Revenue (1899) Department.

PRESS SERIES.

G.O., No. 615

Dated 12th September 99

[Despatch Abstract.]

Agreeing with the Bd of Rev that the [illegible] of the State to the proprietorship of the reclaimed [illegible] [illegible] of Malabar amsam as an escheat should be asserted and authorizing the Bd [illegible] to take the necessary steps for the purpose

619

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C no 2701/02							

Revenue (1899) Department.

CURRENT No. 4526

GOVERNMENT OF MADRAS
25 JUL 99
REVENUE DEPARTMENT

From

The Board of Revenue,
Land Revenue, Madras.

Order

REF. A. No. 246

Dated 21st July 1899
Received 25th do
Registered do
Enclosures 6.
Spare copies

SUBJECT.

Requesting sanction of Government to declare the properties left by one Vallikat Lakshmi amma of the Melathur amsam, Walavanad Taluk, to be escheat.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

18

Office of the Board of Revenue
/Land Revenue/
Madras, dated 21st July 1899.

Mr. F. A. Nicholson

Reference A. No. 246, dated 21st July 1899.

One Vallikat Lakshmi amma of the Melathur Amsam in the Walavanad taluk of Malabar, the last surviving member of her Tarawad, died on the 28th March 1897, leaving property of the net value of Rs. 9844.6.2. The question of declaring this property to be escheat was considered in 1897 but it was then decided not to interfere on behalf of Government, as Lakshmi amma had left a registered will dated 13th March 1897 disposing of her estate.

	Rs. as. ps.
57 items of immoveable properties worth about-----	11000.0.0
Moveable properties worth -------	517.8.6
	11517.8.6.
Deduct debts due by the de~~mand~~ceased -- exclusive of interest.	1673.2.4.
Net value-----	9844.6.2.

Narayanan Nayar
and
Raman Nayar

2. The legatees under this will instituted a suit for probate in the District Court of South Malabar ~~agx~~ against three of the legatees under another will-- unregistered and bearing date the 20th February '97. The District Judge found the registered will to be null and void on the ground that at the time of execution the testatrix was not conscious and in a fit state of mind to understand the terms and effect thereof; this decision was upheld by the High Court on appeal.

Copy of Judgment
~~xx~~ enclosed.

3. As regards the unregistered will, the --- District Judge remarked in his judgment that the - legatees thereunder made ~~an~~ no attempt to prove it. The Tahsildar on enquiring into the validity of the same will reported on the ---- strength of the oral evidence of two witnesses, that it was a ---- forged document written long after the death of the deceased and ante-dated.

4. As it thus appeared that both wills were invalid, -- the Collector published a notice in the District Gazette for De- cember 1898 and subsequent months under para 4 of S.O. No. 279 (6th Edition) inviting claims to the deceased's properties. The following

claimants appeared in response to the notice:-

	Items claimed out of the properties specified in the schedule to the notice in the District Gazette.
(1) Nilakandan Nambudiri	Items Nos.38 & 51,a temple and garden & item No.52.
(2) Kunhikrishna Menon & two others (~~in~~ the children of the deceased's Karnavan.)	All the immoveable properties excepting items 38 and 51.
(3) Th~~i~~rikkandiyur Krishna Menon.	Items Nos.6,8 and 9.
(4) Vallikat Kunhan Nayar	Item No.10
(5) Vallikat Krishnan Nayar	All the deceased's properties.

The Special Assistant Collector made an enquiry into these claims and passed an order on the 26th May 1899.Mr.Holland found that the right of claimant No.(1) Nilakandan Nambudiri to the items of property bearing numbers 38 and 51 and to a temple and garden was borne out by the certified copy of the janmam deed dated 6th March 1893 on which it was based,but considered that some further investigation was necessary before the claim could be finally admitted.The rest of the same individual's claim viz.as regards item No.52 and the claims of Nos.(2),(3) & (4),which were alike based on the unregistered will,were rejected with the remark,among others,that "for the purposes "of this enquiry the ~~xx~~ fact that the will is unregistered and that no "attempt has been made to prove it during two years must render it invalid at present as a basis of claim".The claim of No (5) Vallikat Krishnan Nayar,was also rejected for default of appearance and failure to adduce any proof of the relationship on the strength of which the claim was based.The Special Assistant Collector further referred to an important declaration made by the deceased in the document executed by her in favour of the 1st claimant on the 6th March 1893,viz.that she was then the only surviving member of her Tarward.Having thus come to the conclusion that there are,prima facie,no heirs to the ~~xxx~~ deceased's properties,the Special Assistant Collector recommended that they might be declared escheat subject to the determination,in due course,of the 1st claimant's right to items 38 & 51 and of the kanam right set up by others to certain other lands in the course of the enquiry;and the Collector supports this recommendation.

