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(2) Date of repair 17-3-41

(3) Initials of the Referencer G

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 668 Press / Mis.

Dated 18-8- 1890.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

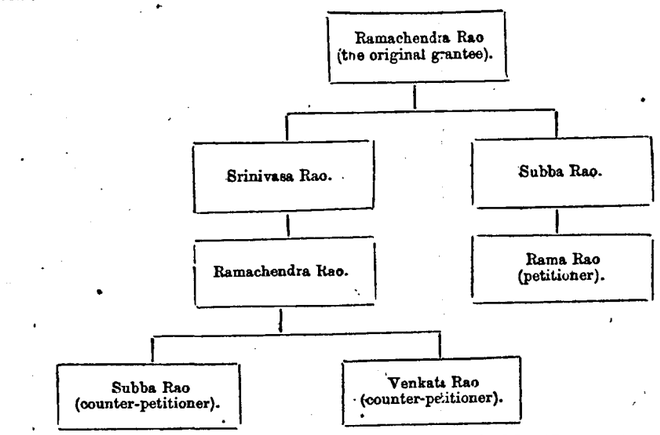
REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Land Revenue), dated 14th July 1890, No. 420 :—

MR. W. S. WHITESIDE.

Raed—the following letter from W. G. UNDERWOOD, Esq., Collector of Anantapur, to the Secretary to the Commissioners of Land Revenue, dated Anantapur, 4th June 1890, No. 34-B.R. :—

I have the honor to submit, for the orders of Government, petitions presented by two cousins, J. Rama Rao and B. Subba Rao, with whom is joined his brother Venkata Rao. Rama Rao is however the moving spirit in the case. As the matter has been already decided in G.O., No. 1042, dated 25th November 1886, I have halted in two minds as to whether I should allow the matter to be re-opened. The question refers to the division of a jaghire, and I will first set out the relationship of the two sides :—



2. Rama Rao shortly accuses his cousin, Subba Rao, of waste of the jaghire, which consists of the villages of Pulamarti and Kottapalle in the Hindupur taluk, and requests a division. Government have ordered that the elder branch should manage the estate, maintaining the younger. As the estate comes under the Pensions Act the law courts cannot intervene in the matter. I believe, as I shall show later on, that the estate is hopelessly insolvent. So, if Government withdraw its *ægis*, abandoning its reversionary rights and granted a certificate under section 4 of Act XXIII of 1871, the property would be in the hands of the sowcars, who have advanced money within a year.

3. I beg now to submit the history of the jaghire. The grant (enclosure 1) was made to Ramachendra Rao in 1809 for services as head servant of the native establishment in the Ceded Districts. The sanad grants to him and his heirs, so long as they remain faithful, all the Circar revenues derived from the villages of Pulamarti and Kottapalle. The rights of inamdars are reserved to them, and the grantee is not to levy the moturpha tax. In August 1885, Rama Rao petitioned that he was entitled to one half share of the jaghire. He also contended that as grandson he was a nearer heir to Ramachendra Rao, the original grantee, than Subba Rao was, who is a great-grandson. Subba Rao contended that the right of primogeniture had been

established. The Collector reported, "whilst the interests of the family are that the jaghire should not be divided, it is equally for their interests and for that of the village ryots that there should be no division of authority or managership; local division cannot be permitted, and it is not advisable that two persons, or rather three when counter-petitioners would come of age, should claim to exercise joint authority over the ryots in collections or other landlord's work. I, therefore, suggest that counter-petitioner Subba Rao be recognized as representative of the jaghire and that as such he should be the managing member. The division of the collections is a separate question, and he will be liable if he does not allot proper maintenance." This recommendation was approved of in G.O., dated 25th November 1886, No. 1042, Revenue (enclosure 2).

