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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No.	758	Press.
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Dated	22-3-1878.	197.

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GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

13th March 1878, No. 541.

Intestate Property.

Read the following paper:—

No. 60. *From F. BRANDT, Esq., Acting District Judge of Godavari, to the Chief Secretary to Government, dated 19th February 1878, No. 39.*

I have the honor to forward herewith copy of Proceedings of this Court, which will, I hope, fully explain the case.

2. Due proclamation of notice to parties claiming the personal estate of the deceased Yerrabathula Venkamma of Jaggampett having been made, and I having decided that neither of the parties, who alone have appeared, can be legally declared entitled to certificate of heirship or to possession of the moveables, disposal of the same must, I conclude, be made by Government.

3. While I am satisfied beyond doubt that there was no adoption, I can only say that it is not proved that Totayya is the son of a brother of Venkamma's late husband. At the same time I think it probable that the old man Totayya was in some way related to her. It may be, therefore, that Government will be pleased, as a matter of grace, to make over the property to Totayya instead of dealing with it as an escheat.

4. As to the immoveable property, this Court has nothing to do with this. But it would appear from the evidence that, as far as can be ascertained, the house belonged to Venkamma's mother, and she not being shown or alleged to have any heirs, it would escheat to Government. Nor could Totayya make any claim to this on the ground that it is ancestral family property.

5. If the Government prefers to let the case stand over for a twelvemonth as provided in Section 7, Regulation III of 1802, this can be done, but that section refers, it seems, only to cases in which no claim is preferred, and the Regulation makes no provision for cases in which claims are preferred but are one and all disallowed.

ENCLOSURE No. 1.

Proceedings of the District Court of Godavari, dated 16th February 1878.

In Miscellaneous Petitions Nos. 660 of 1877 and 13 of 1878.

A woman named Yerrabathula Venkamma died at Jaggampett about six months ago leaving (I believe) a house. It is known that she left moveable property valued at some Rupees 900 including securities on which moneys are said to be due.

2. The moveable property was taken charge of by the Revenue and Magisterial authorities on the spot as the deceased was not known to have left any heirs. It is now in the custody of the Subordinate Judge of Cocanada, who it appears referred the claimants to this Court to get certificate of heirship or other order.

3. Application was made to this Court by, or on behalf of, one Yerrabathula Totayya, an old man of sixty years of age, for a certificate of heirship under Act XXVII of 1860 to collect moneys due to this estate and to establish his right to the moveables as being the son of an elder brother of Peiddayya, the late husband of Venkamma.

4. This application was opposed by one Madireddi Ruddrayya on behalf of a minor styled Yerrabathula Manikyalu, who is said to have been adopted by deceased Venkamma under instructions from her late husband.

5. Having taken the evidence which the respective parties had to adduce, I have no hesitation in saying that there is no reliable evidence whatever to show that the minor Manikyala was ever adopted either by Peiddaiyya or by his widow under orders from him.

Two men of the Kapu caste, residents of Jaggampett, and two mendicant Brahmins were called to prove the adoption. Two of these, Pothula Sami and Narasimhulu, say the adoption took place five or six years after Peiddaiyya died. Buddala Govindu says it took place three years after Peiddaiyya died. The second Brahmin beggar, Seshayya, at first said he was present at the adoption and saw the boy adopted by Peiddaiyya himself fifteen days before he died. Then he said the adoption took place fifteen days after Peiddaiyya died. All the other witnesses swore that Peiddaiyya died ten or twelve years ago; this witness says he died only five or six years ago.

The Brahmin Narasimhulu had eventually to admit that he could not in the least say when Peiddaiyya died or that he had ever seen him or known him.

Nor could any witness say why, if, as some of them said, the boy was brought to Peiddaiyya before he died and the latter then told his wife to adopt, the adoption did not then take place, or why it was delayed, as they say, for three, five, or six years after the would-be adopter died.

I am perfectly satisfied that not one of these witnesses ever knew or saw Peiddaiyya at all. There is no evidence which I can trust to show that this boy ever lived with Venkamma at all. It is admitted he has not been at Jaggampett for the last three years, and an absurd story is told as to how he has been for that time at his father's house for cure of a boil.