× Copy enclosed.

5. Of the moveable properties left by the deceased,articles worth Rs.410 have been attached by,and are in the custody of,the District Munsiff of Angadipuram in connection with a suit.The rest were -

taken

28

taken possession of by the Revenue Officers and will be dealt with by the District Court under section 16,clause 7,of Regulation III of 1802.

6. In the interval between the publication of the Collector's notice and the commencement of the Special Assistant Collector's enquiry,two persons named Krishna Pattar and Lakshmi,filed 4 suits against the legatees under the registered and unregistered wills and Government for the recovery of certain debts alleged to be payable to them out of the deceased's estate.One of the debts was admitted and the rest denied in the written statements filed on behalf of Government;it was further urged that the legatees had not acquired any valid right over the deceased's properties and that the suits had been instituted at their instance and at their cost with the object of creating an interest in the said properties in their favour.The suits are posted for hearing on the 18th proximo.

		Rs.as.ps.
× Krishna Pattar	O.S.No.14 of 1899	150.0.0
DO.	15 of 1899	100.0.0
DO.	S.C.S. 9 of 1899	27.0.0
Lakshmi	O.S.No.75 of 1899	141.12.11
		418.12.11

7. In the circumstances the Board requests that Government should declare the deceased Lakshmi amma's properties to be escheat.It is true that the mere omission to register the will dated 20th February 1897 and the delay of 2 years in applying for probate are not conclusive evidence of its invalidity;but the enquiry made by the Tahsildar of Walavanad points clearly to the conclusion that the will is of no value.

Lionel Davidson

Ag.Secretary.

To the Secretary to Government,Revenue Department,with a file of papers to be returned.

Q.B.

[illegible]
22.7.99

• Vide section 18 (e) of the Registration Act III of 1877.

+ Vide I.L.R.6 Cal.707 and I.L.R.7 Bom.213

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Lionel Davidson

Ag. Secretary.

To the Secretary to Government, Revenue Department, with a file of papers to be returned.

Q.B.

4.92
22.7.99

---

[*] Vide section 18 (e) of the Registration Act III of 1877.

[+] Vide I.L.R.6 Cal.707 and I.L.R.7 Bom.213

D/4 1,920—14-3-99.

REVENUE DEPARTMENT

C. No. 4826 of 1899.

From the Board of Revenue (L.R.)

Dated 21 July 1899.

FOR ORDERS.

To The Under Secretary.

In the paper read above, the Board recommends that the property left by one Vallikat Lakshmi amma in the Walawanad taluk may be declared escheat. The net value of the estate is estimated at Rs 9,844-6-2 but the exact value can be determined only after the claims referred to in the concluding portion of para 4 of the Board's Ref. are finally settled & the debts due by the estate which have been calculated exclusive of the interest due as per documents, are discharged.

Para 7 of the current.

Para 1 of the current.

Vide statement which is marked as encl. No 2. to the current.

2. ~~Under para 5 of S.O. No 279 ([illegible])~~ Escheated estates or property not exceeding Rs 1,000 in value are disposed of by the local Govt. without previous reference to the Govt. of India but subject to the submission

Para 6 of S.O. No 279 dated

F Vide. G.O. 850 Rev. 21.7.85.

2

FOR ORDERS.

to them of an annual statement of cases so disposed of and when the value of the property exceeds Rs 1000 the case must be reported for the orders of the Government of India. It has been held that where the property exceeds Rs 1000 in value the case must be referred for the orders of the Govt. of India before it is *finally* disposed of and not before any action can be taken to enquire into the merits of the case. The property left by Vallikat Lakshmi Amma may ~~be~~, it is submitted, be declared escheat & the Board directed to submit a further report after the claims referred to in the concluding portion of para 4 of its Ref are finally settled & the debts due by the estate are discharged.

Vide H.M's remarks in the note flagged D under f.p. $\frac{724}{15\text{-}8\text{-}93}$

For precedent please see G.O. $\frac{924}{22\text{-}2\text{-}90}$ E.

C.R.
4/8/99.

4/8/99

Sen
4/8/99

H. May
The B. of R. recom-mendation be accepted?
H T
19.8.99.

I have never been able to understand what effect a "declaration" by Govt. that certain property is an escheat is supposed to have? The declaration has no legal force or effect has it? All that we mean is that the claim of the State to the property as an escheat will be asserted –
Is it not enough to say "The Govt. agrees with the Board that the claim of the State to the property of the deceased … as an escheat should be asserted, & authorises the Board to take the necessary steps for the purpose – a further report shd. be submitted in due course when the claims against the Estate have been enquired into & settled"

H.S.
24-8-99.

3

J

To The Under Secretary.

