

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 1921

DATED 8th April 97.

[Despatch. Abstract.]

*Recording Progs of the Court of Wards, reporting to
Government the adjustment of the advance made
for the Piltapur appeal before the High Court.*

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

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

CURRENT No. 1

26 MAR 87

The Hon Mr Justice Gifford

Order No.

Recorded

From the Secretary
to the Court of wards

No. 476-*mis.*

Dated 24th March 1897.

Received 26th

Registered :

Enclosures one

Spare copies

SUBJECT.

The references quoted
in this paper are put
up with no. 2667 of 97.
submitted separately

Reporting to Govt. the adjustment of the advance made for the Pittapur appeal before the High Court.

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с 1915

Accepted 29.2.97



The Lower Court has no money

BACK PAPERS.

G.O.	No.	Department.	Date.
555	7-2-95	compd	
576	8-2-95		
257	12-2-97		118-5 2-3-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

In the High Court of Judicature at Madras
 Tuesday, the third day of November
 One thousand eight hundred and ninety six
 Present :-

The Honble Mr Justice Shepherd
 The Honble Mr Justice Davies
 Appeal No 33 of 1895

- The Court of Wards
- Venkata Kumara Mahipathi
 Surya Rao Bahadur garu
 otherwise called and styled
 Sri Raja Rao Venkata Kumara
 Mahipathi Surya Rao Bahadur
 garu, a minor by his newly
 appointed guardian Rajah
 Vellanki Venkatarama Nayana
 garu Bahadur

Appellants
 (1st & 2nd
 Defendants)

Sri Rajah Rao Venkata Surya
 Mahipathi Rama Krishna Rao
 Bahadur

Respondent
 (Plaintiff)

Appeal against the Decree of the District
 Court of Godavari in original suit no 6 of
 1891, and the order passed on review by the
 said Court dated the 27th July 1896.

Grounds of appeal

I "The decision of the District Judge is
 against law, weight of evidence and

II The lower Court was wrong

the probabilities of the case.

II "The District Judge is in error in holding that the Plaintiff has a Cause of action against the 1st Defendant.

III "The District Judge is wrong in holding that his finding on the 1st issue is in accordance with the practice of Courts in this Presidency.

IV "The finding of the District Judge that the 2nd Defendant is not the Son of the late Rajah of Pittapur by his first wife Mangayamma is altogether against the weight of evidence and the probabilities of the case.

V "The District Judge's finding that the Rajah was not potent in December 1884 or January 1885 is erroneous and quite opposed to the weight of evidence.

VI "The District Judge ought to have found that Mangayamma did give birth to the 2nd Defendant.

VII "Such portions of the oral and documentary evidence as to the alleged introduction of the 2nd Defendant or the attempt or attempts alleged to have been made by Rani Mangayamma to procure a child while at Tiruvor and Pittapur as

have been accepted by the District Judge ought to have been rejected as entirely unworthy of credit.

VIII

"The District Judge has not given due weight to the conduct of the Plaintiff and other members of the family in recognizing the 2nd Defendant as the Son of the late Rajah of Pittapur.

IX "The District Judge has practically ignored Plaintiff's admission in the Bank document, exhibit LXXIX under circumstances which rendered it all but conclusive evidence against the Plaintiff that the 2nd Defendant is the Son of the late Rajah of Pittapur.

X "The District Judge is wrong in holding that exhibit B.R. is genuine.

XI "Having regard to the finding of the District Judge on the 2nd issue, the District Judge ought to have decided as to the fourth issue that the 2nd Defendant is entitled to the properties whether ancestral or self acquired under the testamentary disposition of the Rajah even if the 2nd Defendant is not in fact the Son of the late Rajah.

XII "The District Judge is in error in

holding that the late Rajah of Pettapin had no power to alienate the properties in question.

XIII "The District Judge's view that the tenure in which the property is held prevented the holder from alienating it, is untenable and not supported by any evidence.

XIV "The District Judge is wrong in holding that Exhibit D.C. precluded the Rajah from bequeathing his property to the 2nd Defendant.

XV "The District Judge ought to have decided the 14th issue against the Plaintiff.

XVI "The District Judge's ruling that Section 112 of the Indian Evidence Act does not preclude evidence of impotence and state of health of the Rajah is erroneous in law. Also his ruling that under the circumstances of the case, Section 123 of the Evidence Act does not preclude disclosure of communication between the late Rajah and his wives.

XVII "The District Judge's ruling as to the admissibility of D.J. Series is erroneous in law.

XVIII "The reservations of the District Judge

in paragraph 105 are irrelevant, unwarranted and not supported by any evidence.

XIX Some of the suggestions made by the Judge in the judgment are not supported by evidence in the case.

Supplemental ground of appeal
(added as per order on C.M. P. No 1055
of 1896 dated 28.10.96).