4. Rama Rao did not acquiesce in this decision and promptly went to the civil courts. In this he has gained nothing, as the High Court on appeal has rejected his claim for want of a certificate under section 6 of Act XXIII of 1871. The Collector was applied to for a certificate on 21st January 1887. He refused it however as the jaghire was an unenfranchised inam. But he added that he was prepared to recommend the grant of a certificate to file a suit if the collections were not fairly divided. This order was passed on 3rd February 1887, and on 21st idem Rama Rao filed a suit (2 of 1887) in the Bellary District Court. It was dismissed for want of a certificate from Government. In appeal No. 173 of 1887 (enclosure 3), the District Judge's finding has been upheld by the High Court—"We are of opinion that the District Judge is right in considering the claim to be barred by the Pensions Act, section 4. That section enacts that no civil court shall entertain any suit relating to any grant of *land revenue* conferred by the British Government." The learned Judges then traced the history of inam legislation and held that there were at the time of the passing of the Act two forms of inam, enfranchised and unenfranchised, and that Government had no intention of abandoning its reversionary rights, save on the payment of an enhanced quit-rent. "It is therefore immaterial that the inam tenure and the kudivaram right vest in one and the same person, provided that the estate which he has is not a free-hold nor private property in the sense in which the expression is used in Madras Act IV of 1862, and does not negative any reversionary interest in Government." The Judges decided that "the grant is clearly not a grant of the free-hold in the soil in the sense above indicated." ..... "it is sufficient to say that so long as the reversionary right exists, the grantee and his heirs do not hold the villages as free-holds or in full ownership as they hold other private property." The appeal was accordingly dismissed.

5. On the 29th January 1889, J. Rama Rao put in a further petition to the Collector (enclosure 7). It is rather long and invalid; but his requests are two: (*a*) that Government be pleased to review G.O., No. 1042, dated 25th November 1886 and divide off one half of the jaghire and put him in possession; (*b*) that Government will grant him a certificate so that he may sue in the civil courts for his half share of income collected by Subba Rao. The arguments he adduces are as follows:—

(1) He cannot trust to the *bona fides* of Subba Rao, nor obtain true accounts of the collections made.
(2) That Subba Rao has trespassed on the khas lands (lands in the occupation of members of the family).
(3) Seeing that fraud occurs in Government villages despite the inspections of the various grades of officers, it is out of the question for the petitioner, who does not know the contents of contracts entered into, nor see the accounts, to protect himself.
(4) That whilst Subba Rao's share in the estate is one-fourth, his debts are Rs. 25,000.
(5) That it will be ruin to the petitioner to be always demanding a certificate and suing for his share of the collections.
(6) That petitioner has collected only some Rs. 3,000 and that about Rs. 20,000 are due to him by Subba Rao.

Against these allegations Subba Rao submits:—

(1) That the matter is *res judicata* and should not be re-opened.
(2) That the estate is impartible and not a fit one for partition.
(3) That Rama Rao is a most litigious person and has led the estate into great expenses.
(4) That Rama Rao owns to having collected Rs. 3,000—a most high-handed proceeding—and so nothing is due to him.
(5) That he (Subba Rao) has been driven into debt, but through no fault of his own. The money has been spent to satisfy ancestral debts, for the maintenance of the family, and for costs in litigation enforced on him by Rama Rao.
(6) That the khas lands, so called, were unoccupied waste properly leased out.
(7) That Rama Rao has always received proper maintenance.

In regard to the above allegations, it has first to be noted that Rama Rao makes definite claims for a share; whilst Government only allotted him proper maintenance. The argument of *res judicata* may be also summarily dismissed. I feel convinced that if Government thought it was for the interest of the estate, they would order its division. But *cui bono*. It can scarcely be said that Rama Rao was acting loyally towards the family. He never gave a fair trial to his rival under the scheme ordered by Government, but rushed off hurriedly to the law courts. He has thus led the estate into expense. He has also acted in a very high-handed way in collecting money. The giving to him of the management of half of the jaghire will scarcely mend matters. One thing only is clear and certain. If these two cousins continue to quarrel, the estate will suffer and consequently the tenants. In fact, I shall show that they are having heavy exactions put on them. It may arise then that severe measures will be necessary. The legal questions as to the partibility of the estate may be passed over with very slight remark. He would be a rash man to prophesy what the decision of the law courts would be on the question until issues were framed and a very careful analysis of the evidence on either side made. So the question of the khas land needs no lengthy remarks. It is most probable that each side has tried to irritate the other and done things that should not have been done. Subba Rao has run into debt by the sum of Rs. 20,000 or more. It is not clear that he has not been as much sinned against as sinning in this matter. It can scarcely be supposed that Rama Rao has carried on his warfare without incurring considerable liabilities, and both parties may be said to be in a like predicament. This argument of Rama Rao's has accordingly little force, seeing whence it comes. The other arguments are more directly concerned with the question as to whether Rama Rao should be allowed to sue for a share of the collections made by Subba Rao.

