. Both the Lower Original Court and the District Court in appeal found on the above issue *as a question of fact* that the ancestress of plaintiffs had been so adopted, and it will be seen that the plaintiffs failed in their suit (which was to cancel certain alienations of the family property) only because they were unable to show that they had insisted on their rights as adopted heirs in the twelve years preceding the institution of the suit. The law of limitation, in fact, disinherited them.

3. How it came about that they had not so insisted on their rights, it is perhaps unnecessary now to enquire, but you will observe from the judgment forwarded that in 1835 certain proceedings were pending before the Principal Collector between the late Valia Nambyar and his brothers on the one part and the plaintiffs' ancestors on the other regarding the distribution of the Malikhana allowance. It was at that time contended by the late Valia Nambyar's brother that the plaintiffs' branch had not been adopted into the family, and the matter was to be referred to a Panchayat for arbitration. A Tahsildar intervened, and somehow "got the matter settled," and there it rested until revived by the alienation of the family property which formed the subject of the suit. Neither party was able to throw much light on the "settlements" arrived at in 1835, and it can only be now conjectured that as the plaintiffs' branch was well off, as the share of Malikhana to which they would be entitled so long as the Valia Nambyar was alive would be small, and as there was at the time a prospect of the Valia Nambyar's branch becoming speedily extinct by the failure of female issue, the plaintiffs' ancestors thought it the best policy not to contest the matter further.

4. But as already pointed out, it by no means follows that, though unable to contest successfully the suit for setting aside the alienation, they could not successfully contest the petitioner's claim to any property which it could be shown the Valia Nambyar possessed at the time of his death, and it would surprise me if the petitioner would now admit that she inherited from the Valia Nambyar any thing but this claim on Government for the deceased's Malikhana allowance.

5. In fact, the petitioner in stating as her first reason for claiming the allowance that the late Valia Nambyar was the last surviving member of his family, and, as such, possessed the right of making a valid adoption (her own to wit) has begged the whole question to be decided, and in conclusion, I would advise the Government to inform the petitioner that if she can prove to the satisfaction of the Civil Courts in a suit against the plaintiffs in the late litigation that she is the only surviving heir, her claim to the Malikhana allowance will perhaps be then favorably considered.

*Proceedings of the Madras Government, Revenue Department,
24th April 1876.*

No. 176.

ORDER THEREON, 24th April 1876, No. 543.

Miscellaneous.

On further consideration of this case, the Government resolve to cancel their Order of the 5th May last, No. 694,

and to direct that the Malikhana drawn by the late Kunni Kutti *alias* Valia Nambyar, as the representative of the Methangathil Kunnumal family in the Kottayom Taluk, be passed to the female named Pukkot Tadathil Kunni Lakshmi, who was adopted by him as the heiress of his line.

2. As the adoption of the female who was adopted into the family contemporaneously with the deceased Malikhana's mother, has been declared by the Civil tribunals to be inoperative under the Limitation Act, the title of the party designated by the late Valia Nambyar as the heiress is incontestable; and the technical objection that notice of the adoption was not given to the Collector six months before the adoptor's death is inequitable in the case of a Malikhana, an allowance in lieu of a resumed estate.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.
„ the Petition Department.

Exd. A. Grubert.

Appeal Suit No. 69 of 1873.
In the District Court of North Malabar.
Present — J. W. Reid Esquire. Judge.

Plaintiffs.

1. Royilattu Mithangath.
Kunnumel Kunhi Ramen
Nambiar.
2. Younger brother Kunhi
Chattu Nambiar.
3. Parvathy (female)
4. Chirudai (")
5. Lakshmi alias
Katilama (female)
6. Madu (")
7. Lakshmi (")
8. Kunhi Parvathy (")
9. Kunhi Anandan Nambiar.
10. Parvathy (female)
11. Parvathy alias
Katilama (female)
12. Sridavi (")
13. Ramen Nambiar.
14. Chirudai (female)
15. Kunhi Ramen Nambiar.
16. Kunhi Lakshmi alias
Katilama (female)

Defendants.

