Sectt. I (1)-I—10,008—7-10-70.

(1) Number of pages 12

(2) Date of repair 22-2-72

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	660	Press / ~~Mis.~~
Dated	13.2.1877	197

Not to be folded or roughly handled

KNR

Proceedings of the Madras Government, Revenue Department,
13th February 1877.

No. 418. Read the following Proceedings of the Court of Wards, dated 30th January 1877, No. 355 :—

Read again Court's Proceedings, dated 9th November 1876, No. 2,785.

Read also the following letters :—

From J. R. DANIEL, Esq., Acting Collector of Cuddapah, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 27th November 1876, No. 314 :—

I HAVE the honor to acknowledge receipt of G.O., dated 29th September 1876, No. 1,381, communicated with Board's Proceedings, dated 9th November 1876, directing me, as Agent of the Court of Wards, to take charge of the property belonging to the Minor Poligar of Chittecherla.

2. I confess that I foresee considerable difficulty in carrying out the orders of the Court, and am apprehensive that the result will be protracted litigation.

3. I forward for the approval of the Board copy of a letter addressed by me to the Sub-Collector, regarding the manner in which I propose to assume the management.

4. The Board say in their Proceedings that question of division must be definitely settled in the event of the property being taken under management, and now the problem is how to settle it. Arbitration has failed, and it would be useless to make any further attempt; the only other means is to ascertain all the claims put forward to the property by the other members of the family, and refer them for the orders of the Court of Wards, leaving the parties, if dissatisfied, to appeal to the Courts.

5. In the mean time only such property as is undoubtedly the property of the minor should be taken under management. This, however, will form a very small portion of the property to which the minor is entitled on the assumption that all the family property is his, that the other members are divided, and have merely taken advantage of the youth of the minor to obtain a portion of his property; this may be established to the satisfaction of the Court of Wards.

6. In the G.O., No. 1,381, of 29th September 1876, the Government say: "It is presumed that the Court have examined these documents (the deed of division and the Collector's letter, 5th July 1839), and satisfied themselves that no valid title could be set up by the claimants referred to in the correspondence, and that there is no danger of the estate being dismembered and the minor's share reduced to a small fraction of what it has so long continued to be.

7. The Collector's letter shows that the present guardian put forward a claim to succeed to the Patagada pension upon the ground of adoption; this is no doubt *prima facie* evidence, and there are other facts mentioned by Mr. Gribble—his succession to office and lands held by this family, &c., which all tend to the same conclusion. I wish, therefore, to be instructed whether I am to act upon the assumption that the guardian belongs to a different family, and reject every claim he may put forward to the property of the minor's family; this course would render the estate liable to civil suit, which, from what I know at present, could be successfully resisted.

8. If, on the other hand, the guardian is to be considered as undivided, very little property can be taken as belonging to the minor.

9. As to the deed of partition, this is dated Prabhava (1847); this is given to Venkatadri Naidu, the eldest son by the second wife of the second grantee. This is

admitted by Venkatadri Naidu himself; he is granted a separate allowance of Rs. 15 per mensem out of the pension, and Inam lands assessed at Rupees 60.

10. His claim to the pension must, I think, be allowed, and when it is ascertained which is the Inam land referred to, this should be given to him and his claim to any further land in the family must be rejected.

11. This, however, only disposes of one brother; there are claimants descended from the other brothers; they may or may not be divided; the partition deed was executed to one brother only, and it is difficult to draw from this any inference one way or the other in regard to the separation of the other brothers. I think it probable they were; but this is mere conjecture. It seems to me necessary to determine whether the property is to be considered divided or undivided; if the claimants are held to be divided, all the lands, &c., which are shown to belong to the family, must be taken possession of, and aggrieved parties left to their own redress in the Civil Courts.

12. If the family are taken to be undivided, which is contrary to the opinion formed by the Board, action would have to be taken by the Court of Wards on behalf of the minor to recover such property which is considered to belong to the minor.

13. Whichever course be adopted, it seems scarcely possible to avoid litigation without surrendering on behalf of the minor his claims to the greater portion of the property.

ENCLOSURE No. 1.

From J. R. DANIEL, Esq., Acting Collector of Cuddapah, to J. D. B. GRIBBLE, Esq., Acting Sub-Collector of Cuddapah, dated 27th November 1876, No. 897.

I HAVE the honor to forward G.O., No. 1,381,* sanctioning the proposal of the Court of Wards to take under management the estate of the Minor Poligar of Chittecherla, and the Proceedings of the Board of Revenue directing me to take charge of the property.

* Dated 29th September 1876, communicated with Board's Proceedings, dated 9th November 1876.

2. In their Proceedings the Board say, the question regarding the division of the family will require to be definitely decided in the event of the property being taken under management, and the difficulty now is to settle this matter; from the experience gained in the first attempt at a settlement by arbitration it appears to me hopeless to make any further attempt to decide the question by this means.

