M.R. O. 1—50,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 931 Press Mis

128-129

Dated 7th April 1869

Not to be folded or roughly handled

No. 128. Read the following Proceedings of the Board of Revenue, dated 5th April 1869:—

Read the following letter from the Collector of Salem, to the Acting Secretary to the Board of Revenue, dated Salem, 15th February 1869, No. 31.

I HAVE the honor to return Petition No. 2,161 of 1868, (Board No. 94 of 1868,) addressed to Government by the late Poligar of Unkusagherry, Appa Rao.

2. Petitioner wished that the Government Solicitor should be directed to appear in certain suits, pending in the High Court, in which he is a party.

3. His request appears to have been based on the fact that the Poliput (Unkusagherry) was an unsettled one, and that, if an adverse decision was passed by the High Court, it would affect the interests of Government, if, at any future time, it might wish to resume the Poliput.

4. The Board is aware that the Poligar has died since the above petition was given. I have reported in my letter, No. 25, of the 12th instant, on the claims of the several members of the family to succeed to the estate, and have also suggested, for the consideration of the Board, whether it would not be advisable to resume the Poliput, and grant a suitable maintenance for the members of the family.

5. The decision, which the Government may arrive at, as to the future fate of the Poliput, must naturally dispose of the petition now returned. If the Government should be disposed to resume the Poliput, the suits at the High Court must be conducted by Government Law Officers. If, on the other hand, a successor is appointed, the Government need take no further notice of the petition; for the Poliput will become a permanently settled property, and, as such, will no longer be held at the "will of Government."

SUBMITTED for the information of Government. The question of the succession to the Polliem is now before the Board, and they await certain information from the Collector, on receipt of which they will address Government on the subject.

2. In the meantime it seems advisable to instruct the Government Pleader to apply for a postponement of legal proceedings pending the decision of Government on the succession question.

No. 129. ORDER THEREON, 7th April 1869, No. 931.

Miscellaneous.

UNDER the circumstances represented by the Board of Revenue, the Government Pleader will be instructed to ascertain whether the special appeal was instituted by the late Poligar, and if so, to apply for a postponement of the hearing, pending the settlement of the question of the succession to the Polliem.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
,, the Government Pleader.

Exd. F. R. Bantleman.

obtained

Original Suit No 206 of 1865.

In the file of the District Munsiff's Court of Cuddapah

Present. T. Ramalinga Ayer.

Plaintiff

M. Sheshia Row.

Defendant

Chetty Sooryah Chetty.

Plaintiff the Poligar of Kurdapah having brought this Suit to recover possession of a village attached to his Poligarship stating that the village is subject to the Peishcush payable to Government; that about 40 years ago Narrayasseen who was then Head Shroistadar of the District obtained it as a present from one of the late Poligars; that since then the village was in question had been in the possession of himself and his successor and was in 1864 sold at a Public Auction in satisfaction of a Judgment debt due to a third party by one of the said Narrayasseen's successors; that Defendant purchased it at the Auction and was put in possession thereof; that the said Narrayasseen is not entitled to hereditary rights; that Plaintiff is not desirous to resign it.

2. Defendant contends that the village in question is not subject to the Peishcush claimed; that Plaintiff pays to Government only 1227 rupees the Government assessment on the Cubicut of the District to Enguru into the state of the Same

of the District to Enguru into the state of the Same

in Cuddapah and Dankanacottah. Talugs; that thereupon

the

Govt. of {1869} Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c, &c, &c.

Dated April 7th.

Read. Encl.

G. O., 7th April 1869, No. 931.

APRIL.

Nos. 123-129.

Unkusagherry Appeal Suit.—Government Pleader to ascertain whether it was instituted by the late Poligar, and if so, to apply for its postponement pending the settlement of the question of succession to the Pollium.

the Polipud with all the Manciens appertaining to it was attached, but that the Government released the village in question from zuft on the said Subbien shewing his title thereto and granted him a Summud in Fuely 1231 (1821) authorizing him to enjoy the village in question as Manciem; that ever since it has been in the possession of the said Subbien and his heirs; that at a public Auction Defendant purchased it for Rupees 1121; that the Inam Commissioner recognized the right of the then holder (Chedambren of the village and gave him a Title deed and that the Plaintiff's claim is barred inasmuch as the village had been for a long time in the possession of the donee and his successors and as the Plaintiff cannot question the grant which was made by a person whom he has succeeded as his daughters son.