1. Royilattu Mithangath
Kunnumel Kunhi Kutty
alias Valia Nambiar.

Appellants.

1. Royilattu Mithangath
Kunnumel Kunhi Ramen
Nambiar.
2. Younger brother Kunhi
Chattu Nambiar.
3. Parvathy (female)
4. Chirudai (")
5. Lakshmi (")
6. Madu (")
7. Lakshmi (")
8. Kunhi Parvathy (")
9. Kunhi Anandan Nambiar.
10. Parvady (female)
11. Parvady alias
Katilama. (female)
12. Sridavi (female)
13. Ramen Nambiar.
14. Chirudai (female)
15. Kunhi Ramen Nambiar.
16. Kunhi Lakshmi alias
Katilama (female)
17. Mithangath Kunnumel
Edathil Kunhi Krishna
Nambiar
By Mr. Gover and Val
Ramayan.

Fr. 26 5219/95

Dist. of 1876: Madras.

REVENUE.

THE BOARD OF REVENUE,

&c., &c., &c.

Dated April, 24th.

Recd.

Encl.

G.O., 24th April 1876, No. 513.

APRIL.

Nos. 174—176.

Motion drawn by the late Kunhi Kuttu alias
Talia Nambiar of the Mithangath Kunnumel
family in Malabar District—Resolving on fur-
ther consideration to cancel their order of 5th
May 1875, No. 694; and directing the — to be
passed to the female named Palakot Tadathil
Kunhi Lakshmi, who was adopted by him as the
heress of his line.

Vide 23943/76

on 20th March 1866 in a dispute before him regarding the transfer of the revenue registry of the plaint lands and other landed property of the Kunnumel Sarwad; that before establishing their alleged membership in it the Plaintiffs are unentitled to maintain a suit for the Cancellation of a gift made by 1st Defendant; that he made a gift of all his property moveable & immovable to his brother's sons (Gemanu geyan and Dharmangaden) that he made over to them the possession of all such property and that the suit is undervalued.

4. 2nd Defendant in his written statement contended that the alienation of the plaint property by 1st Defendant to his brother's children on a gift is becoming and consistent with the dignity of the Sarwad of which he is the head; that such an alienation cannot therefore be impeached as an act of dissipation, that upon this consideration the 2nd Defendant did not interfere with the 1st Defendant's acts, that even if it be considered otherwise the 2nd Defendant's right to succeed to the Karamavanship cannot be set aside on that ground, and that the suit should therefore be dismissed.

5. 3rd Defendant in his written statement alleged that himself, Plaintiffs and the first two Defendants are members of Kunnumel Sarwad; that 1st Defendant had no right to alienate family property without the assent of the members of his Sarwad; that such an alienation is invalid under the Marumakattayam Law; that 2nd Defendant is in collusion with 1st Defendant; that both these Defendants ought therefore to be degraded; that he (3rd Defendant) did not know of the alienation until he saw the plaint; that if he had known of it before, he would have sued for its cancellation; that he may therefore

be arrayed among Plaintiffs under section 73 of the Civil Procedure Code and that the prayers in the plaint with the exception of what relates to a declaration of his (3rd Defendant's) ineligibility to the Karamavanship may be granted.

6. 4th and 5th Defendants in their written statement contended that Plaintiffs and the 2nd and 3rd Defendants do not belong to Kunnumel Sarwad but to the one called Amole; that their alleged right to the property of Kunnumel family is barred by the Law of Limitations; that the lands Parambas and house mentioned in the Plaint were assigned to 4th and 5th Defendants by 1st Defendant and his younger brother Kunhi Kungam Nambiar (the father of 4th and 5th Defendants) on Puthravakkashom in 1030 (1854-55), that sixteen years have elapsed from the date of such assignment and that the suit is not properly valued.