For the law, decisions & orders on the subject of escheats please see printed note stitched with f.p. No 93 Rev. of 21-1-85. A declaration by Govt. that a certain property is an escheat does not seem to have any legal effect; it is not even published in the Official Gazette. The Collector invites by a notice published in the District Gazette claimants to any property which he considers should be escheated to Govt. for want of heirs &c. and if he is satisfied that none of the claimants are ~~not~~ entitled to succ

FOR ORDERS.

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For precedent please see G.O. 924/22-2-90 E.

4/8/99.

Sen
11/8/99.

H.M. May the B. of R. recommendation be accepted?
19/8/99.

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to the property he submits the case through the Board for the orders of Govt. In making the declaration that the property is an escheat the Govt. accepts the Collector's finding & asserts itself to be the rightful claimant to the property. Such a declaration by Govt. seems to be necessary to enable the Collector to proceed further. It is open to other claimants to dispute the right of Govt. to succeed to the property. With ref. to the provisions of the Limitation Act it is distinctly provided in the S.O. that real property which has escheated to Govt. should not ~~be~~ ordinarily be sold until it has been twelve years in the possession of Govt. For cases in which despite the declaration made by Govt. ~~that~~ the property was escheat suits had to be filed for the recovery of the property please see G.O. No 1083
of 21-10-92 & No 3571 of 12-9-94 G K
No 958 of 12-9-92 & No 431 of 30-1-96. M; L.

vide Govt. Pleader's letter in f.p. 817 Rev. / 7-8-92 N

Para 4 of S.O. in f.p. 850 Rev. / 21-7-85 F

C.R.
2/9/99

Secy

There appears to be no objection to the order suggested by the H.M.

H.M.

U.S.

So may issue
H.S.
8-9-99

7999. To Under Secretary
Please see order copied out on a separate sheet & submitted below.
12-9-99

Jmc as ordered

Revenue Dept

Read Board's Reference A No. 246 of 21-7-99 (enc. 4826 of 99)

G.O. (Press) No. 615 dated 12th September 1899

The Government agrees with the Board that the claim of the State to the property of the deceased Lakshmi amma as an escheat should be asserted, and authorizes the Board to take the necessary steps for the purpose. A further report should be submitted in due course when the claims against the estate have been enquired into and settled.

(Issue orders)

12/ix/99

Jmc

Dis. 25-9-99

To
The Board of Rev. (L.R.) with enclosures
Copy to the Accountant-Genl

40/3

12-9-99

Government (1899) of Madras.

REVENUE.

Recd. } 1899. *Enclosures*

Regd. *Spare copies*

G.O., No. 615, 12th September 1899.

SEPTEMBER.

Escheat.

Agreeing with the Board of Revenue that the claim of the State to the property of the deceased Lakshmiamma of Melatúr amsam, Walavanad taluk, Malabar district, as an — should be asserted; and authorizing the Board to take the necessary steps for the purpose; and directing the Board to submit in due course a further report when claims against the estate have been inquired into and settled.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following Reference from the Board of Revenue (Land Revenue), A. No. 246, dated 21st July 1899 :—

Mr. F. A. Nicholson.

Reference—A. No. 246, dated 21st July 1899.

One Vallikat Lakshmiamma, of the Melatúr amsam, in the Walavanad taluk of Malabar, the last surviving member of her tarawad, died on the 28th March 1897, leaving property of the net value of Rs. 9,844-6-2.* The question of declaring this property to be escheat was considered in 1897, but it was then decided not to interfere on behalf of Government, as Lakshmiamma had left a registered will, dated 13th March 1897, disposing of her estate.

	RS.	A.	P.
* Fifty-seven items of immoveable properties worth about	11,000	0	0
Moveable properties worth.	517	8	6
Total ...	11,517	8	6
Deduct debts due by the deceased, exclusive of interest.	1,673	2	4
Net value ...	9,844	6	2

2. The legatees† under this will instituted a suit for probate in the District Court of South Malabar against three of the legatees under another will unregistered and bearing date the 20th February 1897. The District Judge found the registered will to be null and void on the ground that, at the time of execution, the testatrix was not conscious and in a fit state of mind to understand the terms and effect thereof; this decision was upheld (copy of judgment enclosed) by the High Court on appeal.

3. As regards the unregistered will, the District Judge remarked in his judgment that the legatees thereunder made no attempt to prove it. The Tahsildar, on inquiring into the validity of the same will, reported on the strength of the oral evidence of two witnesses that it was a forged document written long after the death of the deceased and ante-dated.

