

CONFIDENTIAL.

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2684

Confidential 944

Dated 26 May 1897

[Despatch Abstract.]

Recording Pro. of the Comt of Ward approving
the Collector's temporary proposals for the management
of the Medmu estate in the Kistna district.

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 9087/97						

Confidential.

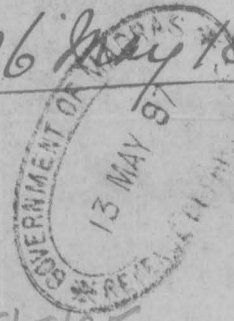
Revenue (1897) Department.

CURRENT No. 3986

Confidential No 50

The Hon. Mr. Grose C.S.

No. 2684 of 26 May 1897



From The Court of Wards.

Order No. K

25/5/97

Recorded.

1/11/97

No. 733 Mis.
Coul No 27

Dated 8 May 1897.

Received 13 "

Registered 13 "

Enclosures 6 (as entered in the list)

Spare copies

To the Court of Wards
with 4 enclosures.

Recd 28/5/97

1/11/97

SUBJECT.

Approving the Bill's
temporary proposals for the manage-
ment of the Medun Estate, Misha
District, and submitting these
proceedings for the information
of Government.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

List of Enclosures submitted to Government
with Court's Proceedings, N^o 753 Mis, Confidential
N^o 27, dated 8 May 1897.

- (1) G. W. Register N^o 1210 of 1897 and its enclosure.
- (2) C. P. 627 Mis of 20 April 1897 (in original)
- (3) Copy of Sub Court's order of 16 April 1897.
- (4) C.P. N^o 1077 Mis of 15 June 1895.
- (5) Copy of Memo.
- (6) C.P. N^o 13 Press of 26 April 1895.

Note. Enclosures 1 to 4 are to be returned.

Recd
Secretary

* 401
copy

Memorandum

(1) On the partition of the old Nuzvid estate, under the decision of the Privy Council, reported at pages 128 to 130 of II I.L.R. Madras, one-sixth thereof fell to the share of Rajah Venkataramayya Appa Rao. This portion was classed as the Medum-Nuzvid estate, or more shortly as Medum. The Rajah died on the 1st January 1888 leaving a minor son, Narayana Appa Rao, on whose behalf the Court of Wards intervened, under G.O. No. 179 Rev. 1-3-88. A copy of this G.O. is enclosed: it gives a concise account of the circumstances under which the estate was taken under management.

(2) Subsequent to the partition of the Nuzvid estate, Rajah Venkataramayya Appa Rao was adopted by Sri Rajah Papamma Rao, a zemindar holding estates in the Godavari District, under the authority of a will left by her husband. This adoption was questioned by certain reversioners and was eventually declared invalid - vide I.L.R. VII. Madras - pages 384 to 397. A copy of the Sub Court's judgment in the case is enclosed.

(3) Shortly after the decision of the Sub Court and while the appeal therefrom was pending in the High Court, Sri Rajah Papamma Rao agreed to take Narayana Appa Rao, above referred to, in adoption under certain conditions; and with the previous approval of the Court of Wards, the adoption was effected on the 28th December 1890. The agreement between the parties to the transaction will be found under C.P. No 220 27-1-91.

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(4) In connection with certain suits for the recovery of Kattu-badi from the inamdars of the Meduru estate, it was pleaded, among other things, that the Meduru ward (Karayya Appa Rao) had lost his right to that estate owing to his adoption by Sri Rajah Papamma Rao. The Court of Wards was then advised that the contention of the inamdars was untenable and should be resisted, as property, once vested, could not be divested by subsequent adoption. As a precautionary measure, however, it was suggested by counsel that a deed should be obtained from the ward's natural mother transferring her rights, if any, in the estate to her son, it being agreed that the parties to the instrument do not admit that the right which accrued to the minor as the sole surviving co-parcener on his natural father's death nor that taken by him under the latter's will is in the least affected by the adoption, but that the transfer is executed under advice pro majore cantela. A draft deed was prepared accordingly: but the natural mother of the boy refused to execute it and the matter was dropped vide C.P.

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14-7-93

(5) The boy died on the 4th August 1895: and his adoptive mother (Sri Rajah Papamma Rao) claimed possession of his properties. In view of Dewan Bahadur S. Subramania Iyer's opinion, the Court of Wards considered that her claim was so far superior to that of the natural mother that the estate might safely be handed over to the former under an indemnity

indemnity bond: but to fortify its position, consulted Mr. R. Ramasabba Aiyar. He concurred with the Court of Wards and thereupon the collector was ordered to hand the estates over to Papamma Rao under an indemnity bond.