XX

xx

That the District Judge has erred in directing the 1st Defendant to pay the costs of the Plaintiff's application for review.

Grounds of Memorandum of objections put in by the Respondent.

- I The Lower Court was wrong in so far as it has adjudged that the lawful costs which the 1st Defendant has incurred on behalf of the 1st & 2nd Defendants be deducted from the amount of mesne profits. As costs should have been allowed to the Defendant.
- II The Plaintiff is entitled to recover his costs from the 1st and 2nd Defendants and the reasons assigned by the Lower Court for adjudging that the Plaintiff should bear his own costs are not sound.
- III The Defendant has not discharged the onus lying on him in regard to VI & VIII issues.
- IV The Plaintiff's preferential right to impleasible property and to possessions of other kinds of property should have been declared by the Lower Court.
- V The Lower Court was wrong

wrong in having found that
all the three documents mentioned
in issue III should be taken
together as forming one testamentary
disposition by the late Rajah.
The Will of the 17th March 1890 virtually
supersedes the two prior ones.

Decree. - This appeal coming
on for hearing on Monday, Tuesday,
Wednesday, and Thursday, the 26th, 27th,
28th and 29th days of October 1896;
Upon perusing the grounds of appeal,
the memorandum of objections
put in by the Respondent, the
Judgment and Decree of the Lower
Court, and the material papers
in the suit, and upon hearing
the arguments of the Hon. Mr. V.
Shashyana Aiyangar, Mr. S. R.
Ramasubha Aiyar, and the
Hon. Mr. K. Subba Rao, Vakils, and
Mr. P. Subramanyam Aiyar, Attorney
for the appellants and Mr. H. N.
Aiyar, Vakils for the 2nd Appellant,
and of the Hon. Mr. J. H. Spring Branson
Counsel, Mr. J. Ramas Rao, Mr. C.
Ramachandra Rao Sahels, the

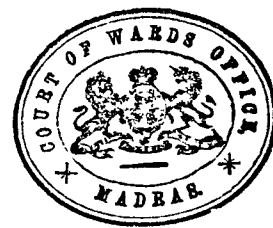
the Hon. Mr. P. Subramanyam Aiyangar
and Mr. S. Gopalasami Aiyangar,
Vakils and Mr. Douglas Grant,
Attorney for the Respondent,
and the case having stood over
for consideration till this day,
this Court doth order and decree
that the Decree of the Lower Court
be, and the same hereby is,
reversed, and the Plaintiff's
suit dismissed; and this
Court doth further order and
decree that the Respondent
do pay to the Appellants Rs 5258-11-11
for their costs in this Court and
their ordinary costs of the litigation
in the Lower Court to be
ascertained and retained by
that Court as directed in the
Judgment herein; and that all
other costs incurred by the parties
be borne by them respectively.

Memorandum of costs
Appellants' (1st & 2nd Defendants)
costs

Stamp for Vakathinamam — Rs 2-0-0
Do used for the appeal memo 3-0-0
Do for enclosures — 1-8-0
Clerks' fee — 10-0-0
Printing charges — 10-3-2-5
Batta & Postage — 1-0-0
Translation charge — 2-4-1-1-6
So be paid to the appellants
(Defendants 1 & 2) by
the Respondent (Plaintiff) } 5258-11-11

(Signed) J. S. Gillespie
By Registrar
Appellate Side
(Enclosure)

copied by P. J.



Proceedings of the Court of Wards,

Dated 24th March 1897.

No. 476 Mis

Read the following letter from the Collector of Godavari
dis No. 104 22/77 dated 18th March 1897.

Referring to Court's Proceedings Nos
284 Mis
conf. No II, I have the honor to inform you
that Rs 5000/- have been paid out of the
Pittapur Estate funds into the Govern-
ment Treasury to the credit of "Advances
Recoverable" as directed in the Proceedings.

Resolution

2. The Court resolves to report for the
information of Government.

(1) That the advance for the charges
of the Pittapur appeal, made under Govern-
ment

- ment Order No 555 Revenue, dated 7th Febm -
 - ary 1895 and No 576 Revenue dated 8th Febm -
 - ary 1895, has been repaid to the credit of
 Government from Pittapur funds; and -

* with
 Confidential
 Order

(2) That the costs awarded to the
 appellants under the High Courts' decree therein
 have been recovered from the plaintiff and
 credited to the estate.

* copy enclosed.

Note: The High Court's
 Judgment was sub-
 mitted to Govt
 under of 259 Misc
 11-2-97.

9-3-1182
 2-3-97
 Private
 Assistant
 Commr

(True copy & extract)

Receives
 Secretary.

To
 The Secretary to Govt. P.D. ✓
 with copy of decree
 (to be returned).

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

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

CURRENT No. _____

ENCLOSURES TO G. No. _____

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

A A A A A A A

N.B.-
 A = Copy in full.
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