M.R.O. 14–5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 352 — Press ~~Mis~~

132. 133

Dated 12 – 2 – 1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 12th February 1867.

No. 132. Read the following Proceedings of the Board of Revenue, dated 21st January 1867, No. 416.

Read again Board's Proceedings, dated 4th September 1866, No. 6,289.

Read also the following letters:—

From the Collector of Madura, to the Secretary to the Board of Revenue, dated 30th October 1866, No. 362.

1. In obedience to the order of the Board, dated 4th September last, No. 6,289, I have the honor to forward copy of the Sunnud therein referred to, bearing date the 13th July 1796. The Sunnud appears to have been granted for one year only, and was, I presume, annually renewed, until Mr. Hurdis, in 1803,* made a permanent settlement. The marginal correspondence bears on the subject of the issue of the Sunnuds in question.

* *Vide* from Mr. Hurdis, 6th April 1803, in Cons. 25th June 1804.
From Mr. Collector Wynch, to Board, dated 18th January 1795.
From Board, 6th June 1795.
To do. 13th ,, ,,

2. It will be seen that the form adopted in 1796 is an improvement on the one furnished to the Board with Mr. Wynch's letter, dated the 13th June 1795.

3. The description given of the Polliems in Mr. Wynch's Report, dated the 24th November 1795, shews that Guntama Naikenoor also was sequestered by Tippoo, and the Polligar was allowed to return after the Dindigul Province was made over to the East India Company. This supports my statement in paragraph 19 of my letter, quoted in the Proceedings under reply.

4. I beg to inform the Board that I forwarded with my letter, dated the 20th August 1862, No. 194, copy of the Decree of the late Provincial Court in No. 10 of 1824, which refers to the succession of a female to the Polliem of Sandiyoor.

5. Referring to Board Petition No. 2,241 of 1866, I beg to observe that I have already in my letter to the Board, read in the Proceedings under reply, alluded to the claims of petitioner; it is plain that the widow of the deceased Zemindar possesses a clear right to succeed her husband. It will be seen from the decree abovementioned that the widow of a childless Hindu possesses better claims to succeed her husband's estate, than his distant collateral relatives.

6. It has just been reported that one of the widows of the late Zemindar is six months with child; the Tahsildar of Pereakulom has been directed to inquire and report on the subject without delay: the result will be communicated to the Board.

Enclosure No. 1.—Sunnud.

Enclosure No. 2.—Petition.

From the same Officer, dated 21st November 1866, No. 379.

1. Referring to paragraph 6 of my letter, dated the 30th ultimo, No. 362, I have the honor to report that the result of the Tahsildar's inquiry into the matter goes to shew that Velandi Ammal, the second surviving widow of the deceased Polligar, is about six months with child, which is admitted by the other widows, and even by the senior widow, Veerasimmamal, whom I recommended to be allowed to succeed. The Polligar died on the 25th May.

2. The widows of the Polligar pray that Veerasimmamal be now recognized as successor of their husband until Velandi Ammal's delivery, and then if she

give birth to a son, he should be registered as Zemindar, and if the child be a female, she should succeed to the estate after the death of the widows. This proposal is consonant with the Hindu law of succession, and I, therefore, beg to recommend compliance with the above prayer.

Read Petition from Ramasamy Naiker, dated 18th June 1866, No. 2,241.

1. Ordered that the foregoing papers be submitted for the consideration and orders of Government.

2. The Guntama Naikenoor estate is an unsettled Polliem, the succession to which depends on the will of Government.

3. The late Polligar died on 25th May 1866, leaving four widows, but no surviving issue. One of the widows is, however, several months gone with child.

4. The late Polligar had applied for a permanent Sunnud in the terms of the Government Order on the general subject which is now under disposal.

5. When the Dindigul Province was under Tippoo's rule, he displaced the then Poligar and resumed the estate.

6. On the assumption of the Government by the British, they installed the eldest son of the displaced Polligar, and it is his grandson who lately died. The claimants to the estate are the widows of the deceased on behalf of themselves and the expected child of their late husband, and Ramasamy Naick, who claims as grandson in the junior line of the deposed Polligar of Tippoo's time, and as such is now the senior male representative of the family. He argues that, according to the custom of the family and caste, females cannot succeed to such estates.