7. 6th and 7th Defendants in their written statement contended that the Plaintiffs are not members of 1st Defendant's Kunnumel Sarwad; that they are therefore unentitled to bring this suit; that they as well as 2nd and 3rd Defendants belong to another Sarwad called Amole; that 1st Defendant being the sole member of his Sarwad possesses an absolute authority to alienate his property both ancestral and self acquired; that in virtue of this authority he has already made a gift of all his property of the above description to the 6th and 7th Defendants under a registered deed dated 2nd Moimom 1046 (14th March 1870); that the said property in virtue of the said gift has already passed to the possession of the said Defendants; that the Plaintiffs alleged rights are barred by Clauses 6, 12, and 13 of section I of Act VII of 1859, that the 2nd and 3rd Defendants (the heads of Plaintiffs' family) being thus estopped by

former proceedings have fraudulently set up their Anandravars to litigate upon a right already destroyed by lapse of time; that this they cannot be permitted to do as the estoppel is equally binding upon the Anandiravars as was ruled by the late Sadr Court and that in a suit the object of which is to establish Plaintiffs' right of inheritance to the Kunnumel Sarwad the value of the whole property of that Sarwad ought to have been included and that the suit which is irregular in every respect should therefore be dismissed.

8. Defendant subsequently joined-asserted that himself and Plaintiffs and Defendants 1 to 3 are of Kunnumel Sarwad that he did not consent to 1st Defendant being removed from the office of Karanavan and that he has no objection to the other part of the Plaintiffs' contentions.

9. The subordinate judge dismissed the suit with costs.

10. Original Plaintiffs and 8th Defendants appeal.

Judgment.

1. Was Annamma adopted to Kunnumel Sarwad along with 1st Defendant's mother Madhaviamah? The earliest dated of the Exhibits in this case is No. IV dated 1809 (984). This is a letter from Kannan Nambiar who, it appears from Plaintiffs' Vakils' statement, is alleged to have joined Kellu Nambiar in making the adoption. It appears to have been called for by an order of the Court of the North Division of Malabar - for what purpose is not stated. The sub judge is apparently wrong in thinking it was with a view to the preparation of the Malikkana register with which the Courts I believe had nothing to do.

2. The recital of the question says that he

was asked for the particulars of persons in his houses (ende bhavanangalil ulla aludevivaram) and he replies "in Kunnumel Sarwad are only I and three children as my Anandiravars and one woman named Madayi."

3. Next in chronological order comes Exhibit XIII dated 1811. It is a judgment and recital of pleadings in the North Malabar Court. The Defendant was a Chandrott Nambiar a house formerly connected with Kunnumel in the way of succeeding to Kutery Kallote Stanam or life dignity - and in the Defendant's rejoinder mention is made about the adoption of "Oru Stri" to the Kallot Sarwad and a similar mention is made lower down. The exact bearing of the statement is not clear.

4. The next is Exhibit A the Copy of the 'vayangola' in 993. There was considerable debate whether such 'vayangola' was ever filed.

5. N. is an official 'Arzi' from the Tahsildar of Kottayam to Mr. Maclean. It recites that he was ordered to report generally on a petition sent by Koyekkadath Kambratt and Chandrott Nambyars - and especially what the relation of deceased Kunnumel Nambyar was to Chandrott Sarwad, what relationships existed between Kunhy Kutty Nambiar who had performed a funeral ceremony and others, to a deceased Nambyar. The Tahsildar reports going to the locality and examining those acquainted - namely a Kottarattil Nambyar (of 10th witness' family) and others; and ascertaining from them that issue failing in Kunnumel Sarwad from Kallot Sarwad related by blood - two women named Annamma and Mathayi were adopted into Kunnumel Sarwad by the recently deceased Nambyar evidently referred to in the order referred to, and his Karanavan Valya Nambyar who died in 983 jointly - that of these Mathayi had issue Kunhi Kutty Nambyar.