3. In his reply Plaintiffs' Vakeel observes that the cause of action arose from the date on which Plaintiff obtained the Polepud

4 The following issues were settled:

I Whether the cause of action should be computed from the date on which the Plaintiff obtained the Polipu

II Whether the gift is sustainable by Law.

III Whether the gift in question has been recognized by Government

IV Whether the village in question is included among those villages of the Polepud for which Plaintiff pays Peshe

5 This suit relates to a village attached to the unsettle Palliems of Tinnevelly. The terms on which such Palliems are held are too well known to need any enumer of them, but, however, it may be said here that the

Palliem

Pattum is held at the will of the Government, that it lapses to them on failure of heirs and that the Government select persons to succeed to it on the demise of the incumbent Plaintiff the present Poligar, similarly selected brings this suit to obtain possession from Defendant of a village attached to the Polipat. Defendant contends that the village was conferred as an Inam on the ancestor of one Chedambaram in satisfaction of whose judgment debt it was sold in Auction and purchased by him and that the Plaintiff cannot question the grant made by one of the late Poligars several years ago.

6 -From the Government proceedings put in this case marked H it would appear that only such grants as were made prior to the year 1799 are to be respected by the succeeding Poligars That this principle which guides the Poligars in the resumption of the villages alleged to have been given away is not denied by the other side will appear from the arguments of the Defendants Vakil at the final hearing.

7 The question therefore for consideration here is whether the grant in question was made prior to 1799 or subsequently. For the determination of this question the Accounts for Fasly 1212 (1802) are the most important being the only accounts in question to show the grants made before 1799. These accounts were sent for from the Taluq records and perused. The village in question named "Agraharam" also called "Chockanadapooram" is entered in them against the name of a Sudra by name Munnigan

The

The name of Chedumbariens Ancestor does not appear in them though the name of other donees do appear. I was assumed that Captain Graham's Summud of July 1209 (1799) clearly recognized only those grants which were made prior to 1799 and not those since made by the Poligars, but that Summud has not been within my reach. It is therefore thus seen that the grant in Question was not made before 1799 and if made that it would have appeared in the accounts for July 1212. The Arguments advanced by the other side to show that the grant was made before 1799 are that Subbien, to whom it was made, fled the Country during the time of war, leaving the original Summud of grant and other documents in his house. to take care of themselves and thereby lost them, that owing to his absence, his name was not entered in the Accounts for July 1212, but that he however, on his return resumed possession of the village which with the other villages of the Poligut was subsequently allocated by the Collector of the District, and when released, was restored to me Pedda Soobien on his representing to the Collector of the loss of the Original Summud and on his promising to him that the grant was actually made; and that the Collector thereupon issued a Summud to him. In support of this position the Defendant relies on three documents, the Collectors Summud itself and two Kaifyats, one given by the Village.

Village people and the other by the then Poligar - all these 3 documents are marked respectively VI II and III. The former does not relate to the village in question. The object of Defendant's Vakeel in putting it in is to show that "Subbien" went and joined the Company's territories" therefore perhaps to infer that he fled the Country as asserted. If the act of Subien would lead to such an inference what else would not. Supposing that he is the identical man, there may have been other reasons for his joining the Company's territories. The first and foremost of them may have been his relations, stay in the Company's territories as Sheristedar of the District or as Tahsildar (vide 1st Witness' deposition). No I is Copy of a Statement given by a few villagers stating that the village of Agraharam was conferred on Subien by Poligar Hariyappa Gounden as Seiva-manium; that the Poligars Samadi was lost and that Pedia Subien is enjoying the village. That opportunities the ancestors of this Statement had of knowing the different occurrences they narrate have not been tested. The then Poligar whose right this document affects does not seem to have been a privy to it. No VII document is headed in the words "Details of Aram and Sodi villages attached to Anthosorghevy Poliput as learnt from the Poligar" This document does not bear the signature of the Poligar nor does it show how the information has been obtained from him. The latter