3. The only way which suggests itself to me is to take over the property which is, without dispute, the property of the minor, and then ascertain what other property the minor has a share in, and refer these questions for the orders of the Court of Wards after ascertaining the right of the minor, and the claims of the other members of the family.

In your first letter to the Collector, dated 3rd August 1875, No. 398, you have given the [illegible] of the minor as under—

ACRES.	ASSESSMENT. RS. A. P.	
351 5 3	1,899 5 4	Government and Inam lands.
103 32 8	201 6 10	Reddi Inams.

	RS.
Total income from lands (estimate)	5,530
Pension	2,625
	6,887
Jewels, &c., with the minor's mother	470
Do. do. with step-mother	1,034
Cattle with guardian	

5. [illegible] cannot find in the records any particulars regarding these lands; all that I can ascertain is that they are entered in the puttas of various members of the family and are enjoyed indis-

criminately by the minor and other relations: it would, in my opinion, be wrong to take possession of all these lands as the property of the minor, if claims are put forward to them by other members of the family. This could only be done by the force of authority, and even if accomplished, would at the outset involve the estate in numberless law suits.

6. In a subsequent letter written by yourself,* dated 17th June 1876 No. 142, [illegible] lands entered in the putta of the minor are given [illegible]

* To the Board of Revenue, *vide* E. Statement.

A.	C.	P.	
69	9	10	Rupees 324-8-0,

and also other lands still entered in the putta of the late Poligar's widows. The extent of these lands is not given.

7. I think, therefore, that a list should be prepared of all the lands supposed to belong to the family, showing the names entered in the putta, the assessment, and other particulars, with a remark showing what claims are set up to it by any other member of the family; and the course to be adopted in regard to them must be determined upon after the nature of the claims has been ascertained, and the orders of the Court of Wards obtained upon them.

8. The lands entered in the name of the minor himself, and also those entered in the names of the widows of the late Poligar, might be taken immediate possession of.

9. The mother and step-mother of the minor should be directed to deliver up the jewels, &c., to the person appointed to be manager.

10. The pension of Rupees 2,625 now in arrears must be paid to the credit of the minor's estate; but to a portion of this other members of the family lay a claim, and these must all be determined.

11. In regard to the guardian, I must ask you to be good enough to nominate some person in whom you can place confidence, some one unconnected with the family.

12. As regards a manager, I am afraid that the property is not sufficiently large to bear the expenses of any good man, and I think that the management must remain in the hands of the Sub-Collector, who must carry it on through the Tahsildar.

13. After receiving your recommendations I will submit them for the orders of the Board.

14. I wish to know if there is any property which is admittedly the property of the minor, and which can be taken over at once; the remainder can only be taken after inquiry, and I am very apprehensive that the management by the Court of Wards will be fertile in litigation.

(True Copy.)

(Signed) M. RAMASWAMY,
Deputy Collector,
for Acting Collector.

From J. D. B. GRIBBLE, Esq., Acting Sub-Collector of Cuddapah, to J. R. DANIEL, Esq., Acting Collector of Cuddapah, dated Madanapally, 4th December 1876, No. 568.

WITH reference to your letter of the 27th ultimo, No. 897, I have the honor to inform you that immediate steps will be taken to carry out the instructions therein conveyed.

2. In the mean time, I beg that the Sub-Collector may be appointed both as guardian and manager of the estate. The mother personally told me that she would come and reside in Madanapally. If I can get her to do this, I will buy or build her a house and have the minor educated under my own eye.

3. The estate cannot afford the appointment of a paid manager, and there is no one I can trust in the family to be appointed guardian.

No. 334.

FORWARDED to the Board in continuation of my letter, dated 27th November 1876, No. 314. The appointment of the Sub-Collector as both guardian and manager is the best arrangement that can be made; but Section 9 of the Court of Wards Act forbids guardian and manager being the same person. The mother is precluded by Section 19 from being appointed guardian, so that I think it is necessary that some trustworthy person be appointed guardian; he would practically be under the order of the Sub-Collector.

(Signed) M. RAMASWAMY,
Deputy Collector,
for Acting Collector.

CUDDAPAH,
6th December 1876.

IN the foregoing Proceedings of the Court of Wards the Collector of Cuddapah was directed to take charge of the property of Venkatappa Naidu, Minor Poligar of Chittecherla, and to nominate fit persons to be guardian and manager, respectively. He now reports that he anticipates considerable difficulty in dealing with the claims which are likely to be put forward by other members of the family, and asks for definite instructions on two points:—

(1.) Whether he is to act on the assumption that the guardian, Kadirappa Naidu, belongs to a different family and to reject every claim he may put forward to the property of the minor's family.