4. As it thus appeared that both wills were invalid, the Collector published a notice in the District Gazette for December 1898 and subsequent months, under paragraph 4 of Standing Order No. 279 (Old edition), inviting claims to the deceased's properties. The following claimants appeared in response to the notice :—

	Items claimed out of the properties specified in the Schedule to the notice in the District Gazette.
(1) Nilakandan Nambudiri	Items Nos. 38 and 51, a temple and garden, and item No. 52.
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(3) Thrikkandiyur Krishna Menon	
(4) Vallikat Kunhan Nayar	Items Nos. 6, 8 and 9.
(5) Vallikat Krishnan Nayar	Item No. 10.
	All the deceased's properties.

---

† Narayanan Nayar and Raman Nayar.

The Special Assistant Collector made an inquiry into these claims and passed an order (copy enclosed) on the 26th May 1899. Mr. Holland found that the right of claimant No. (1) Nilakandan Nambudiri to the items of property bearing Nos. 38 and 51 and to a temple and garden was borne out by the certified copy of the janmam-deed, dated 6th March 1893, on which it was based but considered that some further investigation was necessary before the claim could be finally admitted. The rest of the same individual's claim, viz., as regards item No. 52 and the claims of Nos. (2), (3) and (4), which were alike based on the unregistered will, were rejected, with the remark, among others, that "for the purposes of this inquiry the fact that the will is unregistered and that no attempt has been made to prove it during two years must render it invalid at present as a basis of claim." The claim of No. (5) Vallikat Krishnan Nayar was also rejected for default of appearance and failure to adduce any proof of the relationship on the strength of which the claim was based. The Special Assistant Collector further referred to an important declaration made by the deceased in the document executed by her in favour of the first claimant on the 6th March 1893, viz., that she was then the only surviving member of her tarawad. Having thus come to the conclusion that there are *primâ facie* no heirs to the deceased's properties, the Special Assistant Collector recommended that they might be declared escheat subject to the determination, in due course, of the first claimant's right to items 38 and 51 and of the kanom right set up by others to certain other lands in the course of the inquiry, and the Collector supports this recommendation.

5. Of the moveable properties left by the deceased, articles worth Rs. 410 have been attached by, and are in the custody of, the District Munsif of Angádipuram in connection with a suit. The rest were taken possession of by the Revenue officers and will be dealt with by the District Court under section 16, clause 7, of Regulation III of 1802.

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	RS.	A.	P.
* Krishna Pattar (O.S., No. 14 of 1899)	150	0	0
Krishna Pattar (O.S., No. 15 of 1899)	100	0	0
Krishna Pattar (S.C.S. No. 9 of 1899)	27	0	0
Lakshmi (O.S., No. 75 of 1899).	141	12	11
Total ...	418	12	11

7. In the circumstances the Board requests that Government should declare the deceased Lakshmiamma's properties to be escheat. It is true that the mere omission† to register the will, dated 20th February 1897, and the delay of two years in applying‡ for probate are not conclusive evidence of its invalidity; but the inquiry made by the Tahsildar of Walavanad points clearly to the conclusion that the will is of no value.

(Signed) LIONEL DAVIDSON,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with a file of papers to be returned.

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† *Vide* section 18 (*e*) of the Registration Act III of 1877.

‡ *Vide* I.L.R., 6 Calcutta, 707, and I.L.R., 7 Bombay, 213.

ORDER—No. 615, Revenue, dated 12th September 1899.

Miscellaneous.

The Government agrees with the Board that the claim of the State to the property of the deceased Lakshmiamma as an escheat should be asserted, and authorizes the Board to take the necessary steps for the purpose. A further report should be submitted in due course when the claims against the estate have been inquired into and settled.

(True Extract.)

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

To the Board of Revenue (Land Revenue), with enclosures.
Copy to the Accountant-General.

Exd. W. D'Moss

60 Copies.

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Despatched in print.

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- Order complete with Letter.

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

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP BEING MEANT FOR DESPATCH IN ORIGINAL.

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

Revenue (1899) Department.

PRESS SERIES.

G.O., No. 615

Dated 12th September 99

[Despatch Abstract.]

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

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G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C no. 2701/02							

Revenue (1899) Department.

CURRENT No. 4526

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25 JUL 99
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From

The Board of Revenue,
Land Revenue, Madras.

Order

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Registered – do –
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enclosed.

3. As regards the unregistered will, the District Judge remarked in his judgment that the legatees thereunder made ~~an~~ no attempt to prove it. The Tahsildar on enquiring into the validity of the same will reported on the strength of the oral evidence of two witnesses, that it was a forged document written long after the death of the deceased and ante-dated.

4. As it thus appeared that both wills were invalid, the Collector published a notice in the District Gazette for December 1898 and subsequent months under para 4 of S.O. No. 279 (6th Edition) inviting claims to the deceased's properties. The following

claimants appeared in response to the notice:-

	Items claimed out of the properties -- specified in the schedule to the notice in the District Gazette.
(1) Nilakandan Nambudiri	Items Nos.38 & 51, a temple and garden & item No.52.
(2) Kunhikrishna Menon & two others (~~in~~ the children of the deceased's Karnavan.)	All the immoveable properties excepting items 38 and 51.
(3) Thirikkandiyur Krishna Menon.	Items Nos.6,8 and 9.
(4) Vallikat Kunhan Nayar	Item No.10
(5) Vallikat Krishnan Nayar	All the deceased's properties.