latter documents Plaintiffs Vakil contended were fraudulently got up by Nimjapier the Head Sheristadar in favor of his relative. On the other hand Defendants Vakil equally contended that they could not have been got up 30 years ago in anticipation of the present litigation That Nimjapier was Head Sheristadar of the District and that the Parsonin whose favor the grant is alleged to have been made was his nearest relative, are admitted by Defendant an inference that he favored his relative in getting up these documents knowing as he must have been that grants obtained subsequent to 1799 will not be held valid would not have been rashly drawn granting that these documents are genuine I cannot grant that they would have affected the then Poligar much more so his successors, as it does not in any way appear that that Poligar was a party to them It might be argued here that if the transaction had been actually a fraudulent one the then Poligars or his successors might have subsequently exposed it. Upon, if one Poligar or set of Poligars had been foolish enough, I don't see why the present Poligar who obtained the Pottiput from the Government should be so. There is not even one public document to show that either Sethien or his successor enjoyed the village in question prior to July 1230 to justify the Collector in his proceedings. If there had been enjoyment on either Sethien's or his successors' part that would have surely

appeared

appeared in public Accounts in the same way as the enjoyment of other parties appears. For these reasons, these documents irrespective of the Poligar having been no party to them are in my opinion open to grave suspicion Again, granting for the sake of argument that they are genuine and valid documents, it is of utmost importance to notice whether the Collector Mr Cockburn had any authority from Government to issue as he liked Summons of Grant to parties who applied for them. It appears that the Government at the suggestion of the Collector placed the 3 Polipats in this Taluq under attachment with a view to collect the arrears of Kist. Document (J) para 2 of Document G shews that the Government directed the restoration of the Polipats on the same conditions on which they were originally held by the Poligars It is therefore clear from these two documents that the Collector had no authority. His proceedings consequently are illegal and unwarranted. The conclusion at which I now arrive is that the grant, if it, if ever took place is subsequent to the year 1799. This being my opinion it is unnecessary for me to notice the different documents from A. to G. and the arguments adduced by Plaintiffs Vakil regarding them.

8. A consideration of the issues recorded in the case becomes now necessary. The 1st Issue is whether the Cause of Action should be computed from the date on which the Plaintiff obtained the Polipat. I should certainly

certainly think that the period of limitation should be calculated only from the date on which the Plaintiff assumed charge of the [illegible] he being a nominee selected by Government to whom the property escheats [illegible] at [illegible] the decision therefore that Plaintiff is bound by the act of his ancestor some several years ago granting that the act for reasons already shown, is [illegible] to [illegible], does not apply to the present case where the Plaintiff is a nominee of Government and who in his own interest is bound to see that he does not unnecessarily pay [illegible] on a village which he does not [illegible] Defendant's vakil contends that at all events [illegible] [illegible] have been made a party to the suit and that Plaintiff [illegible] to have urged his claim at the [illegible] the village in question was sold. I think that [illegible] necessary because Defendant stands to Plaintiff in the [illegible] which [illegible] did.

9 The 2d Issue is whether the gift is sustainable [illegible]. It is not sustainable [illegible] the [illegible] thirty years.

10 The 3d Issue is whether the gift in question has been recognized by the Government. There is not one [illegible] of evidence to show that it has been [illegible] unless the word Government used in this case be taken to mean the Collectorate of Salem [illegible] [illegible] [illegible] for [illegible] [illegible] Defendant's vakil [illegible]. Great stress is laid by Defendant's vakil [illegible] Inam Commissioner [illegible] title deeds issued by [illegible]

to Shrewsbury a Recent decision of the High Court
from which what value is to be attached to such title
Deeds as a head of Inches

It is for Jones as whether the village in question is
within the county Palatine of Chester for which
the Affidavits Exchanged. That it is admitted there can
be no question as the Petitioner the same amount of
Costs originally fixed on the entire Palatine. This
fact is admitted by Defendants Solicitor at the final
Hearing

Under the circumstances Judgment for the
Defendant be put Plaintiff in possession of the
Village in question and pay him the costs.