(Seemingly the one referred to in the order as performing a funeral ceremony) Kungan and Adanen. and that after that in 993 the lately deceased Nambyar executed a document to the said two ladies and their issue to the effect that after his death they were to manage and enjoy the properties of Kunnumel Sarwad - and that Kottarathil Chapan Nambyar Kanherakandy Adyody Chettaratt Ramar Nambyar were attesting witnesses and that from 983 the affairs of the Kunnumel Sarwad were carried on by Illamastany Kunhy Kutty Nambyar - that petitioner did not perform the funeral rites - and that Chandroth and Kunnumel had rights to the property of the others family if all issue failed but not then.

6. The Tahsildar also made other enquiries and got the same information. Kunhy Kutty Nambyar told the Tahsildar that he saw his mother and others (matrum) adopted. The Tahsildar reports sending three copies of documents without further particulars. The arzi is dated 5th Karakadagom 1004.

7. In P, dated 21st Karakadagom reciting as under reply an order of Mr. Maclean dated the 11th Karakadagom - requiring him to enquire whether the alleged adoption in 957 was in presence of witnesses, or under a document - and if there were a document where it was, and if so what was the reason why a 'Vayangola' was given a second time - stated that he sent for Kunhy Kutty Nambyar and took a deposition from him to the effect that in 957 an adoption deed was executed, and that because it was burnt with the Kunnumel house in 79 the 'Vayangola' was executed - that in the old document there were as witnesses the Kottarathil Nambyar and others some of whom were dead - but two of whom the Tahsildar examined and they said

that in 957 before the witnesses named, and others - two ladies Umamma and Madayi were adopted from Kakot Sarwad which was related to them by blood by the Valya Nambyar who died in 983 and the lately deceased Nambyar - and after that in 79 Kunnumel house was burnt the last deceased Nambyar in 993 executed a 'Vayangola'.

8. O. dated 16th Karakadagom was the order referred to. In it when reciting the petition the order calls the adopted ladies the mother of Kunhi Kutty Nambyar, and her sister.

9. Plaintiff's Exhibit E is the final order of Mr. Maclean. the 3 Defendants are Kunhy Kutty and his two brothers. Mr. Maclean came to the conclusion that as issue failed in Kunnumel Sarwad the two ladies named Umamma and Madayi were adopted as stated by Kunhy Kutty Nambyar - and that Madayi had issue Kunhy Kutty, Kungan and Adenan, and Umamma two daughters Kunhunhan and Nurumbu, and that in 993 the 'Vayangola' was executed to these ladies and their children. He mentions that one of the witnesses to the adoption in 957 was examined and he gave evidence as he did before the Tahsildar and one was too old to do so. The order upholds the adoption strongly.

10. F is a copy of a genealogical table given from the Collector's office. Who put it in it does not show. It gives the relationship of Madayi and Umamma as first cousins. In the vague habit of speech of the Malayali first cousins are frequently called sisters.

11. The next explaining Mr. Maclean's order G Exhibit G dated 10th Madam 98 (1835 April 29) - I think must concern the proceedings in which F was put in for it alludes to a similar genealogical table. It is a petition from the Tahsildar to Mr. Clementson

Principal Exhibit of Malabar. This exhibit shows that the children of Amamma put in a petition alleged the adoption and the circumstances of the 'Vayangola' the burning of the original deed - and stated that Kellu Nambyar till his death in 983 and Kannan Nambyar till he died in 1004 maintained all property - that Kunhy Kutty Nambyar the next Karamavan managed and supported them till 1008 but not since and they claimed their share of the Malikhana 2. That the Sahsildar was of opinion looking at the genealogical table & Mr. Maclean's order of 1004 (E) that the children of Amamma had a right in the Sarwad. Exhibit No. I dated 30th Edavom 1010 (11th June 1835) is a deposition taken by Mr. Clementson from Kunnumel Kunhy Kungam Nambyar answering the petition of Amamma's descendants mentioned in C. Deponent is one of the Defendants in the dispute settled by Mr. Maclean in E. He in this deposition admits that he denies utterly the adoption of Amamma, and all the story of the Vayangola &c. which his Karamavan and Co-Defendant in that dispute asserted. and sets up the plea that the petitioners are of Amole Sarwad and states certain reasons which do not appear to be substantiated by evidence to show that the petitioners could not be of his Sarwad.