The Special Assistant Collector made an enquiry into these claims and passed an order on the 26th May 1899. Mr. Holland found that the right of claimant No.(1) Nilakandan Nambudiri to the items of property bearing numbers 38 and 51 and to a temple and garden was borne out by the certified copy of the janmam deed dated 6th March 1893 on which it was based, but considered that some further investigation was necessary before the claim could be finally admitted. The rest of the same individual's claim viz. as regards item No.52 and the claims of Nos.(2),(3) & (4), which were alike based on the unregistered will, were rejected with the remark, among others, that "for the purposes "of this enquiry the fact that the will is unregistered and that no "attempt has been made to prove it during two years must render it invalid at present as a basis of claim". The claim of No (5) Vallikat Krishnan Nayar, was also rejected for default of appearance and failure to adduce any proof of the relationship on the strength of which the claim was based. The Special Assistant Collector further referred to an important declaration made by the deceased in the document executed by her in favour of the 1st claimant on the 6th March 1893, viz. that she was then the only surviving member of her Tarwad. Having thus come to the conclusion that there are, prima facie, no heirs to the deceased's properties, the Special Assistant Collector recommended that they might be declared escheat subject to the determination, in due course, of the 1st claimant's right to items 38 & 51 and of the kanam right set up by others to certain other lands in the course of the enquiry; and the Collector supports this recommendation.

× Copy enclosed.

5. Of the moveable properties left by the deceased, articles worth Rs.410 have been attached by, and are in the custody of, the District Munsiff of Angadipuram in connection with a suit. The rest were

taken

2P

taken possession of by the Revenue Officers and will be dealt with by the District Court under section 16, clause 7, of Regulation III of 1802.

6. In the interval between the publication of the Collector's notice and the commencement of the Special Assistant Collector's enquiry, two persons named Krishna Pattar and Lakshmi, filed 4 suits against the legatees under the registered and unregistered wills and Government for the recovery of certain debts alleged to be payable to them out of the deceased's estate. One of the debts was admitted and the rest denied in the written statements filed on behalf of Government; it was further urged that the legatees had not acquired any valid right over the deceased's properties and that the suits had been instituted at their instance and at their cost with the object of creating an interest in the said properties in their favour. The suits are posted for hearing on the 18th proximo.

		Rs.as.ps.
× Krishna Pattar--	O.S.No.14 of 1899..	150.0.0
--- DO.---	----- 15 of 1899..	100.0.0
--- DO.---	S.C.S. 9 of 1899..	27.0.0
Lakshmi	O.S.No.75 of 1899..	141.12.11
		418.12.11

7. In the circumstances the Board requests that Government should declare the deceased Lakshmi amma's properties to be escheat. It is true that the mere omission to register the will dated 20th February 1897 and the delay of 2 years in applying for probate are not conclusive evidence of its invalidity; but the enquiry made by the Tahsildar of Walavanad points clearly to the conclusion that the will is of no value.

* Vide section 18 (e) of the Registration Act III of 1877.

+ Vide I.L.R.6 Cal.707 and I.L.R.7 Bom.213

Lionel Davidson

Ag. Secretary.

To the Secretary to Government, Revenue Department, with a file of papers to be returned.

Q.B.

22.7.99

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	Items claimed out of the properties -- specified in the schedule to the notice in the District Gazette.
(1) Nilakandan Nambudiri	Items Nos.38 & 51, a temple and garden & item No.52.
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(5) Vallikat Krishnan Nayar	All the deceased's properties.

The Special Assistant Collector made an enquiry into these claims and passed an order on the 26th May 1899. Mr. Holland Copy enclosed. found that the right of claimant No.(1) Nilakandan Namudiri to the items of property bearing numbers 38 and 51 and to a temple and garden was borne out by the certified copy of the jenmam deed dated 6th March 1893 on which it was based, but considered that some further investigation was necessary before the claim could be finally admitted. The rest of the same individual's claim viz. as regards item No.52 and the claims of Nos.(2),(3) & (4), which were alike based on the unregistered will, were rejected with the remark, among others, that "for the purposes "of this enquiry the fact that the will is unregistered and that no "attempt has been made to prove it during two years must render it invalid at present as a basis of claim". The claim of No (5) Vallikat Krishnan Nayar, was also rejected for default of appearance and failure to adduce any proof of the relationship on the strength of which the claim was based. The Special Assistant Collector further referred to an important declaration made by the deceased in the document executed by her in favour of the 1st claimant on the 6th March 1893, viz. that she was then the only surviving member of her Tarwad. Having thus come to the conclusion that there are, prima facie, no heirs to the deceased's properties, the Special Assistant Collector recommended that they might be declared escheat subject to the determination, in due course, of the 1st claimant's right to items 38 & 51 and of the kanam right set up by others to certain other lands in the course of the enquiry; and the Collector supports this recommendation.