7. The Collector advocates the recognition of the senior widow, pending the delivery of the second widow now with child. He cites to decisions of the Courts in opposition to Ramasamy Naick's plea; but the Board observe that in the Sandiyoor case, the estate was held under a permanent Sunnud, and that in the Errasaka Naikenoor case, the argument against the succession of a female was not brought forward at the proper time, and was on this ground rejected unheard.

8. The Board consider it premature to discuss this point when it is possible that a male heir may yet be born to the deceased Polligar, and they recommend that, pending the delivery of the widow, the Collector's management of the estate be continued, a liberal maintenance allowance being made to the family, and that the decision as to succession be postponed till after that event, which cannot now be long deferred.

No. 133. ORDER THEREON, 12th February 1867, No. 352.

Miscellaneous.

The [illegible] and sanction the temporary arrangement proposed by the Board, and await their further report.

(True extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

No. 6,289.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th September 1866.

Read the following letter from V. H. LEVINGE, Esq., Collector of Madura, to the Acting Secretary to the Board of Revenue, dated Vadakarai, Periakalom Taluk, 12th June 1866, No. 189:—

1. I have the honor to report, for the information of the Board and orders of Government, that Ramakistna Naik, Poligar of the Gandamanaikanoor Poliem, died on the 25th May without issue, leaving four widows.

2. The estate was what is called unsettled, held at the pleasure of Government, and was one of those estates, to the owners of which it was the intention of Government to give a permanent Title Deed.

3. On the 21st of May, the Poligar addressed me an Urzee, stating that he was in apprehension of death, and begging that his first wife, Virasinnammaul, might be allowed to succeed him. I have no doubt of the genuineness of this Urzee; it was given to me at Madura on the 25th of May by the Poligar's authorized Vakeel.

4. I directed the Tahsildar of the Taluk to proceed to the residence of the Poligar, and to ascertain if he had written it, and his wishes; but before the Tahsildar got my order, the Poligar had died on the 25th May.

5. I have attached the Poliem only, pending the orders of Government, leaving all the private property in the possession of the widows, into whose possession it all came on the death of the Poligar.

6. The eldest widow, Virasinnammaul, claims to succeed, and there is a claim advanced by one Ramasawmi Naik, as nearest male relative of the deceased.

7. I enclose a Geneological tree of the family, which has been copied from those furnished by the claimants, and I think it may be considered a true statement of the relationship of the different members of the family.

8. I think that according to Hindoo law the widow in this case is the party to succeed to her husband's property, but there is the following objection.

9. It has been reported to the Board and Government in the marginally noted correspondence that according to the custom of the caste to which the parties belong, "Combala Totier," that a female cannot succeed to a Poliem. On the other hand in two instances in this District this custom has been departed from.

Letter to Board dated 6th September 1853, No. 95.
Do. from do. to Government, dated 1st May 1854, No. 117.

10 The Poliem of Sandiyoor is now held by a woman, and the Poliem of Errasackanaikenoor has been held by three females in succession, and lately the Privy Council has decided in favor of the present female proprietor of Errasackanaikenoor against Government, Government having appealed against the decision of the Madura Civil Court passed in her favor, on the ground that a female could not succeed.

11. However, I have to bring to notice that in the case of the family now under reference, the widows have been passed over on two occasions. Condal Nagama Naik was the first Poligar under the Honorable Company's Government. He was succeeded by his son, Moottoovelappa Naik, who died childless; his widow, still alive, was passed over, and the estate went to Condal Nagama Naik's son, Vellyasami Naik, by his second wife. Vellyasami Naik died childless, leaving a widow, Seelakammaul, still alive. She did not succeed, and Vellyasami Naik was succeeded by his brother's son, Ramakistna Naik, now deceased.