12. H and I are depositions dated 28th August 1835 taken one from Kunhy Ramen Nambyar evidently one of the petitioners, descendants of Amamma who gave the petition answered in No. I, and the other from the Deponent of No. I both replying in the affirmative to a question whether they would have their matter settled by punchayat which course evidently with regard to the Malikhana, was ordered by Government. No. II dated 1010 Karakadagom 3rd is a petition by Deponent of No. I to the same effect as it is - and stating that the Counterpetitioners

were formerly of the same Sarwad, but had left the Country and gone to Kottayam Taluk and assumed the name Amole. 13. VII, VIII, IX, X, XI, XII, all show that Petitioners bear the name Amole, but the Counsel for Plaintiffs says the explanation is they got Amole from Amamma's husband and they are called by it as they reside there. The fact that a person is called by a certain name is no proof that he does not belong to a Sarwad having a different name. Experience has taught me that.

14. Exhibit L is a deposition given by Kunhy Kutty before the Sahsildar replying to objections to transfer some jama. He denies Kunhy Ramen's right to Kunnumel and denies that Rupers 151 were ever paid to him out of the Malikhana.

15. The above Kunhy Kutty Nambyar is the 1st Defendant after the admissions made by him, and the line of pleading set up by him before Mr. Maclean, it is worse than useless to deny the adoption now.

16. The 2nd question is whether maintenance was given or whether the Plaintiffs have for 12 years been without any participation in the Kunnumel property. I do not see reason to differ from the Sub judge in his appreciation of the evidence. If after the parties agreed to settle the matter by punchayat which appears undeniable any agreement was made, it appears curious why some of the persons acting as arbitrators were not produced - if as the 3rd witness for Plaintiffs says the Sahsildar got the matter settled it is extraordinary why no Arzi is forthcoming written by him notifying what had been done. I am not able to find for Plaintiffs on the second issue.

17. On the 3rd issue the Sub judge evidently was right in saying that as a thaladakkars Plaintiffs have no right to interfere with the right of alienation.

18. As to the 7th ground of Appeal as to the costs of 6th and 7th Defendants as well as those of 4th and 5th. I am unable from the record to find out what influenced the Court to include the former as Defendants. whether on application of the parties or the Court's own motion. Considering the interests of all these Defendants identical, I shall modify the decree below by ordering the Plaintiffs to pay costs of only one Valuel dividing the sum paid among the 4th 5th 6th and 7th Defendants, and in Appeal proportionate costs, viz: on the portions given adversely to the Respondents. Respondents will pay, and on the remainder Appellants will bear all the costs. otherwise the appeal is dismissed.

18th December 1873 }

Signed J. M. Reid
District Judge

(True copy)

W. C. Cogan

Clk. Collector.

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NO 24.

543/10
Malabar Collectors Office
Calicut 15th March 1876.

From, W. Logan, Esq^r,
Asst. Collector of Malabar;

To, The Honble W. Audleston
Chief Secretary to Government
St. George.

Sir, Replying to endorsement dated 2nd
instant on the enclosed Petition from
Mithangat Kunnumal Lakshmi Amma
praying that the Malikhana allowance
enjoyed by the late Valia Nambiar
may be continued to her as his adopted
heir, I have the honor to observe that
my predecessor's letter n^o 58 dated 2nd
March 1875 contains nearly all the information
which can be gleaned from the records
on the subject, but as I observe that
one point bearing on Petitioner's claims

In a letter from the Asst.
Collector of Malabar, to the
Chief Secretary to Government,
dated 15th March 1876, No. 24.

