Revenue (1896.) Department.

MISCELLANEOUS SERIES.

G.O., No. 2635

DATED 6th July

[Despatch Abstract.]

Minakshi Ammal, widow of Kaleemuthu Pillai, late munsif-moniem of Kayal - patam, Tenkarai taluk.

Informed that Government declines to interfere on her behalf in the matter of her prayer to be appointed moniam of the village

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

O/18 10,000—25-3-95.

ABSTRACT.

(1896.)

REVENUE DEPARTMENT.

Current Number. 511

From

Meenakshi ammal
(widow of Kalimuthu Pillai
late Munsiff Moniem of
Kayalpatnam Vadabhagam)
Tenkarai Taluk
Tinnevelly Dist.

Dated 18 Dec.

Received 20 Jany

Enclosures 4.

No.

SUBJECT.

Praying that she may be appointed to the Munsiffs Moniemship of Vadabhagam in duties of which would be discharged by the assistance of a duly qualified gumastah.

PETITION
67
REVENUE DEPT

To

HIS EXCELLENCY

THE RIGHT HON'BLE

THE GOVERNOR IN COUNCIL,

SECRETARIAT OF MADRAS
28 JAN 96
REVENUE DEPARTMENT

MADRAS.

The humble Petition of Minakshi Ammal (widow of Kalimuthu Pillai, late Munsiff Maniem of Kayalpatnam Vadabhagam Tenkarai Taluk Tinnevelly District.)

RESPECTFULLY SHEWETH,

That petitioner's husband was entitled to the miras of both divisions Vadabhagam and Thenbhagam of the village Kayalpatnam; for his father had been the Munsiff Maniem of the whole of the village long before and at the time of the Revision in 1878, when the village administration was split into two and he was appointed Munsiff Maniem first to Thenbhagam and then to Vadabhagam.

That petitioner's husband succeeded his father as Munsiff Maniem of Vadabhagam, a stranger having been appointed to Thenbhagam, and died in 1891, leaving him surviving a minor son by his first wife, petitioner, and a daughter by her.

That the minor son Shanmugham Pillai was nominated to the office of Munsiff Maniem vacated by his father's death; and his goomastah Subramania Pillai who was a divided brother of the minor's father, claimed as guardian, and obtained in Regulation suit 5 of '93, a declaratory decree in the minor's favor in respect of the Munsiff Maniem right in Thenbhagam.

That the office of Munsiff Maniem in both the divisions fell vacant about the same time in 1894, by the death of the minor and of the other incumbent, and a pattah (A) was granted to petitioner of the miras lands of Thenbhagam, the Tahsildar as petitioner understands, recommending her nomination in lieu of her minor son; but the Sub Collector on their representations, filled up the vacancies *exparte* by nominating the said Subramania Pillai to Thenbhagam and Paramasivam Pillai another divided brother of petitioner's husband, to Vadabhagam; thus ignoring petitioner's claims as the next heir to her husband and his son and depriving petitioner and her daugher of thier means of maintenance.

That petitioner's appeal to the Collector of Tinnevelly against the Sub-Collector's order making the two appointments, miscarried apparently by misconception of petitioner's right under Hindu law (vide B. proceedings of the Collector dated 28th January 1895).

That the Collector having dismissed petitioner's appeal only so far as it relates to Vadabhagam, by reason of another appeal pending in respect to Thenbhagam, probably by an heir of the last incumbent a Muhammadan, petitioner's appeal to the Board of Revenue was confined to her right in respect to Vadabhagam.

That petitioner's appeal to the Board of Revenue has been dismissed, petitioner is informed, by the attention of the honorable Board not being drawn to recent pulings, and petitioner is therefore advised to pray your Excellency in Council will be released to revise the Boards resolution (C. dated 30th May 1895) referring to, amongst other to two recent cases, *Seetaramayya vs. Venkatarasu* 1. L. R. 18 Madras 420 and *Russoobai vs. Toolekhabai* I. L. R. 19 Bombay 707.

That by the first case it is clear that "the heir of the preceding Karnam" or holder of an hereditory office under the Revenue Regulations means "his next of kin according to the order of succession of the several grades of legal heirs and not heirs in the order of succession to undivided ancestral property"—the widow and then the daughter's son succeeded to the office of Karnam in preference to paternal uncle's son.

The second case is a distinct authority for the proposition that under the Mitakshara law which governs the Madras Presidency " a step mother succeeds to the property of her step son in preference to the step son's paternal uncle's son", hence to any collateral.

Petitioner therefore begs Your Excellency in Council will in revising the Board's resolution, order the nomination of petitioner to the Munsiff Maniemship of Vadabhagam; the duties of which office would be discharged by the assistance of a duly qualified goomastah.

And your petitioner will, as in duty bound EVER PRAY.

18th December 1895

I beg to remain
Yours obediently
[illegible]
Petitioner

[illegible]
Counsel
for Petitioner
15/1/96.

Names of records filed

(1) A- Pattah granted to Petitioner by the Collector after the death of the minor Shunmugam Pillay dated.

(2) B. Proceedings of the Collector dated 28th January 95

(3) C. Boards resolution dated 30th May 1895

(4) D. Proceedings of the Sub Collector dated 31-10-94

Read C. No 511 of 96

G.O. Mis N: 2635 of 6 July 1896

The Government decline to interfere.

JBA 6-7-96

To
The Petitioner with 4 enclosures etc.

11/7/96

Note

The petitioner is the step-mother of the last holder of the Maniem Office of Kagal-patnam Village, Vadakkupam Tenkarai Tg, Tinnevelly Dt. On the death of the last holder the Sub-Collector appointed to the office a divided paternal uncle of the deceased in preference to the petitioner. On appeal, the Sub-Coll's order was confirmed both by the Collector and the Board. The petitioner now appeals to Govt and Contends that

that she is a nearer heir than the Respondent: and quotes two decisions in support of her contention viz,

(1) I.L.R. 18 Madras page 420
(2) I.L.R. 19 Bombay page 707.

The Madras Case is not of the point as the ~~point~~ question in that case was whether a daughter's son of a woman or her husband's paternal uncle's son was the nearer heir. No doubt, it was decided that the daughter's son was the nearer heir. But the decision of the Bombay High Court seems to support the petitioner's contention that a Step-mother Succeeds to the property of her Step-son in preference to the Step-son's paternal uncle's son. In Madras, however, it has been the rule that a Step-mother Cannot Succeed in competition with a Sapinda of the deceased. Vide Mayne's Hindu Law page 626. Please see also I.L.R. V. Mad. 29 & I.L.R. VIII. Mad. 107 which are clearly against the petitioner.

In fact this is an appeal only against a departmental order passed by the Sub-Collector. ~~I suspect~~ It is submitted ~~that~~ ~~Govt. should~~ there are no grounds for interference.

C.R.
2 Jan 96.

Currah No 5-11 of 96

Draft order

Petition regarding a village office.

2635
6 July 196

When given for copying
When copied
When examined
When signed
} 189.

READ AGAIN G.O., No. 189 , DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT								
STATEMENT WITH DITTO								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.