5. Of the moveable properties left by the deceased, articles worth Rs.410 have been attached by, and are in the custody of, the District Munsiff of Angadipuram in connection with a suit. The rest were taken possession of by the Revenue Officers and will be dealt with by the District Court under section 16, clause 7, of Regulation III of 1802.

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DO.	15 of 1899	100.0.0
DO.	S.C.S. 9 of 1899	27.0.0
Lakshmi	O.S.No.75 of 1899	141.12.11
		418.12.11

7. In the circumstances the Board requests that Government should declare the deceased Lakshmi ammas properties to be escheat. It is true that the mere omission* to register the will dated 20th February 1897 and the delay of 2 years in applying+ for probate are not conclusive evidence of its invalidity; but the enquiry made by the Tahsildar of Walavanad points clearly to the conclusion that the will is of no value.

Lionel Davidson

Ag. Secretary.

To the Secretary to Government, Revenue Department, with a file of papers to be returned.

Q.B.

4976
22.7.99

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* Vide section 18 (e) of the Registration Act III of 1877.

+ Vide I.L.R.6 Cal.707 and I.L.R.7 Bom.213

D/4 1,920—14-3-99.

REVENUE DEPARTMENT

C. No. 4826 of 1899.

From the Board of Revenue (L.R.)

Dated 21 July 1899.

FOR ORDERS.

To The Under Secretary.

In the paper read above, the Board recommends that the property left by one Vallikat Lakshmi amma in the Walawanad taluk may be declared escheat. The net value of the estate is estimated at Rs 9,844-6-2 but the exact value can be determined only after the claims referred to in the concluding portion of para 4 of the Board's Ref. are finally settled & the debts due by the estate which have been calculated exclusive of the interest due as per documents, are discharged.

Para 7 of the current.

Para 1 of the current.

Vide statement which is marked as encl. No 2. to the current.

2. ~~Under para 6 of S.O. No. 279 [illegible]~~ Escheated estates or property not exceeding Rs 1,000 in value are disposed of by the local Govt. without previous reference to the Govt. of India but subject to the submission

Para 6 of S.O. No 279 [illegible]

Vide G.O. 850 Rev / 21.7.85.

to them of an annual statement of cases so disposed of and when the value of the property exceeds Rs 1000 the case must be reported for the orders of the Government of India. It has been held that where the property exceeds Rs 1000 in value the case must be referred for the orders of the Govt of India before it is finally disposed of and not before any action can be taken to enquire into the merits of the case. The property left by Vallikat Lakshmi Amma may ~~be~~ it is submitted be declared escheat & the Board directed to submit a further report after the claims referred to in the concluding portion of para 4 of its Ref are finally settled & the debts due by the estate are discharged.

C.R.
4/8/99.

Seen
4/8/99

H. M.
The B. of R's recommendation be accepted?
H T
19/8/99.

FOR ORDERS.

Vide H.M's remarks in the note flagged D under f.p. $\frac{724}{15\text{-}8\text{-}93}$.

For precedent please see G.O. $\frac{924}{22\text{-}2\text{-}98}$ E.

I have never been able to understand what effect a "declaration" by Govt. that certain property is an escheat is supposed to have? The declaration has no legal force or effect has it? All that we mean is that the claim of the State to the property as an escheat will be asserted –

Is it not enough to say "The Govt. agrees with the Board that the claim of the State to the property of the deceased … as an escheat should be asserted, & authorises the Board to take the necessary steps for the purpose – a further report shd be submitted in due course when the claims against the Estate have been enquired into & settled".

H.W.
24-8-99.

J

To The Under Secretary.

For the law, decisions & orders on the subject of escheats please see printed note stitched with f.p. No 93 Rev. 21-1-85. A declaration by Govt. that a certain property is an escheat does not seem to have any legal effect; it is not even published in the Official Gazette. The Collector invites by a notice published in the District Gazette claimants to any property which he considers should be escheated to Govt. for want of heirs &c. and if he is satisfied that none of the claimants are ~~not~~ entitled to such to them of an annual statement of cases so disposed of and when the value of the property exceeds Rs 1000 the case must be reported for the orders of the Government of India. It has been held that where the property exceeds Rs 1000 in value the case must be referred for the orders of the Govt. of India before it is _finally_ disposed of and not before any action can be taken to enquire into the merits of the case. The property left by Vallikat Lakshmi Amma may ~~be~~ it is submitted be declared escheat & the Board directed to submit a further report after the claims referred to in the concluding portion of para 4 of its Ref are finally settled & the debts due by the estate are discharged. 4/8/99

C.R.
4/8/99

Seen
11/8/99

H.M. May
The B. of R. recommendation be accepted?
H.T.
19/8/99

FOR ORDERS.