No 1615/76

CO 24 June 76-12523

Copy of judgment on
the appeal suit No. 69 of
1873, in the District
Court of North Malabar.

has not been brought into sufficiently prominent relief, I should point out that Petitioner's assertions, first that the late Nambiar was ^{the last surviving member of his family} and second that Petitioner, as his adopted heir, is ^{therefore now the only surviving member,} therefore now the only surviving member, require to be proved.

2. For, you will observe on reference to the enclosed copy of the Judgment in Civil Appeal n^o 69 of 1873 on the file of the Tellicherry District Court that one of the issues of that suit was whether Plaintiffs, as the descendants of a woman named Lemamma who was alleged to have been adopted into the family along with Madhavianma

The family was extinct two generations ago. Two women were adopted one the mother of the deceased.
P. 11 O.S. 59/73

543/11
the mother of the late Valia Nambiar, were entitled to sue as Anantivars of the family. Both the lower original Court and the District Court in appeal found on the above issue as a question of fact that the ancestress of Plaintiffs had been so adopted, and it will be seen that the Plaintiffs failed in their Suit (which was to cancel certain alienations of the family property) only because they were unable

The adoption has become imperative & has left in 1835 -

to show that they had insisted on their rights as adopted heirs in the 12 years preceding the institution of the Suit. The law of Limitation in fact disinherited them -

& left it an inheritance divided & unincumbered of the deceased

How it came about that

they had not so insisted on their rights
it is perhaps unnecessary now to enquire,
but you will observe from the judgment
forwarded that in 1835 certain proceedings
were pending before the Principal or
Collector between the late Valia Nambiar
and his brothers on the one part and
the Plaintiffs' ancestors on the other,
regarding the distribution of the Mali-
Khana allowance. It was at that
time contended by the late Valia
Nambiar's brother that the Plaintiffs
branch had not been adopted into
the family and the matter was to be
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A Tahsildar intervened and somehow
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so long as the Valia Nambiar was
alive would be small, and as there
was at the time a prospect of the
Valia Nambiar's branch becoming
speedily extinct by the failure of female
issue the Plaintiffs' ancestors thought
it the best policy not to contest the

matter further - My old be now used

4. But as already pointed out, it by no means follows that though unable to contest successfully the suit for setting aside the alienation they could not successfully contest the Petitioner's claim to any property which it could be shown the Valia Nambiar possessed at the time of his death, *He possessed the Malikhana* and it would surprise me if the Petitioner would now admit that she inherited from the Valia Nambiar anything but this claim on Government for the deceased's Malikhana allowance. *Her claim is applicable*

5. In fact, the Petitioner in stating as her first reason for claiming the allowance that the late Valia Nambiar

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13
was the last surviving member of his family and as such possessed the right of making a valid adoption (her own to wit) has begged the whole question to be decided, and in conclusion I would advise the Government to inform the Petitioner that if she can prove to the satisfaction of the Civil Courts in a suit against the Plaintiffs in the late litigation that she is the only surviving heir, her claim to the Malikhana allowance will perhaps be then favorably considered.

I have the honor to be,
Sir,

Your most obedient servant

W. C. Cagan

As Collector -

C.T.

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Petition

No 12 of 1876 of 30th December 1875
Recd 4th January 1876

From Mr. K. Lakshmi Amma,
the adopted heiress of the late
Kunnummal Valia Nampiyar
Panur, Kottayam, Malabar Dist.

Appealing against the en-
closed endorsement of the Board of
Revenue, states that a perusal of
her petition to the Board would
show that her claim cannot be
rejected without a violation of the
principles of justice; that the
Collector recommended the discon-
tinuance of the Malikana ad-
-lowance on the ground that the
Karnavan alienated by gift
all his property in favor of her
natural Karnavan 28 months
prior to the adoption, and also
omitted to report to the Collector,
and Manager of the
at least six months before his
death, the adoption of the petitioner
as required by the notification of
the 16th March 1846; but that

12.
with a Report from
the Secy of Malabar,
d/15-3-6.