6. I think it may be accepted that Rama Rao's arguments are true. He may have very good reason to doubt the *bona fides* of his opponent and be unable to obtain true accounts or the true rent of the estate. But has he anybody to blame but himself? He has opposed his cousin and never attempted to give the order of Government fair play. He has only himself to blame if he has been worsted in the conflict. He has certainly been acting most improperly in collecting the rents on a part of the estate. It is true that it would be ruin to be eternally filing suits for a share of the estate, and I humbly submit that Government, if they granted the request, would be defeating the very object they have in view, viz., the salvation of the estate. Whether Subba Rao made a proper allowance to his cousin or not cannot be determined.

7. There remain two other points to be considered—

(*a*) What is the present state of the jaghire, and to this end I directed the Head Assistant Collector to make an inquiry.
(*b*) A proposal has been made by Subba Rao regarding the maintenance of the various members of the family. Should this proposal or one on some such lines be accepted by Government?

8. From the evidence of V. Subba Rao, the manager of the estate, it is very clear that the ryots are treated with very little consideration. But as to what is the income and as to what Subba Rao paid his cousin there is no satisfactory evidence.

It is said that the income ranges from Rs. 4,000 to Rs. 5,000. Rama Rao does not appear to have received any fixed maintenance, but to have grabbed what he could. As I have already said I am not prepared to distribute the blame for this state of affairs between the parties. Neither appear to have acted *bonâ fide* in the interests of the estate. From the accounts the income of the jaghire would appear to be on an average Rs. 5,277. This sum does not agree with that given by the Head Assistant Collector, nor that given by Subba Rao in his abstract. It has been arrived at by taking the assessment on the holdings, deducting the assessment on waste and adding tirvajasti and fasaljasti. The following table shows the amount thus arrived at for five years :—

Fasli.	Village.		Total.
	Kotapi.	Pulamarti.	
	Rs.	Rs.	Rs.
1294	2,574	2,185	4,759
1295	2,971	2,539	5,510
1296	3,003	2,193	5,196
1297	3,562	2,152	5,714
1298	3,195	2,011	5,206
Total ..	15,305	11,080	26,385
Average ..	3,061	2,216	5,277

There is no knowing if the Adangal figures are to be relied on. Anyhow something, though perhaps no great sum, must be added. So the figures may be given in round numbers as Rs. 5,500 for both villages from legal sources. Then there are the impositions pointed out in paragraph 5 and the total income can be stated at Rs. 6,000, exclusive of the produce of the khas lands. Details of the exactions exercised on the ryots will be found in the evidence of V. Subba Rao and the abstract prepared by me (enclosures 4 and 6). They are chiefly :—

(*a*) Opandamjasti—an extra demand over the assessment.
(*b*) Ganajasti—tax on sugar-cane.
(*c*) Again by converting the pagoda at Rs. 2-15-6 instead of Rs. 2-14-8.
(*d*) Road-cess on the above three items.
(*e*) Tirupati—subscription to the car.
(*f*) Pulavari—grazing-tax.
(*g*) Jodi on inams.

To this should be added about Rs. 1,000, income derived from the khas lands. They are no unimportant item, being the best wet lands worked for the landlord at the lowest possible cost. The best sugar comes off these lands. So the total income may be assumed to be Rs. 7,000.

9. The cost of management is put down by Subba Rao in his accounts (enclosure D to his petition of 10th September 1889) at Rs. 1,630 as follows :—

	Rs.
Repairs to tanks	300
Road-cess	400
Interest on old family debts	600
Reserve fund	330
Total ...	1,630

This account is not of much value. I have left out the road-cess in calculating the income of the estate. The road-cess according to the Adangal is Rs. 419. The reserve fund is a most complicated feature in the scheme and scarcely comes under the head of cost of management. I have tried to get the cost of management out of the accounts; but it is impossible. I should say that the cost of collections and management would not be more than 1 per cent., or say Rs. 700. Tanks, I fancy, are generally repaired by kudimaramut. But Rs. 400 may be allowed.

10. The debts of V. Subba Rao are irretrievably mixed up with those of the estate. The accounts give us no aid in determinng them. There are occasional entries of interest paid; but as pointed by J. Subba Rao, the true amount can only be got from the bonds and books of the money-lenders. He puts the debt down at Rs. 21,209, say Rs. 21,500, to allow for errors. There are no means of arriving at Rama Rao's debts. They must be pretty large after all the litigation he has gone through. They cannot be less than Rs. 15,000. So there is a charge of some Rs. 36,000 at least on the estate, or an annual charge of Rs. 4,320 for interest alone. As long as this estate is under the ægis of Government and unsaleable money will not be advanced under 12 per cent.