(2.) Whether the estate is to be considered divided or undivided, to enable him to dispose of the claims of Venkatadri Naidu and other members of the family.

2. As regards the first question there appears to be sufficient *prima facie* evidence to warrant the conclusion that Timma Naidu, father of the guardian, was adopted into the Patagada family, and the rejection of any claims which he may assert, leaving him to have recourse to the Civil Courts if he chooses. The Collector may act on this view.

3. As regards the second question, the Court have already expressed the opinion that the document produced by Venkatadri Naidu cannot be regarded as a partition deed; it seems to imply that the estate is not divisible, and that the property assigned was merely an allowance for maintenance allotted in consequence of the grantee's wish to live separately. In whichever light the document is viewed, the Court have power to intervene; for if it is a partition deed, division has already taken place, if not, the property must be indivisible, for maintenance would not otherwise have been accepted in lieu of a share. From Mr. Gribble's letter of the 20th May 1876, moreover, it seems that Venkatadri Naidu admits his separation and affirms that a similar separation was made with the other members of the family. The fact that other members of the family have for some time been in enjoyment of separate shares tends to support this assertion. Although, therefore, it is not certain that division was effected, a alleged, there is sufficient *primâ* evidence to warrant the Court in assuming such to be the case; but it is advisable to proceed with caution in order to avoid litigation, if possible. The instructions which Mr. Daniel has issued to the Sub-Collector, viz., to ascertain with accuracy the particulars of the property belonging to the family, the parties in whose enjoyment each

Mr. Gribble's letter of the 7th December 1875, Enclosure C. to Collector's letter, dated 20th May 1876.

parcel of land is, and the claims preferred with a view to a decision as to the course to be pursued in each case being passed by the Court of Wards, appear to be the best possible under the circumstances. Meanwhile, the Sub-Collector may take charge of such lands as are registered in the name of the minor himself, or in those of the widows of the late Poligar, as well as the moveable property, and Venkatadri Naidu may be permitted to retain the share of the pension and Inam lands hitherto enjoyed by him.

4. The Court observe that the relationship of Venkatadri Naidu is not correctly stated at paragraph 9. He is not the eldest son by the second wife of the second grantee, but the second son by the first wife of the original grantee and younger brother of the second grantee.

5. As regards the nomination of a guardian and manager, which is the subject of the second letter read above, the Sub-Collector is not eligible to hold both offices. A trustworthy person should be selected, from among the members of the family if possible, for the post of guardian, and as the estate is not able to afford the salary of a manager, the Sub-Collector must assume the management.

(True Copies and Extract.)
(Signed) C. A. GALTON,
Acting Sub-Secretary.

No. 419. ORDER THEREON, 13th February 1877, No. 660.

Miscellaneous.

RECORDED.

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

To the Court of Wards.

Exd. T. O'Connor.

No. 355.

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9. As to the deed of partition, this is dated Prabhava (1847); this is given to Venkatadri Naidu, the eldest son by the second wife of the second grantee. This is admitted by Venkatadri Naidu himself; he is granted a separate allowance of Rs. 15 per mensem out of the pension, and Inam lands assessed at Rupees 60.

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of all these lands as the property of the minor, if claims are put forward to them by other members of the family. This could only be done by the force of authority, and even if accomplished, would at the outset involve the estate in numberless law suits.

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(True Copy.)

(Signed) M. RAMASWAMY,
Deputy Collector.
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3. As regards the second question, the Court have already expressed the opinion that the document produced by Venkatadri Naidu cannot be regarded as a partition deed; it seems to imply that the estate is not divisible, and that the property assigned was merely an allowance for maintenance allotted in consequence of the grantee's wish to live separately. In whichever light the document is viewed, the Court have power to intervene; for if it is a partition deed, division has already taken place, if not, the property must be indivisible, for maintenance would not otherwise have been accepted in lieu of a share. From Mr. Gribble's letter of the 20th May 1876, moreover, it seems that Venkatadri Naidu admits his separation and affirms that a similar separation was made with the other members of the family. The fact that other members of the family have for some time been in enjoyment of separate shares tends to support

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(True Copies and Extract.)

Acting Sub-Secretary.

To the Collector of Cuddapah.

Copy to the Secretary to Government, Revenue Department.

Exd. W. H. French.

but this is mere conject

Rev 1877 Dept

Court of Wards

MADRAS.

No 1176.

PROCEEDINGS, 30TH JANUARY 1877, No. 35

Rept 6 Feb 77

Enc

Received 9th Feby.

JANUARY.

No. 355.

Property—of Venkatappa Naidu, Minor Pligar of Chittecherla, in Cuddapah District.—Issuing instructions as to how claims which guardian Kadirappa Naidu may put forwarded to—should be rejected, and whether the estate is to be considered divided or undivided.

1860

13 Feby/77