Vide H.M's remarks in the note flagged D under f.p. 724 / 15-8-93.

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24-8-99.

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to the property he submits the case through the Board for the orders of Govt. In making the declaration that the property is an escheat the Govt. accepts the Collector's finding & asserts itself to be the rightful claimant to the property. Such a declaration by Govt. seems to be necessary to enable the Collector to proceed further. It is open to other claimants to dispute the right of Govt. to succeed to the property. With ref. to the provisions of the Limitation Act it is distinctly provided in the S.O. ~~that~~ real property which has escheated to Govt. should not ~~be~~ ordinarily be sold until it has been twelve years in the possession of Govt. For cases in which despite the declaration made by Govt. ~~that~~ the property was escheat suits had to be filed for the recovery of the property please see G.O. No 1083 d. 21-10-92 & No 3571 d/12-9-94 No 958 d. 12-9-92 & No 431 d. 30-1-96.

vide Govt. Pleader's letter in f.p. $\frac{817 \text{ Rev.}}{7\text{-}8\text{-}92}$ N

Para 4 of S.O. in f.p $\frac{850 \text{ Rev.}}{21\text{-}7\text{-}85}$ F

G

K

M; L.

C.R.
2/9/99

Secy

There appears to be no objection to the order suggested by the H. M.

CRW

H. M.

Order may issue

7.9.99

To Under Secretary
Please see order copied out on a separate sheet & submitted below.

CMN
12.9.99

as ordered

Revenue Dept

Read Board's Reference A no. 246 d/21-7-99 (enc. 4826 of 99)

G.O. (Press) No. 615 d/12th September 1899

The Government agrees with the Board that the claim of the State to the property of the deceased Lakshmi amma as an escheat should be asserted, and authorizes the Board to take the necessary steps for the purpose. A further report should be submitted in due course when the claims against the estate have been enquired into and settled.

(From orders)

12/IX/99

Ret. 25-9-99

To
The Board of Rev. (L.R.) with enclosures
Copy to the Accountant-Genl

40/3

CMN
12.9.99

Government (1899) of Madras.

REVENUE.

Recd. } 1899. *Enclosures*

Regd. } *Spare copies*

G.O., No. 615, 12th September 1899.

SEPTEMBER.

Escheat.

Agreeing with the Board of Revenue that the claim of the State to the property of the deceased Lakshmiamma of Melatúr amsam, Walavanad taluk, Malabar district, as an — should be asserted ; and authorizing the Board to take the necessary steps for the purpose ; and directing the Board to submit in due course a further report when claims against the estate have been inquired into and settled.

Time
Ordered to

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following Reference from the Board of Revenue (Land Revenue), A. No. 246, dated 21st July 1899 :—

Mr. F. A. Nicholson.

Reference—A. No. 246, dated 21st July 1899.

One Vallikat Lakshmiamma, of the Melatúr amsam, in the Walavanad taluk of Malabar, the last surviving member of her tarawad, died on the 28th March 1897, leaving property of the net value of Rs. 9,844–6–2.* The question of declaring this property to be escheat was considered in 1897, but it was then decided not to interfere on behalf of Government, as Lakshmiamma had left a registered will, dated 13th March 1897, disposing of her estate.

	RS.	A.	P.
* Fifty-seven items of immoveable properties worth about	11,000	0	0
Moveable properties worth.	517	8	6
Total ...	11,517	8	6
Deduct debts due by the deceased, exclusive of interest.	1,673	2	4
Net value ...	9,844	6	2

2. The legatees† under this will instituted a suit for probate in the District Court of South Malabar against three of the legatees under another will unregistered and bearing date the 20th February 1897. The District Judge found the registered will to be null and void on the ground that, at the time of execution, the testatrix was not conscious and in a fit state of mind to understand the terms and effect thereof ; this decision was upheld (copy of judgment enclosed) by the High Court on appeal.

† Narayanan Nayar and Raman Nayar.

3. As regards the unregistered will, the District Judge remarked in his judgment that the legatees thereunder made no attempt to prove it. The Tahsildar, on inquiring into the validity of the same will, reported on the strength of the oral evidence of two witnesses that it was a forged document written long after the death of the deceased and ante-dated.

