Archives I –10,006—16-8 77.

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(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	2035	Press. / Mis.
Dated	18-12-1878	197 .

Not to be folded or roughly handled

2035/1

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

18th December 1878, No. 2,035.

Read the following paper:—

No. 206. Proceedings of the Court of Wards, dated 21st November 1878, No. 3,103.

Read the following letter from W. LOGAN, Esq., Collector and Agent to the Court of Wards, Malabar, to C. A. GALTON, Esq., Acting Secretary to the Court of Wards, dated Palghat, 22nd October 1878, No. 291:—

REFERRING to the Proceedings of the Court, dated 19th ultimo, No. 2,577, I have the honor to report that I had an interview on Thursday last with Dhatri Valia Amma. From what she told me then as well as from what I have learnt from other sources I understand that in the Kollengode Nambidis' family no property is set apart for the exclusive use of the senior Nambidi, who, though generally believed to be the holder of a title (stanam), is in point of fact nothing more than the responsible head of a Malabar family following the law of Maramakatayom. He is entitled to the position during "good service" and liable to be removed from his stewardship like "Karnavens" in general in case of mismanagement.

2. Indeed attempts were made during the lifetime of the two last Valia Nambidis to set them aside for squandering family property. In one sense the heads of many families (Tarwads) in Malabar may be said to be the holders of a stanam or title, but the cases in which the stanamholders have property set apart for their especial use in maintaining the dignity of their positions are, comparatively speaking, rare. Such cases are well known, and the result of my enquiries is that this is not one of them. In these circumstances I would answer the Court's first query in the negative and the second in the affirmative.

3. I may add that I can confirm my Acting Head Assistant's estimate of the Valia Amma's intelligence. She had her eldest son educated to some extent in the Local Fund Middle-class School at Kollengode. On becoming the Valia Nambidi he had to quit the school owing to a peculiar usage in the family, but he continues his studies under tutors, and the Valia Amma has expressed her intention of sending her second son, a bright intelligent child of five years, to be educated at the Kerala Vidya Sala at Calicut, as soon as he is of an age to be sent so far.

FROM the Collector's present letter it appears that the family of the Kollengode Nambidi has no "stanam," but merely follows the ordinary rules of the Maramakatayom custom.

2. The late Nambidi has left two sisters aged 28 and 20 respectively, and three nephews, sons of the elder sister. The eldest of the nephews is only 12 years of age, and is thus incapacitated from assuming charge of the estate, but if he were recognized as Karnaven the Court might interfere in his behalf and obtain the consent of Government to their assuming charge of the estate.

3. It appears that in a somewhat similar case the Subordinate Judge of Calicut decided that as long as there is a male member in the family, he, and not the eldest female member, is the Karnaven. More recently, however, in a case which is now under appeal to the High Court, the District Court of South Malabar held quite an opposite view, and Mr. Logan, the Collector of Malabar, is of opinion that in the absence of adult males a female is competent to have the management of the family affairs.

4. A competent female member of the family being desirous of assuming the management, the Court of Wards are of opinion that they have no legal power to interfere.

(A true Copy and Extract.)

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

No. 207. ORDER THEREON, 18th December 1878, No. 2,035.

Miscellaneous.

APPROVED.

2. There is no cause for interference on the part of the Court of Wards.

(True Extract.)

(Signed) H. S. THOMAS,
Acting Secretary to Government.

To the Court of Wards.

Exd. W. H. French.

Govt. of [1878] Madras

REVENUE.

To

THE COURT OF WARDS

Dated December 1878.

Printed 20th.

Read.

G.O., 19th December 1878, No. 2,023.

DECEMBER.

Nos. 206-207.

Kollengode Nambidis' Rights in Malabar.—Approving the Proceedings of the Court of Wards informing the Collector that they have no legal power to interfere so long as there is a competent female member of the family desirous of assuming the management of the estate.

2023/1

No. 3,103.

PROCEEDINGS OF THE COURT OF WARDS, dated 21st November 1878.