(6) Before a draft bond could be prepared by the Government Solicitor, intimation was received of the filing of a suit by the boy's natural mother asking for a declaration of the invalidity of his adoption and laying claim to the properties left by him. The Court of Wards then instructed the collector of Krishna to serve a notice upon Sri Rajah Papamma Rao and other known claimants to the estate to the effect that unless the Court of Wards was restrained by the injunction of a competent civil court before the 1st December 1895, the properties of the deceased ward would be handed over to his adoptive mother, who the Court was advised had the best title thereto. On the Collector receiving (shortly after) a notice under Section 504 of the Civil Procedure Code to show cause why he should not be appointed Receiver of the Meduru estate, the issue of the notices to the several claimants as above ordered, was declared by the Court of Wards to be unnecessary. On public grounds, the Board of Revenue authorised the Collector to refuse the Receivership, and thereupon one V. L. Narasimham was appointed Receiver pending decision of the suits referred to at the beginning of this para: and the Court of Wards handed over charge of the properties to him at the close of the year 1895.

(7) On Sri Rajah Papamma Rao's appeal

+ vide letter
of 30 July 1899

appeal however the High Court has recently set aside the order of appointment of a Receiver. The Court of Wards did not consider it necessary to enter an appearance in the case.

(8) The Subcourt has directed the Court of Wards as 2^d Defendant in the case to take back the Meduru Estate from the Receiver on the 21st instant.

(9) In another case, the Court was advised that where its possession was that of a mere stakeholder, a decree of the civil court in a suit, to which the contending claimants were parties, would amount to an exoneration of the Court of Wards from further liability. But as an additional precaution, the Court of Wards directed the collector to move for an order of exoneration under Section 473(a) of the Civil Procedure Code in this case. The application was, however, rejected, as there were allegations of coercion and undue influence in the matter of obtaining the natural mother's consent to giving her son in adoption to Sri Rajah Papamma Rao. and the question of the further action to be taken in the matter is lying over pending receipt of certified copies of the Subcourt's order &c.

(10) In regard to the charge of the Meduru Estate, the Court of Wards has been advised that it is not incumbent on it to re-assume charge suo motu. but that in view of the possibility of the Subcourt calling upon the Court of Wards to do so, it would be well for

Note - This has now come to pass.

for it (the Court of Wards) to file a petition before the Subcourt setting out all the circumstances which have hitherto transpired and praying to be discharged from all connection with the property.

(11) It was pointed ^{out} to counsel that in ^{the} face of the High Court's order to the effect that a Receiver was unnecessary, an application to the Subcourt would be unsuccessful, and that the only course seemed ^{to be} to move the High Court by petition for a review of its order, the difficulties which beset the Court of Wards' management of estates after the death of its wards and which are detailed in the marginally-noted papers being represented at the same time.

The Hon. Mr. Phoolchand
Dingra's
letter in C.P. No 138/26-27-95
+ 1077/95
15-6-95.

(12) Counsel replied to say that he saw no prospect of success in so moving the High Court: but suggested that as he could not present such a petition for the Court of Wards the papers might be forwarded to some other counsel for his opinion and further action. No steps in this direction was however taken by the Court of Wards.

(13) Counsel added that in his own opinion the Court of Wards might well move the Sub Court for the appointment of a Receiver de novo and the collector was first instructed to take action accordingly and to move for an order of exoneration also. But on a representation from Sri Rajah Papamma Rao, the collector was instructed not to press for the appointment of a Receiver. The collector was at the same time requested to inform the Subcourt (1) that the Court

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Court of Wards was not in possession of the estate; (2) that it would not resume the position from which it was ousted by the appointment of a Receiver; and (3) that it had no objection to the Subcourt handing over the estate to Sri Rajah Papamma Rao (the 1st defendant) or to anyone else. The court's order will be found in the Collector's letter.

(14) The points for advice are (a) whether it is incumbent on the Court of Wards to resume charge of the estate, as directed by the Subcourt in its proceedings of the 10th instant; (b) if so, what action should be taken by the Court of Wards to relieve itself of the charge of the estate and to obtain an order of exoneration from further liability; and (c) whether an appeal to the High Court lies from the Subjudge's order of the 10th instant directing the 2^d defendant (Collector and Agent to the Court of Wards) to take charge of the properties from the Receiver on the 21st instant; and (d) if no appeal lies, whether there is any means by which the order can be contested.

14 April 1897

/ Signed / R. C. C. Carr
Secretary

/ True Copy /

Reeson
Secretary

x² 10/11/97
Copy

PROCEEDINGS OF THE COURT OF WARDS.

READ—the following letter from the Honourable Mr. V. BHASHYAM AIYANGAR,
High Court Vakil, to the Secretary to the Court of Wards, dated 17th
April 1895 :—

C.M.P. No. 1338 of 1894 in S.A. No. 1155 of 1894.

(Re Ventrapragada Estate).

In continuation of my letter, dated 23rd March 1895, I have the honour to state that the above petition came on for disposal before Mr. Justice Subramania Iyer on the 8th instant, when the appellant's vakil, on being informed of the death of the Court's ward, Sitamma Row, asked leave to withdraw the petition, which accordingly was rejected.