4. As it thus appeared that both wills were invalid, the Collector published a notice in the District Gazette for December 1898 and subsequent months, under paragraph 4 of Standing Order No. 279 (Old edition), inviting claims to the deceased's properties. The following claimants appeared in response to the notice :—

	Items claimed out of the properties specified in the Schedule to the notice in the District Gazette.
(1) Nilakandan Nambudiri	Items Nos. 38 and 51, a temple and garden, and item No. 52.
(2) Kunhikrishna Menon and two others (the children of the deceased's karnavan).	All the immoveable properties excepting items Nos. 38 and 51.
(3) Thrikkandiyur Krishna Menon ...	Items Nos. 6, 8 and 9.
(4) Vallikat Kunhan Nayar	Item No. 10.
(5) Vallikat Krishnan Nayar	All the deceased's properties.

The Special Assistant Collector made an inquiry into these claims and passed an order (copy enclosed) on the 26th May 1899. Mr. Holland found that the right of claimant No. (1) Nilakandan Nambudiri to the items of property bearing Nos. 38 and 51 and to a temple and garden was borne out by the certified copy of the janmam-deed, dated 6th March 1893, on which it was based but considered that some further investigation was necessary before the claim could be finally admitted. The rest of the same individual's claim, viz., as regards item No. 52 and the claims of Nos. (2), (3) and (4), which were alike based on the unregistered will, were rejected, with the remark, among others, that "for the purposes of this inquiry the fact that the will is unregistered and that no attempt has been made to prove it during two years must render it invalid at present as a basis of claim." The claim of No. (5) Vallikat Krishnan Nayar was also rejected for default of appearance and failure to adduce any proof of the relationship on the strength of which the claim was based. The Special Assistant Collector further referred to an important declaration made by the deceased in the document executed by her in favour of the first claimant on the 6th March 1893, viz., that she was then the only surviving member of her tarawad. Having thus come to the conclusion that there are *primâ facie* no heirs to the deceased's properties, the Special Assistant Collector recommended that they might be declared escheat subject to the determination, in due course, of the first claimant's right to items 38 and 51 and of the kanom right set up by others to certain other lands in the course of the inquiry, and the Collector supports this recommendation.

5. Of the moveable properties left by the deceased, articles worth Rs. 410 have been attached by, and are in the custody of, the District Munsif of Angádipuram in connection with a suit. The rest were taken possession of by the Revenue officers and will be dealt with by the District Court under section 16, clause 7, of Regulation III of 1802.

6. In the interval between the publication of the Collector's notice and the commencement of the Special Assistant Collector's inquiry, two persons named Krishna Pattar and Lakshmi filed four suits *against the legatees under the registered and unregistered wills and Government for the recovery of certain debts alleged to be payable to them out of the deceased's estate. One of the debts was admitted and the rest denied in the written statements filed on behalf of Government ; it was further urged that the legatees had not acquired any valid right over the deceased's properties and that the suits had been instituted at their instance and at their cost with the object of creating an interest in the said properties in their favour. The suits are posted for hearing on the 18th *proximo*.

	RS.	A.	P.
* Krishna Pattar (O.S., No. 14 of 1899)	150	0	0
Krishna Pattar (O.S., No. 15 of 1899)	100	0	0
Krishna Pattar (S.C.S. No. 9 of 1899)	27	0	0
Lakshmi (O.S., No. 75 of 1899).	141	12	11
Total ...	418	12	11

7. In the circumstances the Board requests that Government should declare the deceased Lakshmiamma's properties to be escheat. It is true that the mere omission† to register the will, dated 20th February 1897, and the delay of two years in applying‡ for probate are not conclusive evidence of its invalidity ; but the inquiry made by the Tahsildar of Walavanad points clearly to the conclusion that the will is of no value.

† *Vide* section 18 (*e*) of the Registration Act III of 1877.

‡ *Vide* I.L.R., 6 Calcutta, 707, and I.L.R., 7 Bombay, 213.

(Signed) LIONEL DAVIDSON,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with a file of papers to be returned.

Order—No. 615, Revenue, dated 12th September 1899.

Miscellaneous.

The Government agrees with the Board that the claim of the State to the property of the deceased Lakshmiamma as an escheat should be asserted, and authorizes the Board to take the necessary steps for the purpose. A further report should be submitted in due course when the claims against the estate have been inquired into and settled.

(True Extract.)

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

To the Board of Revenue (Land Revenue), with enclosures.
Copy to the Accountant-General.

Exd. W. D'Moss

60 Copies.

First copy sent to Press.

Returned for signature.

Despatched in print.

Number of copies required.
- Order complete.
- Letter only.
- Order complete with Letter.

Read again G.O. No. , dated 189 .

Current No.

Enclosures to C. No.

Order of Government.

Letter of Government.

Statement with ditto.

Papers not filed up being meant for despatch in original.

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.