Read the following letter from W. LOGAN, Esq., Collector and Agent to the Court of Wards, Malabar, to C. A. GALTON, Esq., Acting Secretary to the Court of Wards, dated Palghat, 22nd October 1878, No. 291 :—

REFERRING to the Proceedings of the Court, dated 19th ultimo, No. 2,577, I have the honor to report that I had an interview on Thursday last with Dhatri Valia Amma. From what she told me then as well as from what I have learnt from other sources I understand that in the Kollengode Nambidis' family no property is set apart for the exclusive use of the senior Nambidi, who, though generally believed to be the holder of a title (stanam), is in point of fact nothing more than the responsible head of a Malabar family following the law of Maramakatayom. He is entitled to the position during "good service" and liable to be removed from his stewardship like "Karnavens" in general in case of mismanagement.

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FROM the Collector's present letter it appears that the family of the Kollengode Nambidi has no "stanam," but merely follows the ordinary rules of the Maramakatayom custom.

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3. It appears that in a somewhat similar case the Subordinate Judge of Calicut decided that as long as there is a male member in the family, he, and not the eldest female member, is the Karnaven. More recently, however, in a case which is now under appeal to the High Court, the District Court of South Malabar held quite an opposite view, and Mr. Logan, the Collector of Malabar, is of opinion that in the absence of adult males a female is competent to have the management of the family affairs.

4. A competent female member of the family being desirous of assuming the management, the Court of Wards are of opinion that they have no legal power to interfere.

(A true Copy and Extract.)

Acting Secretary.

To the Collector of Malabar.

Copy to the Secretary to Government, Revenue Department, with copy of Court's Proceedings, dated 19th September 1878, No. 2,577.

Exd. A. Grubert.

2635/4

No. 2,577.

PROCEEDINGS OF THE COURT OF WARDS, dated 19th September 1878.

Read the following letters :—

From W. LOGAN, Esq., Collector of Malabar, to C. A. GALTON, Esq., Acting Secretary to the Court of Wards, dated Calicut, 5th July 1878, No. 191.

IN Padinhartara Amshom, Palghat Taluk, of this district, resides the family of Vengunnatil *alias* Kollengode Nambidi, a Malikhana recipient and the owner of extensive landed property. The Government hold a lease of a large tract of the Anamalai Forests from the family. The late Nambidi, Eravunni Reir Varvan, died on 21st ultimo, leaving two sisters, aged 28 and 20, respectively, and three nephews by the elder of the sisters. The eldest boy, Padmanabhan, is only 12 years old.

2. The family is, as regards succession, an ordinary Malayalam Tarwad following the Marumakatayom law, so that the eldest boy now succeeds to the title of Nambidi. He is however a minor, and it becomes necessary to decide whether the estate ought to be taken charge of by the Court of Wards.

3. The minor is at present residing with his mother, Dhatri Valia Ammah, whom my Acting Head Assistant, after a personal interview, reports "a sharp and intelligent woman." The question, however, is whether Dhatri Valia Ammah is entitled to manage the estate during her eldest son's minority; in other words, whether she can be recognized as the present "Karnaven" (senior member).

4. I observe that the Subordinate Judge of Calicut, in August last, held, in a case in which the state of things was similar to that in the present one, that, in his opinion, the fact of the eldest male member of a Tarwad being a minor will not deprive him of his right to succeed to the office of Karnaven, which devolves upon by right of birth, and that as long as there is a male member in the family, he and not the eldest female member is the Karnaven.

The case went before the High Court in a second appeal, but the Judges declined to enter upon the question on which the Sub-Judge had pronounced his opinion.

5. More recently, however, the District Court of South Malabar, in another case of which the facts were substantially identical with those of the one under report, held quite an opposite view. Mr. Wigram decided that in the absence of adult males the management of the Tarwad devolved on the senior female, and he even doubted whether when the minor came of age he would be entitled to assume the management. In his judgment he observed as follows :—

"7. I start with the principle that by Hindu law, as well as by every other law, minority creates a disability to contract, and therefore as it seems to me a disability to manage the affairs of a Tarwad or family. There is nothing to me magical in the word *Karnaven*. It simply means the head of the family, and in Wilson's Glossary, page 582, I actually find the word *Karnaveti*, meaning a female manager. The theory of a Marumakatayom Tarwad is that the property is vested in the females, but managed by males; and it is admitted that, in default of males, females succeed to the management. Mr. Strange in his Manual goes on to say, 'In some families the management devolves on them (females) preferably to the males, and in such case the senior female takes it.'"