Signed J. Campbell

Dated 1869

Enclosure No 1

Extract from Book of Rates
Taken and Assessment of
Inland Waterways Canal
of Canada.

Ref No 2161 of 1852.
Rec Dup from Assembly 4 Ld 128.

abbreviate the Schedule

II Whether the right to enfranchisement by law

III Whether the gift in question has been recognized by Government

IV Whether the village in question is entitled among other villages of the Taluqat for which Plaintiff (Deal by Settlement Page Tennent to Will reference to the foregoing issues the defendants state that the village in question was allocated to our ancestor Pelican, which was held at the rate of Government to whom it wants Lapse and Escheat of them and that it was afterwards with them to which each successive Zaligar and that agreeably to the proceedings of Government in such cases as were made prior to the year 1799 were to be terminated by the succeeding Zaligars

5 The defendants further state that the plaintiffs is not barred by the Regulation Chilly Succession Chilly, and that still further to come to a determination on the case the accounts of Fasly 1213 (1803) were sent for by him from the Collectorate

6 That a perusal of such accounts the defendants come to the conclusion that the village in question was not granted before 1799

7 That these and other grounds the defendants founds the following reasons that the grants of Lumsdaine should be

be calculated from the date was which Pelican assumed charge of the Taluqat and that he was not to pay Cist on a village which he does not at all enjoy. That the gift was not at all enfranchised by law and was not recognized by Government and that the Titles Deeds issued by the Sworn Commissioner in lieu of titles by the Court of Sudder according to law in a Court of Justice according to Court decisions of the High Court. that on the last perusal Pelican pays Peishcash to the village in question as he pays the same amount of Peishcash as was originally fixed on the entire Taluqat

8 That these circumstances the defendants submit an issue in favor of Pelican

9 That Plaintiff, Chilly Succession Chilly, on appeal to the Civil Court decreed a Cyalee appeal to the Civil Court of Salem on 23rd of 1868 when the decision of the lower Court was reversed - the grounds on which two decisions were come to were that Pelican's suit was barred by the Statute of limitation; that the village was granted as rent free prior to 1799; that each village was not subject to the Peishcash which Pelican pays to Government; that the villages have been enjoyed as rent free since 1821 under the orders of Government under these and other reasons of a similar kind, the Civil Judge rejected the plaintiffs illegal claim to the villages in question

for

In reference to the decree and judgment of the Civil Court in this with regard to the other villages, Coonamaddy and Kogahally, in Original Suit No 200 of 1865 - 66 and Original Suit No 65 of 1868 and Original Suit of 379 of 1865 and 1866 of 1868, Pallatur is about preferring a special appeal to the High Court

II Memorialists, Pallegars would submit for the just and candid consideration of your Excellency in Council the following points in view that it may appear absolutely necessary on the part of Government to take up the matter themselves

I The Pollams is one undivided one and the nomination to the succession to all is solely of right in the Government

II That our fathers & have the Pollams Sworn to Government, who, would in that event resume their rights of the lands and villages included in the Pollams

III And this could not be done if the Civil Court Decree, as at present passed be left undisturbed and remained

IV That the more especially as a number of more villages have been in like manner alienated and if the Civil Judge's decree is allowed to pass undisturbed as Pallatur intended Special appeal to the High Court by your Excellency in Council the whole

Pollams

14

Pollams may be alienable and fully alienated

V How the question arises, what will become of the Interests of Government? If such unwilling Pallgar, who, be it observed, has but a life interest in the Pollams and the remainder of which goes to Government were to alienate villages after villages and Pallatur should follow the same Example and the whole of the villages of the Pollams be given away in free-gift, would Government in question such gifts, or, whenever Pallatur claims the stipulated amount of Peishcash

12. In the standing orders of the Board of Revenue at page 343, it is stated that under the instructions of Government in Board's minutes of Consultations of the 10th February 1851 "Estates which have not been permanently settled cannot be divided" estates or Pollams which have not been permanently settled and for which no permanent title deed has been issued do not fall under Regulation XXV of 1802 and cannot be subdivided"

13. This was the view taken by Government as expressed in their order of the 25 October 1851, wherein they state that

Board

recent grants of all kinds in council Killaloe
made and recommended by the Polegars
themselves, Copies of which are intended
with.