6. It only remains to decide whether the petitioner Totaiyya establishes his relationship. Now he has appeared as a witness and admits that Venkamma left her village, which is in the Vizagapatam District, forty miles from Jaggampett, five or six years after Peiddaiyya died; and that the latter died thirty years ago in Uddandapuram, Pektli Nukayya, a man of eighty, also a resident of Totaiyya's village, Uddandapuram, deposes.

Totaiyya says he and his uncle were not divided; if so, how came this widow to have this property and not to require maintenance? It is said she lived with her own mother. This may be. But how came she to acquire this property? It is said she lived as a cooly. These two witnesses, Nukayya and Totaiyya, say Totaiyya used to go frequently to Jaggampett to see his uncle's widow, and she sometimes came to visit him. I cannot quite believe this.

It appears that another witness, Karri Venkayya, of Jaggampett, sent and told Totaiyya to come to Jaggampett after Venkamma died. But this witness, who pretended to know the family, gave an account of it wholly inconsistent with Totaiyya's case. He said Venkamma's husband was Ramaswami, and that Totaiyya was Ramaswami's son, then that Peiddaiyya was Venkamma's husband, and that Totaiyya is Peiddaiyya's son, and then that Peiddaiyya was Venkamma's brother-in-law, on which the Vakil declined to examine him further. The other two witnesses of Jaggampett clearly know nothing except as to how Totaiyya claims to be related to Venkamma.

7. Under these circumstances I cannot hold that Totaiyya proves that he is related to the deceased as he says, or that he is entitled in any way to a certificate of heirship or to an order for delivery to him of the moveable property left by Venkamma.

8. Both applications are therefore dismissed. Each party to bear their own costs.

(True Extract.)

(Signed) F. BRANDT.
Acting District Judge.

No. 61.

ORDER THEREON, 13th March 1878, No. 541.

It appears that, on the death of a woman, who was not known to have left any heirs, testamentary or otherwise, the Revenue authorities took possession of her moveable property, as *bona vacantia*; and, it may be presumed, of her house also under Regulation VII of 1817. Subsequently, the moveable property, by some process which is not explained, got into the custody of the Sub-Judge of Cocanada; at which stage two claimants presented themselves, one calling himself the deceased's adopted son, the other deceased's husband's paternal nephew. These people were referred by the Sub-Judge to the District Court "to get certificate of heirship, or other order." Under this instruction, they filed petitions to be declared respectively the proper person to collect the deceased's debts under Act XXVII of 1860. Such a certificate, though often loosely termed a "certificate of heirship," and supposed to establish the holder's right to the deceased's property generally, does not of course operate to such extent, even temporarily.

2. The certificate prayed for was not, however, granted by the District Court to either claimant. The story of the adoption is pronounced to be a gross fabrication; and the evidence adduced by the alleged nephew was declared equally worthless. Considering it at the same time "probable that this counter-claimant was in some way related to the deceased," the District Judge suggests that the Government may be pleased, as a matter of grace, to make over the property to that person.

3. The Government do not think it would be safe or right to do this without further inquiry: but the point need not be discussed, because the moveable property by some means or other—which the Collector is requested to explain—has passed from the custody of their executive officers into that of the Subordinate Court at Cocanada. The Governor in Council is of course precluded from issuing any orders to that judiciary: and considers the best course lies in instructing the Collector, under the advice of the Government Pleader, Madras, to take such legal steps for raising the question of the title of the Crown to the moveable estate as shall admit of any other parties coming in with their claims, if so advised.

(True Extract.)

Chief Secretary.

To the District Judge of Godavari.
" Collector of Godavari.
" Government Pleader, Madras.
" Revenue Department.

Erd. J. W. Fischer.

3 To the Order of the Court 23rd Mar

Revenue Dept

10/12/71.

Govt. of 118781 20/10/71.

JUDICIAL.

THE DISTRICT JUDGE OF

GODAVARI.

Ac,

Ac,

Ac.

Date March 13th.

Amount

20

Rs. 20 Rupee

Rs.

G.O. 13th March 1878, No. 841.

MARCH.

No. 60-61.

Interstate Property.—Orders passed on letter from Acting District Judge, Godavari, forwarding certain proceedings of the District Court, and inquiring how the property left by one Venkanna Venkanna of Jagannath should be disposed of.

10/12/71

Revenue Dept
Board of Revenue

22nd March 71

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