11. In providing for a proper management of the estate, a sinking fund of at least 5 per cent. of the debit or Rs. 1,800 should be provided. The total charges on the estate will be thus annually :—

	Rs.
Management	600
Irrigation repairs	400
Interest on debt	4,320
Sinking fund	1,800
Total ...	7,120

This lands the jaghire in a deficit of Rs. 120, and I see no occasion to discuss Subba Rao's involved scheme. The conclusions thus are (1) that the estate is involved and the ryots imposed on; (2) that Subba Raos scheme is not worth consideration, there being no funds to pay the liberal allowances he proposes. They would not be paid and the contentions would be worse thanever. They amount to Rs. 2,750—a very pretty payment from an insolvent estate.

12. Then it is necessary to return to Rama Rao's two requests, viz.—

(1) That Government will divide the estate into two and put him into possession of a moiety.
(2) That Government will allow him to sue in the civil courts for a half of the profits of the estate, with arrears, I presume, if not barred by limitation.

There is an assumption all along by Rama Rao that he is entitled to half of the estate and income. This, however, is no so, and I cannot support either proposal. There are two other branches of the family at least besides the two disputing.

13. It is very difficult to know what to recommend in a case like this where both sides seem determined to ruin each other. If Government resigned its reversionary claims, the whole estate would at once fall into the hands of the jaghire creditors. It cannot fall into arrears of revenue and be sold, the road-cess being the only Government demand. It is not right to leave the estate as it is, and I would suggest that Rama Rao be allowed to sue for his maintenance for two years and to have it fixed for the future. On the decision of the court being known there would be something to go on.

ENCLOSURE No. 1.—File of records.

Resolution—dated 14th July 1890, No. 420.

Submitted for the orders of Government.

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3. In the letter read above, the Collector reports on a petition presented by Rama Rao, in which he complains that the managing member, *i.e.*, Subba Rao, does not pay him his maintenance allowance, and asking that Government should either

make a division of the shrotriem, assigning one half to him, or that a certificate under Act XXIII of 1871 should be given him to obtain such a division by the civil courts.

4. From the Collector's report it appears that while Subba Rao has not made regular payments to Rama Rao, the latter by suing Subba Rao in spite of the order of Government, and by making unauthorized collections in the villages, has put the estate to unnecessary expense and has invalidated the arrangement contemplated. Subba Rao has presented a petition to the Collector stating that, for the future, he will regularly make certain fixed payments to the different members of the family, including Rama Rao; but the Collector does not think that the arrangement proposed will work, as the estate cannot afford the money required for these and for other charges, including a heavy charge on account of interest on debts.

5. Looking at the relations existing between the two parties concerned, the Board, though not accepting the Collector's estimate of expenditure, which seems to be mainly conjectural, is disposed to agree with the Collector that the arrangement will not work. As there are no reliable accounts showing the receipts and expenditure of the estate, the Collector recommends that Rama Rao may be allowed to sue the managing member for his maintenance allowance for two years, and the Board is also of opinion that this is now the best course, and recommends that the grant of a certificate for this purpose under section 6, Act XXIII of 1871, may be authorised.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting. Secretary.

To the Secretary to Government, Revenue Department,
with file of records (to be returned).
Copy to the Collector of Anantapur.

ORDER—dated 18th August 1890, No. 668, Revenue.

Miscellaneous.

The Board's recommendation in paragraph 5 of its Proceedings read above is approved.

2. Steps should be taken to put a stop to the levy of the unauthorised cesses enumerated in paragraph 8 of the Colector's letter. The Collector will warn the Jaghiredar and report in due course whether the exactions have been discontinued.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Commissioners of Land Revenue, with enclosures returned.

Exd. A. Aubert.

40 Copies.

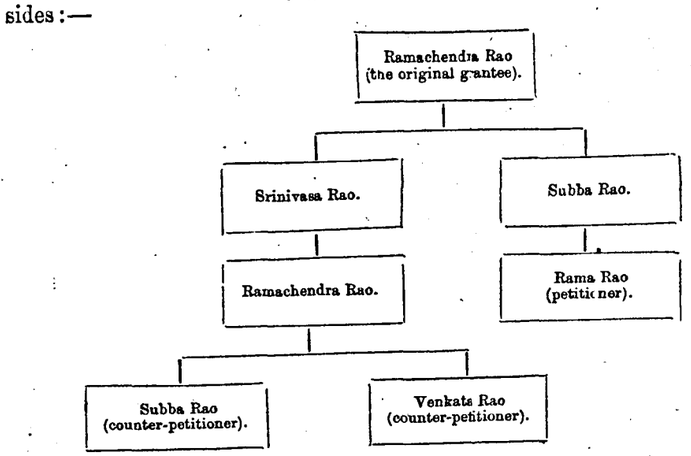
PROCEEDINGS OF THE BOARD OF REVENUE

(LAND REVENUE).