It is with reference to this order of
Government that Killaloe brought the case
in which he prefers his own rights and also
the interests of Government. A perusal of
a perusal of the Killaloe decree and
the Original Decree of the Civil Court
will clearly show that the Exhibits of
Complainant is not at all applicable to
establish Claims unwarrantable and
opposed to the Polegars only in that case
to bring the case to a

That the opinion of Government
was right and correct is fully borne out
by established Law. The following Statute
on Inclosures 8° & 9° Victoria 118
of 1845 page 119 Statute 29° Chapter
It is thus given. If Seminable Land
plant lands and fruit be Expedient Allegeable
be done to provide entire use be keeping the
Lien Shelter and possession of that with
lands without the consent of Government
because the annual Income to be paid
from the lands as a right belonging
to Government and it is only the Collection

and

and Enjoyment of the rent that is granted to
the Seminaries during his possession on
payment of the rent reserved upon the whole
Delete

That by this, it is clearly seen that the
opinion of the Civil Judges
to which may be adjudged by your Excellency
in Council since for the reasons
that order and Act refer to Seminary
whose salaries were permanently settled
under Regulation of 1825, and who had
no right or title to make any alienations
as this going to withhold the donation of Lands
which settles Seminaries are thus
it is possible for the Polegars
to alienate any
of said Polegars belonging to their Estates?
Relying upon Equity and Justice
Council to be
pleased to pass an early order directing
Government Pleader to appear on
behalf and with the Solicitor
to the Government and watch the matter
on their behalf and to
Council on October
Bishop Killaloe respectfully begs
Thrall Esq Barr

No 2161 of 1864.

Referred to the Collector for report through the Board of Revenue.

By Order.

[signature]

Sec. Board of Revenue.

Fort Saint George
10th November 1864

No. 2161 of 1864.

From the Collector of Tanjore,
dated 16th November 1864,
Received 21st November 1864.

Answered 28th November 1864.

Submitted to the Collector with reference to the order of Government noted within.

[signature]
for Secretary.

Board of Revenue,
Fort Saint George,
the 1st December 1864.

No. 104
Respectfully returned to the Hon'ble Board of Revenue with Taluk Sheristadar's report dated 15th instant.

[signature]
Collector.

Collectorate,
Tanjore,
the 15th December 1864.

Read the following letter from the Collector of Tanjore, dated 16th November 1864, with its enclosures, and the Report of the Taluk Sheristadar of Mannargoody, dated 15th instant, on the petition of Ramasawmy Naick and Kaliyaperumal Naick, Shroffs of Mannargoody, praying for the grant of a Pension to the latter, in consideration of the services rendered by his father, Ramasawmy Naick, in the Rebellion of 1857.

Ordered, that the Petitioners be informed that the Board of Revenue are unable to comply with their request, as the Pension Regulations do not admit of the grant of Pensions to the children of Shroffs, Merchants, or Bankers, who may have rendered services during the Rebellion.

Ordered, that the Collector be informed that the Board of Revenue are unable to comply with his request, as the Pension Regulations do not admit of the grant of Pensions to the children of Shroffs, Merchants, or Bankers, who may have rendered services during the Rebellion.

No. 931.

Pro. of the Madras Govt.
Under date the 7th April 1865.
Read the following Pro.
of the 13th Ult. Rev.
& C. 5th April 1865 —

Under the circumstances represented by the Board of Revenue, the first Pleader will be instructed to ascertain whether the special appeal was instituted by the late Poligar, and if so, to apply for the dismissal of the same in furtherance of the Government order pending the settlement of the question of the succession to the Poligarship.

[signature]
Secy.

To Capn Fisher Asst Collr & Dist Magte
Gnl Readers