I find that the above second appeal was preferred against Rajahgopala Appa Row, and that, on his death, and before the Court of Wards took management of the estate, Sitamma Row was joined as his legal representative. But as the Court of Wards assumed charge of the estate subsequent thereto, the above petition was apparently put in, stating that P. Lakshminarayana Pantulu was appointed her guardian by the Court of Wards on 14th November 1893, and that she should be represented by the Court of Wards on the record. In the letter of the Collector of Kistna quoted in Court's Proceedings, No. 495, dated 18th March 1895, the above petition is described as one put in after the death of Sitamma to join the Court of Wards as her legal representative. This, apparently, is a mistake and the appellant's vakil stated that he knew of no such petition. The Court of Wards cannot possibly be joined as the legal representative of its deceased ward, and I take this opportunity of stating that, on the death of a ward of the Court, the position of the Court of Wards and its officers is simply that of a stakeholder in respect of the estate of its late ward until it restores it to the rightful claimant, or being unable to satisfy itself as to who the rightful claimant is, files an interpleader suit, and that no suits, appeals or applications could be brought by, or made by the Court of Wards or any of its officers, nor pending suits, appeals or applications continued by them in respect of the estate. Such legal proceedings can be instituted or continued only by persons claiming the estate as legal representative, and the fact of the Court of Wards being in custody of the estate as a stakeholder can be no bar to the institution or continuance of such proceedings by the proper heir. In view to remove misapprehension on the part of claimants, it will be well for the Collector to give notice to them that no suits, &c., will be brought or continued by the Court of Wards, and that, if so advised, the claimants might do so. If in cases in which the deceased ward was defendant or respondent, the plaintiff or appellant seeks to bring in the Court of Wards or its officers in place of the deceased ward, instead of joining the legal representative of the ward as he ought to do under the law, such application should be opposed.

RESOLUTION—dated 26th April 1895, No. 13, Press.

Communicated to the Collector of Kistna.

2. A copy of these Proceedings will be forwarded to the Collectors of other districts, except Madras, for information.

(True Copy and Extract.)

(Signed) R. C. C. CARR,
Acting Secretary.

(True Copy.)

(Signed) S. ANNASWAMY,
Second Assistant.

To the Collector of Kistna.

Copy to the Collectors of other districts,
except Madras.

" " Honourable Mr. V. Bhashyam Aiyangar.

1895.
Court of Wards,
MADRAS.

Printed May 11th

Proceedings, 26th April 1895, No. 13, Press.

Communicating to the Collector of Kistna letter from the Honourable Mr. V. Bhashyam Aiyangar reporting the result in C.M.P. 1338 and S.A. No. 1155 of 1894 on the file of the High Court relating to the Ventrapragada estate, and advising as to the action to be taken in regard to the conduct of litigation when the question of succession to the estates of deceased wards is in dispute.

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CONFIDENTIAL.



Proceedings of the Court of Wards,

Dated 8th May 1897.
No. 733 his.
Confl. No. 27

Read the following:-

- (1) Letter from J. N. Atkinson Esq. Collector of Kistna District to the Secretary to the Court of Wards, dated 24th April 1897, Ref. No. 548 State.
- (2) Letter from the same officer, dated 27th April 1897, Ref. No. 548 State submitting Sub Court's order and other papers, called for in the Court of Wards telegram dated 12th March 1897.

Resolution.

The collector's temporary proposals, contained in the first paper read above, are approved and the proposition statement promised in para 5 thereof is awaited.

2. With reference to the collector's instructions regarding tender of patta, conduct of litigation &c, it appears from the marginally-noted papers, that in the absence of a ward, no action in this direction can be taken by the Court of Wards or its subordinates. The Court is at the same time unable to suggest any solution of

The Hon. V. Bhashyam Aiyangar's opinions communicated with C.P.C. 1338 & 1077 his. 26-4-95
H. B. B.

(5)

of the difficulty.

3.

A copy of these Proceedings will be submitted for the information of Government.

It will be seen from para 1 of the Court's administration report for Fasli 1305 that the Medura Estate was handed over to a Receiver appointed by the Civil Court. This appointment was, on appeal by one of the parties, set aside by the High Court: and the Sub Court of Krishna thereupon directed the Collector and Agent to the Court of Wards to resume charge of the estate from the Receiver. The Court of Wards thereupon consulted Counsel as to whether there was any means of contesting the Sub Court's order. A copy of the memorandum prepared for Counsel's information is attached.

Counsel replied to say that the Sub Court's order must be obeyed: and the Court of Wards thereupon instructed the Collector of Krishna to re-assume charge of the estate and to renew his application for the appointment of a fresh Receiver, in view of the difficulties besetting his management of the estate in the absence of a ward. This application will come on for hearing in July next, after the recess.

/ True Extract /

Receives

Secretary

To The Secretary to Government
Rev: Deptt with enclosures as per list to be returned.
Collector of Krishna.

Rev
No 240
9th 8
ultimo.

* Dec. 8, 6
April 1897

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CT. 627
20-4-97
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CONFIDENTIAL.

1895.
Court of Wards,
MADRAS.

To

Proceedings, dated _____ 1895.
No. _____
Conf. No. _____

Abstract.

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

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

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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