MR. W. S. WHITESIDE.

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RESOLUTION—dated 14th July 1890, No. 420.

Submitted for the orders of Government.

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3. In the letter read above, the Collector reports on a petition presented by Rama Rao, in which he complains that the managing member, *i.e.*, Subba Rao, does not pay him his maintenance allowance, and asking that Government should either

make a division of the shrotriem, assigning one half to him, or that a certificate under Act XXIII of 1871 should be given him to obtain such a division by the civil courts.

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5. Looking at the relations existing between the two parties concerned, the Board, though not accepting the Collector's estimate of expenditure, which seems to be mainly conjectural, is disposed to agree with the Collector that the arrangement will not work. As there are no reliable accounts showing the receipts and expenditure of the estate, the Collector recommends that Rama Rao may be allowed to sue the managing member for his maintenance allowance for two years, and the Board is also of opinion that this is now the best course, and recommends that the grant of a certificate for this purpose under section 6, Act XXIII of 1871, may be authorized.

(A true Copy and Extract.)

Ag. Secretary.

To the Secretary to Government, Revenue Department,
with file of records (to be returned).

Copy to the Collector of Anantapur.

Exd. W. J. Lewis.

Jo. 25-11-86 No 1042

REVENUE DEPARTMENT.

1890.

Board of Revenue

(Land Revenue),

MADRAS.

No 5374.

Printed July th.

Proceedings, 14*th July* 1890, *No.* 420.

Read 26/7/90

Encl. 32.

GOVERNMENT OF MADRAS
28 JUL 90
REVENUE DEPARTMENT

Submitting, for the orders of Government, letter from the Collector of Anantapur forwarding petition of the jaghiredars of Pulamarti, Hindupúr taluk, requesting the division of the *jaghire* and the grant of a *certificate* under the *Pensions Act*.

REVENUE DEPARTMENT.

No. 5374 of 1890

From the Board of Revenue (Land Revenue)

Dated 14 July 1890. No 420

FOR ORDERS.

The Board's recommendations may be accepted. Something must be said about the unauthorized cases mentioned in para 6 of the Coll's letter. They will probably occur now they have come to light.

JG 9/8

As to whether the Board's recommendation may be accepted. In G.O. dated 25 November 1886 no 1042 the late Govt. recognized Subba Rau as the managing member of the family and representative of the jaghire. It was his duty to allot proper maintenance to the petitioner Rama Rau and to the other members. It is clear that this was not done. The collr. fully enquired into the case, but cannot recommend any satisfactory arrangement. It is therefore proposed to let Rama Rau obtain relief from the civil courts by giving him a certificate under the Pensions Act.

Submitted that this recommendation may be approved.

7/8

FOR ORDERS.

Re- the grant of a certificate under the Pensions Act.

G.O.No. 668 / 18-8-90

E DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read Cir. 5374 of 1890

Order of 18th aug: 1890, no: 668.

The Board's recommendation in para 5 of its Proceedings read above is approved.

2. Steps should be taken to put a stop to the levy of the unauthorized cesses enumerated in para 8 of the Collector's letter. The Circular on the subject should state that the cesses mentioned in the Collector's letter are illegal and must be discontinued.

CL
17/8

dsd

From orders

To the Land Revenue Commissioner

enclosures returned

dispatched 19th in sid.

dispatched 21/8/90

Bill for authorizing the grant of a certificate under the Pensions Act

Print one first 18/8

Original

Govt. of {1890} Madras.

REVENUE.

Issued

Read.

Encl.

G.O., 18th August 1890, No. 668.

AUGUST.

Jaghire of Pulamarti and Kottapalle.

The recommendation of the Board of Revenue that the grant of a certificate under section 6, Act XXIII of 1871, to Rama Rao be authorized to enable him to sue the managing member of the —, Hindupur taluk, Anantapur district, for his maintenance allowance, approved; steps ordered to be taken to put a stop to the levy of certain unauthorized cesses, and the Collector directed to warn the jaghiredar and to report in due course whether the exactions have been discontinued.