The facts appear
to me as follows:-
The late Malikhana
holder was son of one
of two adopted sisters
(or 1st Cousins) both of
whom had families. The
deceased Malikhana
holder was the last
natural Karnavan in his family and was
certainly sole possessor
of the family property at the
time of his death
He made an adoption
shortly before his death
which was - on the

Encl. 7-2-3-76: 12
Am. 18-7-5-5-75: 694

Recd 1876: 245
A. 16 15

23-7-75
6-2-78

From
The Dy. Collector
Malabar
The Chief Secretary
Government

To O. D. 5193. 24. 10/10/1876
Dated 15th March 1876
As per 20th March 1876
No. 21-22/1876
Recd 24th April 84

Enclosure 1/1

Reporting with reference to
endorsement of 9th Dec last
on the Petition from Mr
Kunnummal Valia Nampiyar
Amma regarding her
-Malabar adlowance-

1880 048
12/11/71

Prays for a favourable &
early order-

Mr. Report from the Collector of
Malabar dated 15th March 1876,
No. 24-

The family of the
other adopted woman
(adopted in 1819?) dispute
this assumed power
to dispose of the ^{family} property
but it has been
decided in Court
that any rights arising
out of the adoption
of their mother
has lapsed under the
Statute of limitation
The adoption has in
fact become as if
it had never occurred

I therefore think
that so far as Govt:
are concerned, the
Act of the last Malik Khan
holder must be recognized
and

However if my
Honble: Colleagues think
it would be safer to
allow the litigation to
be revived, if the opposi-
te party are so advised,
I would consent to a
notice being given that
the Malikhaan will
be passed to the Peltam
unless an injunction
against it be put in
within 6 months.

27/3 862.

See also previous note
The Hon. W. Rudolphi also
see as he passes the orig
order WY

14
 P. 14 (R. 14) 7th

I do not think that any
 counterclaim to that of the
 P. can be set up by the representatives
 of the other branch of the family
 whose claim is barred by time
 nor do I think that succession
 to a Malikhana can be barred
 by non-report of an adoption
 it being a *quid pro quo* & not
 a pension *gratia*. There
 seems no reason to doubt
 the adoption.

The disposition of the property
 by deceased seems natural
 he gave the landed property
 to his nephews - adopted
 his niece & left her the
 Malikhana & residence
 of his property.

I do admit P. claim
 unreservedly. I cannot
 S.O. May 75. No 694
 R.D.

11/4/76 M.L.

C/24/3/76 C/5/4/76

R/28/3/76 R/19/4/76

Command
 sent to
 H. M. L. L.
 Done

R. & 57/6
 No 5740 21st April 1876
 Read again C.O. 5th May 75
 No 694.

Read also
 Pet. No 12/76;
 and Report from Acting C.M. of
 Malabar, No 24 of 15-3-76.

On further consideration of this
 case, the Govt. resolve to cancel their
 order of the 5th May 1875, No 694,
 and to direct that the Malikhana
 drawn by the late Kunni Katti
 alias Valia Ramayan, as the representa-
 -tive of the Methanga Thil Kun-
 -nimal family in the Kottayam
 taluk, be passed to the female
 named Puthot Tada Thil Kunni
 Lakshmi, who was adopted by him
 as the heiress of his line.

2. As to the adoption of the female who
 was adopted into the family contemporane-
 -ously with the deceased Malikhana owner's
 mother, has been declared by the Civil tri-
 -bunals to be inoperative under the Adop-
 -tion Act; the title of the party designa-
 -ed by the late Valia Ramayan as the
 heiress is incontestable; and the technical
 objection that notice of the adoption was
 not given to the Govt. is inoperative
 before the adoption, death is inoperative
 in the case of a Malikhana allowance
 in lieu of a resumed estate. 22/4/76

14 To the P. O. of the District
 6 The District Judge
 1 The Collector, P. O.

Malabar Malabar

Disposal

Ch. R.

Cr. 1/10 X 24. 1/10

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