12. But I do not think the plea, that, in the Combala Totier caste, a female cannot succeed to her husband's property, will stand in the Law Courts, Nor, in the case of the Ryots of that caste, they do succeed. It seems to me that the Poligars of that caste, who, under the Native Government, held a Military command, were of necessity succeeded by male relatives, or others, at the pleasure of the native Ruler, to the exclusion of their female relatives, not as a matter of caste custom, but as a matter of policy, the position required to be filled by a Military man, and no other person but a male, would do for the post. Our Courts have now twice set aside such a custom if it ever did exist, and have applied the Hindoo law of succession to the people of this Combala Totier caste of the rank of Poligar.

13. Under our Government, the status of the Poligar has become completely changed; his Military, &c., powers having been taken from him, he has been reduced to the rank of a simple

extensive landed proprietor, and, therefore, there is no reason why the same law should not apply to him as to a small proprietor or Ryot of the same caste.

14. Had the permanent Sunnud, which all along it has been the intention of Government to give to these Poligars, been given, I think there can be no doubt the deceased's widow must have succeeded, and, therefore, I beg to recommend that the deceased Poligar's widow, Virasinnammaul, be allowed to succeed.

15. The deceased did not adopt or give his widow authority to adopt, and, therefore, if the Government recognize Virasinnammaul, at her death the property should descend to all the widows in succession, and after them, this Poliem would escheat to Government for want of heirs.

16. Ramasami Naik, an old man, claims to succeed; he is the son of the third son of the second wife of Velappa Naik, the father of Condal Nagama Naik, who was restored by the Honorable Company in 1797.

17. Ramasami Naik's claim seems to be barred on the following grounds, and it is a point for the law officers to give an opinion upon.

18. Before the Honorable East India Company conquered the Dindigul Province from Tippoo Sultan, Tippoo sequestered the Poliem of Gandama Naikanoor along with several other Poliems, and, therefore, by a competent authority, Velapa Naik's descendants had lost their right to the property.

19. The Company's Government, on its conquest of Dindigul, as a matter of favor, restored the Poliem to Condal Nagama Naik under a Sunnud, which is still in existence, signed by Mr. Harrington with the sanction of the Government of Fort Saint George, under the conditions that he was to hold the Poliem as long as he paid his kists regularly, and conformed to the Government Regulations, and, therefore, I don't think that the restoration of the estate by the then Government to Condal Nagama Naik revived the rights sequestered by Tippoo Sultan, and if such is the case, after the widows, there are no heirs, and the estate must become an escheat.

ENCLOSURE No. 1.

ABSTRACT.—Geneological tree of the family of the Gandama Naikanoor Zemindar.

The Collector will forward, as speedily as possible, a copy or translation of the Sunnud referred to in the concluding paragraph of the above letter, and will give the dates of any correspondence on the subject that was held with the Board or Government relative to its issue. He will also refer the Board to any correspondence or published decrees having reference to the succession of a female to the Poliem of Saudiyoor, mentioned at paragraph 10 of his letter.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To the Collector of Madura.

Exd. T. Cartledge.

Dated 4th September 1866.

Received

No. 6,289,

Requesting Collector of Madura to forward copy or translation of Sunnud granted by East India Company's Government for Gandamanaikanoor Poliem, and to give dates of any correspondence that may have been held on the subject, and of any correspondence or published decrees relating to the succession of a female to Sandiyoor Poliem.

1866. Department.

PROCEEDINGS OF THE BOARD OF REVENUE,

No.

To the Secretary to Government, Revenue Department,
with Sunnud and Petition, and Board's Proceedings, 4th September 1866, No. 6,289.

Copy to the Collector of Madura.

Exd. J. Wright.

Secretary.

Rev. 1867. Department.

Proc of Govt for Feby

No. 271.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 21st January 1867.

No. 416.

Submitting letters from Collector of Madura regarding succession to Guntama Naikenoor estate, and recommending that the estate be continued under the Collector's management pending birth of the child expected by second widow of late Zemindar.