As to the opinion supposed to prevail in some quarters that no female could be manager so long as a male member survived, the Judge proceeded to remark as follows :—

"9. There is one other point to which I will briefly refer. I was told that there was a strongly prevailing opinion among the people themselves that no female could be manager so long as a male member survived. I doubt the existence of this opinion as there is not even a consensus of opinion among the experts of my Court, and moreover, if reference is made to Regular Appeal 34 of 1876 (High Court), it will be found that when it was decided in the lower Courts that the two adult members were unfit to manage, the females put forward their own claims, not, be it observed, as guardians of their children."

Received 1878, No. 5336.
Court of Wards,
MADRAS.
To
THE COLLECTOR of MALABAR.
Dated November 21st.
Printed 28th.
Received 4. —do
PROCEEDINGS, 21ST NOVEMBER 1878, No. 3,103.
Copy of Proc.
NOVEMBER.
No. 3,103.
Kollengode Nambidis' Estate — in Malabar District. — Informing Collector that Court of Wards have no legal power to interfere and assume charge of the —.

6. I understand this judgment, from which I have made these two extracts, is now an appeal before the High Court. My own opinion is that, in the absence of adult males, a female is competent to have the management of the family affairs. In fact, instances are not wanting in which females have been suffered in this district to manage affairs during the minority of the surviving eldest male member.

7. In the case under report it would perhaps be to the advantage of the family if the estate were placed under the Court of Wards; and I would leave it to the Court to determine whether or not they would interfere on this ground.

8. In case it is resolved to take the estate under its management, the Court, I fear, is likely to be involved in protracted litigation, for the Nambidi, whom the person lately deceased succeeded, appears to have alienated freely, for the benefit of his own children, a large amount of family property, and it would devolve on the Court to seek to recover this property in the Civil Courts.

From W. LOGAN, Esq., Collector of Malabar, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 23rd August 1878, No. 237.

In continuation of my letter, No. 191, dated 5th July 1878, on the subject of the Kollengode Nambidi's estate, I have the honor to forward herewith a copy of a letter from my Acting Head Assistant stating that Dhatri Valia Ammah, the mother of the boy Padmanabhan, does not wish that the Court of Wards should take charge of the estate.

Enclosure No. 1.

From W. G. UNDERWOOD, Esq., Acting Head Assistant Collector, to W. LOGAN, Esq., Collector of Malabar, dated Palghat, 19th August 1878, No. 601.

In reply to your letter, No. 1,011, of the 3rd instant, I have the honor to inform you that the Tahsildar of Palghat reports that Dhatri Valia Ammah does not wish that the Court of Wards should take charge of the estate of the minor Nambidi of Kollengode. She is about to marry a Putter, late in the Civil Judge's Court, who came to manage the estate when Mr. Wigram took it in charge.

(True Copy.)

(Signed) W. LOGAN,
Collector.

Under the circumstances reported there seems no room for doubt that it would be greatly for the benefit of the family if the management of the Kollengode Nambidi's estate were assumed by the Court of Wards, but there seems to be some doubt as to the legal power of the Court to interfere. There is one point however on which the Court desire to have further information before coming to a decision, and Mr. Logan is requested to report whether in cases where there is a title, as in the present case, the property vests in the holder of the title, the other members being entitled to maintenance only, or whether he is merely a coparcener with the other members of the Tarwad as in the case of an ordinary family following the Marumakatayom law.

(True Copies and Extract.)

(Signed) J. STURROCK,
Acting Sub-Secretary.

To the Collector of Malabar.

Exd. A. Grubert.

REVENUE DEPARTMENT.

No. 5336

From Board of Revenue.

Dated 21st November 1878.

FOR ORDERS.

1878.

Board of Reverne,

MADRAS.

To

THE COLLECTOR OF MALABAR.

Dated September 19th.

Printed 27th.

Recd.

Rw 5336/78

PROCEEDINGS, 19TH SEPTEMBER 1878, N 2,577.

SEPTEMBER.

No. 2,577.

Kollengode Nambidi's Estate — in Malabar District.—Requesting further information on certain points before deciding as to whether the Court of Wards should take the — under their management.

G.O. 18th Dec 78 L L 206

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No 6826

FOR ORDERS.

Admt Hollowayes Bounty
Estate on Dominica &c

c.z. Dec 58 R. 17 Dec 58